BEFORE THE ADJUDICATING OFFICER

SECURITIES AND EXCHANGE BOARD OF INDIA

[ADJUDICATION ORDER NO.: Order/GR/PU/2022-23/20387]

SECTION 23–I OF SECURITIES CONTRACT (REGULATION) ACT, 1956 AND RULE 5 OF SECURITIES CONTRACT (REGULATIONS) (PROCEDURE FOR HOLDING INQUIRY AND IMPOSING PENALTIES) RULES, 2005

In respect of:

IFGL Refractories Limited (PAN: AABCI7391C)

[Formerly known as **IFGL Refractories Limited** (PAN: AAACI6003L)]

In the matter of

IFGL Refractories Limited

FACTS OF THE CASE IN BRIEF

1. Securities and Exchange Board of India (hereinafter referred to as '**SEBI**') had conducted an examination of IFGL Refractories Limited (hereinafter referred to as **'IFGL/Noticee**'). The examination was to ascertain whether there were any non-compliances of the provisions of SEBI Circular No. CIR/CFD/CMD1/114/2019 dated October 18, 2019 and of SEBI (Listing Obligations and Disclosure requirements) Regulations, 2015 ("LODR Regulations") by the Noticee.

2. During the examination, the following were observed and alleged;

(a) That IFGL had made an announcement on July 23, 2020, under Regulation 30 of the LODR Regulations, informing the resignation of Grant Thorton UK LLP (**GT**), Chartered Accountants - Statutory auditor of Monocon International Refractories Ltd. (**Monocon**), a material subsidiary of IFGL. Accordingly, GT had ceased to be the Auditor of Monocon, effectively from July 22, 2020.

(b) That the reason for the resignation as disclosed in the announcement was as under;

"*Due to the decision of the Directors to submit to Companies House an addendum to the audited financial statements without our knowledge or approval*".

(c) That the Board of Directors of Monocon had stated that the said addendum does not form part of audited financial statement for FY 2019-20 and has been issued validly following provisions of law primarily to place their view points on Opinion of Auditors in their Report on "Material Certainty related to Going Concern".

(d) That the Board of Directors of Monocon, in the meeting held on July 28, 2020 appointed **UHY Hacker Young (UHY**), Chartered Accountants, as the new auditor to fill up the vacancy caused due to the resignation of GT.

(e) That in the meeting held on August 22, 2020, the Audit Committee of IFGL was briefed about the circumstances leading to the change in the Statutory Auditor. On the same date, the Board of IFGL also noted the above change.

(f) While the financial results of Monocon for quarter ended on March 2020 were reviewed by GT, it was UHY who reviewed the financial results of June 2020 and September 2020.

3. Hence, it was alleged that the Noticee had violated the provision of SEBI Circular No. CIR/CFD/CMD1/114/2019 dated October 18, 2019 along with Clause 6 C (I) of the said circular and of Regulation 4 (1) (e) of the LODR Regulations.

APPOINTMENT OF ADJUDICATING OFFICER

4. The undersigned was appointed as the Adjudicating Officer ('**AO**') vide order dated September 17, 2021, under Section 23 I of the SCR Act, 1956 and Rule 3 of the Securities contracts (Regulation) (Procedure for Holding Inquiry and Imposing Penalties) Rules, 2005 ("**SCR Adjudication Rules**") read with Section 19 of SEBI Act, 1992, to enquire into and adjudge under Section 23 E of the SCR Act, 1956, the alleged violations by the Noticee.

SHOW CAUSE NOTICE, REPLY AND PERSONAL HEARING

5. A Show Cause Notice dated June 23, 2022 (hereinafter, "**SCN**") was issued to the Noticee under Rule 4(1) of the SCR Adjudication Rules read with Section 23 I of the SCR Act, 1956, calling it to show cause as to why an inquiry should not be held and penalty be not imposed on it under Section 23 E of the SCR Act, 1956 read with Clause 2 (i) of the Listing Agreement, for the alleged violations specified in the said SCN. The SCN was duly served upon the Noticee through SPAD and in response to this, the Noticee vide letter dated July 06, 2022, submitted its reply in the matter.

6. Further, in the interest of natural justice, an opportunity of personal hearing was granted to the Noticee on August 05, 2022 vide the email dated July 29, 2022. The Noticee requested for the adjournment of the said personal hearing vide e-mail dated August 08, 2022. Thereafter, another opportunity of personal hearing was granted to it on August 23, 2022 vide e-mail dated August 05, 2022. The details of the reply dated July 06, 2022, to the SCN submitted by the Noticee are summarised as under:

• The Noticee contended that SCN was issued in the name of IFGL Refractories Limited having PAN: AAACI6003L which ceased to exist on and from 05.08.2017 following the effect of NCLT order dated 03.08.2017 sanctioning Scheme of Amalgamation for merger with IFGL Exports Ltd. having PAN AABCI7391C, with the Ministry of Corporate Affairs. It was further contended by the Noticee that Pursuant to the same, the name of the company got changed to IFGL Refractories Ltd. having PAN: AABCI7391C on and from 25.10.2017 and there the SCN being issued in the name of an non- existing entity, it is void ab-initio.

• As regards the alleged violation of provision of SEBI Circular No. CIR/CFD/CMDl/114/2019 dated 18.10.2019 along with Clause 6C(i) thereof, the Noticee submitted that said the Circular is dehors sub-clause (7A) of Clause A in Part A of Schedule III under Regulation 30(2) of SEBI LODR Regulations,2015. Said sub-clause (7A) is reproduced below for convenience, wherefrom you will notice that the same deal with 'resignation of the auditor of listed entity' only and to the extent was neither effective nor enforceable and the said Circular being procedural in nature cannot alter in any manner substantive law.

• As regards allegation that its material subsidiary, Monocon International Refractories Ltd, UK (hereon Monocon) did not modify the terms of appointment of GT as the Auditors as required by the said Circular, the Noticee submitted that Clause 6C(i) of said Circular is contrary and or conflicting with sub-clause (7A) which still do not deal with resignation of the auditor of material subsidiary and in absence thereof, the said Circular cannot and should not require compliance of something which has not been expressly provided for. Despite this Disclosure under Regulation 30 of SEBI

LODR Regulations 2015 was made timely by us and this has also been admitted at Para 5(b) of SCN. Nevertheless terms of appointment of auditor of Monocon was modified following said Circular and this was informed to SEBI vide its e-mails dated 19.07.2021 and 29.07.2021.

• The Noticee stated that the policy for determining material subsidiaries as per Regulation 16(i)(c) of SEBI LODR Regulations, 2015 was not updated due to oversight. Said Policy was updated and hosted on the Company's Website within three days of being pointed out that the same was outdated.

• It also stated that that alleged violations have not caused any loss to any investor or group of investors, neither they are repetitive in nature and nor any gain or unfair advantage has been derived therefrom.

• The Noticee stated that Section 23E has nothing to do with the violation of the provisions of the Listing Agreement, even if it is assumed that violations alleged in the SCN were made by it, for such violation no penalty can be imposed under Section 23E of SCR Act, 1956 and quoted lines from the order dated 03.05.2021 of the Hon'ble SAT in the case of Suzlon Energy Ltd. & Anr Vs. SEBI (Appeal No. 201 of 208).

ISSUES FOR CONSIDERATION AND FINDINGS

7. I have carefully perused the submissions made by the Noticee and documents available on record, and the issues that arise for consideration in the present case are:

   a. *Whether the Noticee has violated the provisions of SEBI Circular No. CIR/CFD/CMD1/114/2019 dated October 18, 2019 along with Clause 6 C (I) of the said circular and Regulation 4 (1) (e) of the LODR Regulations?*

b. *Does the violation, if any, on the part of the Noticee attract monetary penalty under Section 23E of the SCR Act, 1956 read with Clause 2 (i) of the Listing Agreement?*

c. *If so, what would be the monetary penalty that can be imposed taking into consideration the factors mentioned in Section 23 J of the SCR Act, 1956?*

8. Before moving forward, it is pertinent to refer to the relevant provisions of Clause 6 C (I) of SEBI Circular No. CIR/CFD/CMD1/114/2019 dated October 18, 2019 and Regulation 4 (1) (e) of the LODR Regulations, which reads as under:

Clause 6 C (I) of SEBI Circular No. CIR/CFD/CMD1/114/2019 dated October 18, 2019

"***6***. *In light of the above, the conditions to be complied with upon resignation of the statutory auditor of a listed entity/material subsidiary w.r.t. limited review / audit report as per SEBI LODR Regulations, are as under:*

C. Obligations of the listed entity and its material subsidiary*:*

(i) Format of information to be obtained from the statutory auditor upon resignation: Upon resignation, the listed entity / its material subsidiary shall obtain information from the Auditor in the format as specified in Annexure A to this Circular. The listed entity shall ensure disclosure of the same under Sub-clause (7A) of Clause A in Part A of Schedule III under Regulation 30(2) of SEBI LODR Regulations."

LODR Regulations 2015

Principles governing disclosures and obligations.

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

……

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

FINDINGS

9. ***The first issue for consideration is whether the Noticee has violated the provisions of SEBI Circular No. CIR/CFD/CMD1/114/2019 dated October 18, 2019 along with Clause 6 C (I) of the said circular and Regulation 4 (1) (e) of the LODR Regulations?***

9.1. During the examination, SEBI observed the following;

a) That IFGL had made an announcement on July 23, 2020, under Regulation 30 of the LODR Regulations, informing the resignation of Grant Thorton UK LLP (GT), Chartered Accountants - Statutory auditor of Monocon International Refractories Ltd. (Monocon), a material subsidiary of IFGL. Accordingly, GT had ceased to be the Auditor of Monocon, effectively from July 22, 2020.

b) That the reason for the resignation as disclosed in the announcement was as under;

"Due to the decision of the Directors to submit to Companies House an addendum to the audited financial statements without our knowledge or approval".

c) That the Board of Directors of Monocon had stated that the said addendum does not form part of audited financial statement for FY 2019-20 and has been issued validly following provisions of law primarily to place their view points on Opinion of Auditors in their Report on "Material Certainty related to Going Concern".

d) That the Board of Directors of Monocon, in the meeting held on July 28, 2020 appointed UHY Hacker Young (UHY), Chartered Accountants, as the new auditor to fill up the vacancy caused due to the resignation of GT.

e) That in the meeting held on August 22, 2020, the Audit Committee of IFGL was briefed about the circumstances leading to the change in the Statutory Auditor. On the same date, the Board of IFGL also noted the above change.

f) While the financial results of Monocon for quarter ended on March 2020 were reviewed by GT, it was UHY who reviewed the financial results of June 2020 and September 2020.

9.2. With respect to the above, pursuant to IFGL's response to NSE and NSE's observations with regard to the same, SEBI had observed from it that IFGL's policy for determining material subsidiary on its website was not updated in light of the changes in the definition of the term 'material subsidiary' and other related amendments made by SEBI from time to time which has resulted in the incorrect application of criteria for identifying a material subsidiary.

9.3. In view of the above, additional comments were sought by SEBI from IFGL regarding its un-updated policy for determining material subsidiary and on modification of terms of appointment of the auditors of material subsidiaries. With regard to the same, IFGL had submitted the reply vide its emails dated July 19, 2021 and July 29, 2021.

9.4. Based on IFGL's reply, SEBI observed as under;

a) That there is no exemption provided to the material subsidiary (incorporated outside India) of a listed entity under SEBI Circular No. CIR/CFD/CMD1/114/2019 dated October 18, 2019 and thus is applicable to the resignation of its auditor. Therefore, the contention of IFGL that 'Material Subsidiary' in SEBI Circular does not refer to 'material subsidiary' incorporated outside India is incorrect.

b) That IFGL made the disclosure under Regulation 30 of LODR Regulations, 2015, informing about the resignation of GT as the statutory auditor of its material subsidiary (Monocon) along with the reason for resignation by GT. Thus, IFGL has made timely disclosure of the said resignation.

c) As per clause 6(A) of SEBI Circular No. CIR/CFD/CMD1/114/2019 dated October 18, 2019, if the auditor of a listed entity or its material subsidiaries resigns within 45 days from the end of a quarter, then the auditor shall, before such resignation, issue the limited review/ audit report for such quarter. However, the terms of appointment of GT were not modified to give effect to clause 6(A) of SEBI Circular. Consequently, GT resigned before issuing the limited review / audit report for the quarter ending June 2020.

   Further, IFGL failed to seek and disclose the format of resignation from GT as specified under clause 6(C)(i) of the SEBI Circular.

d) IGFL's policy for determining material subsidiary which was earlier disseminated on its website was not accurate as it was not modified in accordance with the amendments in LODR Regulations, 2015.

9.5. In view of the above, the Noticee contended that SCN was issued in the name of IFGL Refractories Limited having PAN: AAACI6003L which has ceased to exist on and from 05.08.2017 following the effect of NCLT order dated 03.08.2017 sanctioning Scheme of Amalgamation for merger with IFGL Exports Ltd. having PAN AABCI7391C, with the Ministry of Corporate Affairs. It was further contended by the Noticee that pursuant to the same, the name of the company was changed to IFGL Refractories Ltd. having PAN: AABCI7391C on and from 25.10.2017 and therefore the SCN being issued in the name of a non- existing entity, is *void ab-initio*. With regard to the same, I note that, pursuant to the merger of the transferor company i.e. IFGL Refractories Limited having PAN: AAACI6003L with the transferee company i.e. IFGL Exports Ltd. having PAN AABCI7391C, the name of the transferee company has become IFGL Refractories Ltd. having PAN: AABCI7391C. In this regard I note, that the Noticee's company name is the same while only the PAN has changed. However, I also note from the copy of NCLT's order dated 03.08.2017 which states that "*all the liabilities, duties and obligations, of the Transferor Company without further act or deed shall stand transferred to the transferee company and accordingly, the same shall, pursuant to section 232 of the Companies Act, 2013, be transferred to and become the liabilities, duties and obligations of the Transferee company.*" This means that one entity has absorbed the other and the two separate entities have combined to form a new entity which has also taken over the liabilities of the first entity and also the name of the old company i.e. (IFGL Refractories Ltd.) has been retained along with the registered address as available on the MCA website. Further, I note that the merger had taken place in on and from 25.10.2017 and following the effect of NCLT order dated 03.08.2017 sanctioning Scheme of Amalgamation for merger, the said company became IFGL Refractories Ltd. having PAN: AABCI7391C with effect from 05.08.2017 i.e. even before SEBI had conducted its investigation. However, I note that no intimation regarding the merger was provided to SEBI during its examination, even though the same person i.e. the Company Secretary, Mr. R. Agarwal, who is corresponding with the office of the adjudicating officer was only communicating with SEBI at that point in time. Further, I note that a name of a company does not only encompass its business but also suggests its identity, therefore the name of a company may amount to one of its unique identification and the SCN was served on IFGL Refractories Ltd. which is the name of both the new and the old company. Additionally, I have noted that there are multiple details of IFGL Refractories Ltd. with three different CIN numbers (L24219WB1989PLC047886, L27202OR1989PLC002971 and L51909OR2007PLC027954) available in the public domain. While, it is observed that no signatory exists for the company with CIN No. L24219WB1989PLC047886, some of the directors/signatories are common for the old Company with CIN No. L27202OR1989PLC002971 and the new company with CIN No. L51909OR2007PLC027954, due to which the new company has had sufficient documents/information to defend its case and no prejudice was caused to it any way. Therefore, the contention of the entity that the SCN issued in the name of a non-existing entity is void ab-initio does not hold any merit and the charges leveled against the Noticee stand established.

9.6. As regards the allegations that the Noticee violated provision of SEBI Circular No. CIR/CFD/CMDl/114/2019 dated 18.10.2019 along with Clause 6C (i) of the said circular and IFGL's material subsidiary, Monocon International Refractories Ltd., UK (Monocon) did not modify the terms of appointment of GT as the Auditors as required by SEBI Circular No. CIR/CFD/CMDl/114/2019 dated 18.10.2019, the Noticee submitted that Clause 6C(i) of said Circular is contrary and or conflicting with sub-clause (7A) which still does not deal with resignation of the auditor of material subsidiary and in absence thereof, the said Circular cannot and should not require compliance of something which has not been expressly provided for. The Noticee also stated that despite this disclosure under Regulation 30 of SEBI, LODR Regulations 2015 was made on time by it, which has also been admitted at Para 5(b) of SCN and the terms of appointment of auditor of Monocon was modified following said Circular and this was informed to SEBI vide its e-mails dated 19.07.2021 and 29.07.2021. With regard to the same, I note that Monocon became 'Material Subsidiary' of IFGL as defined under Regulation 16(1)(c) of LODR Regulations, on and from April 01, 2019 and the terms of appointment of Grant Thorton UK LP as the statutory auditor (erstwhile) of Monocon International Refractories Ltd. of UK were required to be modified as required under SEBI circular dated October 18, 2019, which the Noticee did not do until July 28, 2021. Further, upon perusal of Clause 6C(i) of said Circular which deals with the 'obligations of the listed entity and its material subsidiary', prescribes the 'format of information to be obtained from the statuory auditor upon resignation', which in fact clearly states that "upon resignation the listed entity/ material subsidiary shall obtain information from the Auditor in the format as specified in Annexure A to the circular. Further, the circular also states that the listed entity shall ensure disclosure of the same under Sub-clause (7A) of Clause A in Part A of Schedule III under regulation 30 (2) of SEBI LODR Regulations. Therefore, it is sufficiently clear that the term 'listed entity' mentioned in sub-clause (7A) of SEBI, LODR Regulations is inclusive of its material subsidiary and it is the duty of the listed entity which in this case is the Noticee, to disclose to the stock exchanges, the detailed reasons for resignation of the auditor, as soon as possible but not later than 24 hours of receipt of reasons from the said reasons. Thus, I note that the Noticee has misunderstood the abovementioned provisions of law. In view of the same, I find that the argument of the Noticee that Clause 6C(i) of said Circular is contrary and or conflicting with sub-clause (7A) of LODR Regulations, is misguided and erroneous as they are in consonance with each other and have to be read together.

9.7. As regards the Noticee's submission that despite Monocon not modifying the terms of appointment of GT as the Auditors as required by SEBI Circular No. CIR/CFD/CMDl/114/2019 dated 18.10.2019, disclosure under Regulation 30 of SEBI, LODR Regulations 2015 was made in time by it, which has also been admitted at Para 5(b) of SCN and the terms of appointment of auditor of Monocon was modified following said Circular and this was informed to SEBI vide its e-mails dated 19.07.2021 and 29.07.2021, I am of the view that the disclosures requirements under the respective regulations serve very important purposes. The stock exchange is informed via disclosures so that the investing public will come to know of the position enabling them to stick on with or exit from the company. Further, timely disclosures of the details of the shares encumbered by them is of significant importance as such disclosures also enable the regulators to monitor such encumbrances. Further, Hon'ble Securities Appellate Tribunal ('SAT') in the matter of **Coimbatore Flavors & Fragrances Ltd. vs SEBI** (Appeal No. 209 of 2014 order dated August 11, 2014), has also held that "*Undoubtedly, the purpose of these disclosures is to bring about more transparency in the affairs of the companies. True and timely disclosures by a company or its promoters are very essential from two angles. Firstly; investors can take a more informed decision to invest or not to invest in a particular scrip secondly; the Regulator can properly monitor the transactions in the capital market to effectively regulate the same.*" Further, it cannot be a reason to condone this charge levelled against the Noticee.

9.8. With regard to the allegation that IFGL's policy for determining material subsidiary on its website was not updated in light of the changes in the definition of the term 'material subsidiary' and other related amendments made by SEBI from time to time which has resulted in the incorrect application of criteria for identifying a material subsidiary, I note that the Noticee has not controverted the said allegations in its written submissions and has admitted to the said allegations while stating that the policy for determining material subsidiaries as per Regulation 16(i)(c) of SEBI LODR Regulations, 2015 was not updated due to oversight and the said Policy was updated and hosted on the Company's Website within three days of being pointed out that the same was outdated, however it has sought condonation of such non-compliances inter alia on the grounds of not making any profit or causing any loss to investor due to such delayed disclosures nor is the violation repetitive in nature.

9.9. With regard to Noticee's submission that the occurrence of the said non-compliance by it is not repetitive and it has neither made any unlawful gain nor caused loss to investors, I place reliance on Hon'ble SAT's judgement dated October 14, 2014 in the matter of **Virendrakumar Jayantilal Patel vs. SEBI** (Appeal No. 299 of 2014), in which Hon'ble SAT observed that "………. *obligation to make disclosures within the stipulated time is a mandatory obligation and penalty is imposed for not complying with the mandatory obligation. Similarly, argument that the failure to make disclosures within the stipulated time, was unintentional, technical or inadvertent and that no gain or unfair advantage has accrued to the appellant, is also without any merit, because, all these factors are mitigating factors and these factors do not obliterate the obligation to make* *disclosures." (**Emphasis supplied**).* Therefore, the said allegation against Noticee stands established.

9.10. Further, the Noticee stated that Section 23E has nothing to do with the violation of the provisions of the Listing Agreement, even if it is assumed that violations alleged in the SCN were made by it, for such violation no penalty can be imposed under Section 23E of SCR Act, 1956 and quoted lines from the order dated 03.05.2021 of the Hon'ble SAT in the case of Suzlon Energy Ltd. & Anr Vs. SEBI (Appeal No. 201 of 208). With regard to the same, I note that Section 23E states that "*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*" Therefore, upon a plain reading of the section, I note that any company which fails to comply with listing conditions or delisting conditions or grounds or commits a breach thereof shall be liable to monetary penalty under this section and in this case the Noticee is a company which has failed to comply with listing conditions, as established above and therefore, will be squarely liable under section 23E of SCR Act, 1956 for imposition of monetary penalty. Thus, the submission of the Noticee in this regard is devoid any merit. Further, SEBI has appealed the order of Hon'ble SAT in the matter of Suzlon Energy Ltd. Vs. SEBI and the same is pending before the Hon'ble Supreme Court.

9.11. Therefore, I find that the Noticee has violated the provisions of SEBI Circular No. CIR/CFD/CMD1/114/2019 dated October 18, 2019 along with Clause 6 C (I) of the said circular and of Regulation 4 (1) (e) of the LODR Regulations.

10. **The second issue for consideration is whether the the violation, if any, on the part of the Noticee attracts monetary penalty under Section 23 E of the SCR Act, 1956 read with Clause 2 (i) of the Listing Agreement?**

10.1. I further note that Hon'ble Supreme Court of India, in the matter of Chairman, **SEBI vs. Shriram Mutual Fund** *{[2006] 5 SCC 361}* held that *"In our view, the penalty is attracted as soon as contravention of the statutory obligations as contemplated by the Act is established and, therefore, the intention of the parties committing such violation becomes immaterial. ………. 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".*

10.2. I also note that in Appeal No. 66 of 2003 – **Milan Mahendra Securities Pvt. Ltd. Vs. SEBI** – the Hon'ble Securities Appellate Tribunal (SAT) has observed that, "*the purpose of these disclosures is to bring about transparency in the transactions and assist the Regulator to effectively monitor the transactions in the market".*

10.3. In the context of disclosure related violations, I observe that Hon'ble SAT has consistently held that the obligation to make disclosure within the stipulated time is a mandatory obligation and penalty is imposed for non-compliance of the mandatory obligation.

10.4. In view of the foregoing, I am convinced that the Noticee is thus liable for monetary penalty under Section 23E of SCR Act, 1956 and clause 2 (i) of Listing agreement for violation of provision of SEBI Circular No. CIR/CFD/CMD1/114/2019 dated October 18, 2019 along with Clause 6 C (I) of the said circular and of Regulation 4 (1) (e) of the LODR Regulations. The provisions of Section 23E of the SCR Act, 1956 and clause 2 (i) of Listing agreement reads as under:

<u>Penalty for failure to comply with provision of listing conditions or delisting conditions or grounds.</u>

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.*

<u>Listing Agreement</u>

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.*

11. While determining the quantum of penalty under Section 23E of the SCR Act, 1956, it is important to consider the factors relevantly as stipulated in Section 23J of the SCR Act, 1956, which reads as under: -

Factors to be taken into account while adjudging quantum of penalty.

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

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 been exercised under the provisions of this section.

12. The material available on record has not quantified the amount of disproportionate gain or unfair advantage, if any, made by the Noticee and the loss, if any, and suffered by the investors as a result of its failure. I also note that no prior default of the Noticee are available on record. However, I note that securities market is based on free and open access to information, and that protection of the interests of the investors is the prime objective of SEBI. Disclosures in respect of the vital information of any company has been made mandatory for the protection of the investors so as to enable them to take suitable informed investment decisions. The objective behind such requirement is that the investing public shall not be deprived of any vital information in respect of their investments in the securities market. If any person who is to make such disclosures doesn't make it and are depriving the investing public the statutory rights available to them, then SEBI is duty bound to ensure that the investing public are not deprived of any

statutory rights available to them. Thus, in the present matter the facts of the case clearly bring out the default made by the Noticee. Hence, I note that the Noticee has violated the provision of SEBI Circular No. CIR/CFD/CMD1/114/2019 dated October 18, 2019 along with Clause 6 C (I) of the said circular and of Regulation 4 (1) (e) of the LODR Regulations.

ORDER

13. In view of the above, after considering all the facts and circumstances of the case and the factors mentioned in the provisions of Section 23-I of the SEBI Act, 1992 read with Rule 5 of SCR Adjudication Rules, I hereby impose a penalty of **Rs 5,00,000/-** (**Rupees Five Lakhs Only**) on the Noticee, in terms of the provisions of Section 23E of SCR Act, 1956.

14. In the facts and circumstances of the case, I am of the view that the said penalty is commensurate with the default committed by the Noticee. The enforcement of this order shall be subject to the outcome of the appeal filed by SEBI before the Hon'ble Supreme Court on July 19, 2022 as specified in para 9.10 above.

15. The Noticee shall remit / pay the said amount of penalty either by way of Demand Draft in favour of "SEBI - Penalties Remittable to Government of India", payable at Mumbai, OR through online payment facility available on the website of SEBI, i.e. www.sebi.gov.in on the following path, by clicking on the payment link:

ENFORCEMENT →Orders → Orders of AO → PAY NOW

16. The said demand draft and its details or details of online payments made (in the format as given in table below) should be forwarded to "The Division Chief (Enforcement

Department -DRA-4), the Securities and Exchange Board of India, SEBI Bhavan, Plot No. C4 –A, "G" Block, Bandra Kurla Complex, Bandra (E), Mumbai –400 051.

Case Name :	
Name of Payee :	
Date of Payment:	
Amount Paid :	
Transaction No. :	
Bank Details in which payment is made :	
Payment is made for: (like penalties/ disgorgement/ recovery/ settlement amount etc.)	

17. In the event of failure to pay the said amount of penalty within 45 days of the receipt of this Order, consequential proceedings including, but not limited to, recovery proceedings may be initiated under Section 28A of the SEBI Act, for realization of the said amount of penalty along with interest thereon, *inter alia*, by attachment and sale of movable and immovable properties.

18. In terms of the provisions of Rule 6 of the Adjudication Rules, a copy of this order is being sent to the Noticee and also to the Securities and Exchange Board of India.

Date : 18 October, 2022 **G. Ramar**

Place : Mumbai **Adjudicating Officer**