BEFORE THE ADJUDICATING OFFICER

SECURITIES AND EXCHANGE BOARD OF INDIA

[ADJUDICATION ORDER NO. PKB/AO – 2/2012]

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

In respect of:
1) Bipin Ratilal Shah
(PAN – AWMPS5368K)
2) Meeta B. Shah
(PAN – BFNPS2270D)
3) Bharat Kumar Ratilal Shah
(PAN – AYJPS6082M)
4) Preeti Bharat Kumar Shah
(PAN – Not Available)
5) Parvati Minerals Private Limited
(PAN – AAACP9191Q)
6) Pratik Minerals Private Limited
(PAN – AAACP9193N)
In the Matter of: Platinum Corporation Limited

BACKGROUND

1. Securities and Exchange Board of India (hereinafter referred to as "**SEBI**") conducted investigations relating to buying, selling or dealing in the shares of Platinum Corporation Limited (hereinafter referred to as "**the Company**"). Investigations, *inter-alia,* had revealed that there was large number of pooling of shares of the Company from various beneficiary accounts to a few accounts through off-market transfers. It was observed that as a result, a group of persons had together exceeded the threshold limit (15%) of total paid up equity capital of the Company. It was also observed that they had failed to come out with a public announcement to acquire shares of the

Company in compliance with Regulation 10 of SEBI (Substantial Acquisition of Shares and Takeovers) Regulations, 1997 (hereinafter referred to as "**SAST Regulations**").

2. It was observed that Bipin Ratilal Shah Group comprising of Shri Bipin Ratilal Shah [hereinafter referred to as "**Noticee 1)**"] alongwith his family members namely wife Smt. Meeta Bipin Shah [hereinafter referred to as "**Noticee 2)**"], his brother Shri Bharat Ratilal Shah [hereinafter referred to as "**Noticee 3)**"] and brother's wife Smt. Preeti Bharat Shah [hereinafter referred to as "**Noticee 4)**"], Parvati Minerals Pvt. Ltd. [hereinafter referred to as "**Noticee 5)**"] and Pratik Minerals Pvt. Ltd. [hereinafter referred to as "**Noticee 6)**"] acquired substantial shareholding in the Company (exceeding 15%) but failed to come out with a public announcement to acquire shares as required under Regulation 10 of SAST Regulations. It was also observed that Noticee 1) and Noticee 2) were the directors of Noticee 5) and Noticee 6).

3. It was observed that the Bipin Ratilal Shah Group together held fourteen (14) beneficiary accounts, wherein they acquired (pooled) shares in off-market from 14 persons namely, Anand Ramanlal Trivedi, Ashok Purushottambhai, Ashaben Ambani, Kalpesh Ramanbhai Patel, Mahendra Kashiram Patel, Mukesh Chamanlal Bhayani, Narendra Kashiram Patel, Parag Shah, Subhadraben R. Patel, Suketu Ramanlal Patel, Suresh H Patel, Tushar Shah, Vasudev Ambaram Patel and Vasantkumar Bababhai Patel. It was also observed that the combined holdings of the Bipin Ratilal Shah Group exceeded threshold limit of 15% of the total paid up capital of the Company on January 04, 2005 and they continued to hold beyond 15% till August 30, 2005.

4. It was observed that the members of Bipin Ratilal Shah Group, i.e., Noticee 1), Noticee 2), Noticee 3), Noticee 4), Noticee 5) and Noticee 6) together for a common objective of acquiring shares through off-market, acquired more than 15% of total paid up capital of the Company. In view of the aforesaid, it was alleged that Noticee 1), Noticee 2), Noticee 3), Noticee 4), Noticee 5) and Noticee 6) transacted substantially in the shares of the Company and acquired shares more than 15% of paid up capital of the Company, but failed to come out with public announcement in compliance with Regulation 10 of SAST Regulations.

5. The undersigned was appointed as the Adjudicating Officer vide Order dated March 23, 2011 and the said appointment was conveyed vide proceedings of the Whole Time Member dated July 04, 2011 to inquire into and adjudicate under Section 15 H (ii) of the SEBI Act, 1992, the alleged violation of provisions of Regulation 10 of SAST Regulations.

SHOW CAUSE NOTICE, HEARING & REPLY

6. Show Cause Notices (hereinafter referred to as "**SCNs**") in terms of the provisions of Rule 4(1) of SEBI (Procedure for Holding Inquiry and Imposing Penalties by Adjudicating Officer) Rules, 1995 (hereinafter referred to as "**Adjudication Rules**") was issued to Noticee 1), Noticee 2), Noticee 3), Noticee 4), Noticee 5) and Noticee 6) on July 20, 2011, calling upon to show cause why an inquiry should not be held against them under Rule 4(3) of the Adjudication Rules for the alleged violations.

7. The aforesaid SCNs were duly delivered to Noticee 1), Noticee 2), Noticee 3), Noticee 4), Noticee 5) and Noticee 6) on July 28, 2011. Subsequently, Noticee 1) vide letter dated August 02, 2011; Noticee 3) and Noticee 4) vide letters dated August 01, 2011; and Noticee 2), Noticee 5) and Noticee 6) vide letters dated August 03, 2011, acknowledged the receipt of the SCNs and sought additional time to submit reply. Vide letters dated August 18, 2011 Noticee 1), Noticee 2), Noticee 3), Noticee 4), Noticee 5) and Noticee 6) were informed that the time limit for submission of reply to the SCNs was extended to August 31, 2011. Thereafter, vide letters dated August 31, 2011, Noticee 2) and Noticee 3) once again requested for additional time to submit reply. Vide letters dated September 02, 2011 Noticee 2) and Noticee 3) were informed that the time limit for submission of reply to the SCNs was extended to September 26, 2011.

8. Since no reply was received form Noticee 1), Noticee 2), Noticee 3), Noticee 4), Noticee 5) and Noticee 6), Notices of Inquiry dated September 30, 2011 were issued under Rule 4(3) of the Adjudication Rules vide which an opportunity of personal hearing was given to Noticee 1), Noticee 2), Noticee 3), Noticee 4), Noticee 5) and Noticee 6) which was scheduled for October 21, 2011. However, Noticee 1), Noticee 2), Noticee 3), Noticee 4), Noticee 5) and Noticee 6) failed to appear for personal hearing on the scheduled date.

9. Noticee 3) submitted his reply vide letter dated October 15, 2011 and made the following submissions:
    - *I don't know the persons from whom I received the shares as mentioned in your notice and also not know them personally.*
    - *But, I lent money to them on instruction of Ms. Gunavantiben and as a security against money I received these shares in my demat.*
    - *I sold these shares as recovery of money. But, I do not know them and their place.*
    - *Further, when I received the shares from them, I was not aware of the transactions of my family members.*
    - *Even for lending money also I have not borrowed anything from my family members.*
    - *I am living apart from my family.*
    - *This reply is to be treated as individual reply.*
    - *So, the charge against me is false and not sustainable.*

10. Noticee 4) submitted her reply vide letter dated October 17, 2011 and made the following submissions:
    - *I had just held the shares of the company PCL in my demat account as a security.*
    - *I acted in my individual capacity.*
    - *Further, of these shares I had not traded at all in the market and even I was not aware with all the terms of share market.*
    - *There is no any intention relating to the price of the shares.*
    - *I acted in good faith only.*
    - *I was not having any trading account for trading of shares.*

    So, I request you that I was not at all involved in this matter and so please set me aside from this matter.

11. Noticee 2) submitted her reply vide letter dated October 18, 2011 and made the following submissions:
    - *I lent money to Shri Balchand and he in turn delivered me the shares of PCL as a security.*
    - *I do not know to Mr. Suketu Patel, Vasudev Patel and all as mentioned in above show cause notice, but I gave my demat a/c no. to Shri Balchand.*
    - *Shri Balchand transferred shares of PCL in the demat account provided by me to him.*
    - *When I have received an instruction, I sold the shares of PCL.*
    - *My dealing was based on my individual decision only.*
    - *I was not aware of the transactions of my family members in the scrip of PCL.*

- *Even my other family members were also not aware of my said transaction.*
- *Moreover, I was holding these shares on behalf of Shri Balchand and not purchased shares from the market.*
- *I was not aware that I crossed 5% shareholding and I need to make a disclosure to the company & stock exchange even when I did not purchased them/was not holding shares as owner. I was totally ignorant about requirement of disclosure for such acquisition.*
- *Moreover, these shares were not bought by me but it was just as a security.*
- *In view of the above, the undersigned pleads before you to pardon her and drop the SCN accordingly.*

12. Noticee 1) submitted reply vide letter dated October 18, 2011 on behalf of himself and also for Noticee 5) and Noticee 6) and made the following submissions:
    - *I used to do the business of money lending during the period when these transactions were executed.*
    - *The persons from whom I received the shares viz. Suketu Patel, Ashok Purushottambhai, Mahendra Patel, Parag Shah & others, do not know them personally.*
    - *But, I lent money to them on the instruction of Mr. Nagin Patel and as a security against money I received those shares in my demat a/c from the said persons.*
    - *When I have received instruction from Mr. Nagin Patel, I sold these shares as recovery of money and transferred some of shares to other persons. But, I do not know them and their place.*
    - *Further, when I received the shares from them, I was not aware of the transactions of my family members.*
    - *I have neither received nor acquired any shares as PAC (Persons Acting in Concert) of my family members. My dealing was based only on my individual decision even my family members were also not aware of my transactions.*
    - *Even for lending money also I have not borrowed anything from my family members. As I am living apart from my family.*
    - *This reply is to be treated as individual and as a director of Pratik Minerals Pvt. Ltd. And Parvati Minerals Pvt. Ltd.*
    - *So, the allegation labeled against me is false and not sustainable.*

13. Thereafter, another opportunity of personal hearing was granted to Noticee 1), Noticee 2), Noticee 3), Noticee 4), Noticee 5) and Noticee 6) on November 24, 2011 vide Notices of Inquiry dated October 25, 2011. However, vide letter dated November 10, 2011; Noticee 1) for himself and also for Noticee 5) and Noticee 6) requested for

another hearing date in the next week which was acceded to and accordingly the personal hearing was rescheduled to November 14, 2011. Mr. Ashok Jain, Authorised Representative of Noticee 1), Noticee 5) and Noticee 6) appeared for hearing on November 14, 2011 and reiterated the submissions previously made vide letter dated October 18, 2011.

14. Vide letter dated November 10, 2011; Noticee 2) also requested for another hearing date in the next week which was acceded to and accordingly the personal hearing of the Noticee 2) was rescheduled to November 14, 2011. Mr. Ashok Jain, Authorised Representative of Noticee 2) appeared for hearing on November 14, 2011 and reiterated the submissions previously made by Noticee 2) vide letter dated October 18, 2011. Likewise, vide letters dated November 10, 2011; Noticee 3) and Noticee 4) also requested for another hearing date in the next week which was acceded to and accordingly the personal hearing of Noticee 3) and Noticee 4) was rescheduled to November 14, 2011. Mr. Gulab Singh, Authorised Representative of Noticee 3) and Noticee 4) appeared for hearing on November 14, 2011 and reiterated the submissions previously made by Noticee 3) and Noticee 4) vide letters dated October 15, 2011 and October 17, 2011 respectively.

ISSUES FOR CONSIDERATION

15. After perusal of the material available on record, I have the following issues for consideration, viz.,
    A. Whether Noticee 1), Noticee 2), Noticee 3), Noticee 4), Noticee 5) and Noticee 6) have violated provisions of Regulation 10 of SAST Regulations?
    B. Whether Noticee 1), Noticee 2), Noticee 3), Noticee 4), Noticee 5) and Noticee 6) are liable for monetary penalty under Section 15H (ii) of the SEBI Act, 1992?
    C. What quantum of monetary penalty should be imposed on Noticee 1), Noticee 2), Noticee 3), Noticee 4), Noticee 5) and Noticee 6) taking into consideration the factors mentioned in Section 15J of the SEBI Act, 1992?

FINDINGS

16. On perusal of the material available on record and giving regard to the facts and circumstances of the case, I record my findings hereunder.

ISSUE 1: Whether Noticee 1), Noticee 2), Noticee 3), Noticee 4), Noticee 5) and Noticee 6) have violated provisions of Regulation 10 of SAST Regulations?

17. The provisions of Regulation 10 of SAST Regulations read as under:

SEBI (Substantial Acquisition of Shares and Takeovers) Regulations 1997

Acquisition of fifteen per cent or more of the shares or voting rights of any company

10: *No acquirer shall acquire shares or voting rights which (taken together with shares or voting rights, if any, held by him or by persons acting in concert with him), entitle such acquirer to exercise fifteen per cent or more of the voting rights in a company, unless such acquirer makes a public announcement to acquire shares of such company in accordance with the regulations.*

18. I note that Regulation 10 of SAST Regulations is quite clear in its import and *inter-alia* prohibits an acquirer acquiring shares which (taken together with shares already held by him or by persons acting in concert with him) would entitle him to exercise fifteen per cent or more of the voting rights in a company, unless such acquirer makes a public announcement to acquire shares of such company in accordance with the regulations.

19. From the beneficiary account statements (Demat statements) of the Bipin Ratilal Shah Group (enclosed with the SCN as "Annexure II") I note that Noticee 1) was having four beneficiary accounts with Depository Participant (hereinafter referred to as "**DP**") SHCIL BOID: 30306386 (Bipin Ratilal) & BOID: 30308113 (Shah Bipin Kumar), DP, Indiabulls Securities, BOID: 10892340 (BipinKumar Ratilal Shah) and DP, India Infoline, BOID: 10446391 (BipinKumar Ratilal Shah) and as on January 04, 2005; Noticee 1) was holding 40,00,000 shares of the Company. I further note that Noticee 2) was having two beneficiary accounts with the DP SHCIL having nos. 30308148 (MB Shah) and 30306394 (Meeta B. Kumar) and as on January 04, 2005; Noticee 2) was holding 40,00,000 shares of the Company. I also note that Noticee 3) was having three beneficiary accounts with DP SHCIL BOID: 30308189 (B R Shah), DP Indiabulls Securities, BOID: 10890887 (Bharatkumar Ratilal Shah) and DP, India Infoline, BOID: 10337884 (Shah Bharatbhai) and as on January 04, 2005; Noticee 3) was holding 40,00,000 shares of the Company. Further, I note that Noticee 4) was having two beneficiary accounts with DP SHCIL having nos. 30306369 (P B Shah) and 30308164 (Preeti Bharatkumar Shah) and as on January 04, 2005; Noticee 4) was holding 80,00,000 shares of the Company. I note that Noticee 5) was having two beneficiary accounts with DP Geojit BNP Paribas Financial Services having no. 11638537 and DP JM Financial Services Pvt. Ltd. having No. 10052616. I note that Noticee 6) was having beneficiary account with DP JM Financial Services Pvt. Ltd. having No. 10052608.

However, Noticee 5) and Noticee 6) were not holding any shares of the Company as on January 04, 2011. Therefore, on January 04, 2005, Noticee 1), Noticee 2), Noticee 3) and Noticee 4) were holding 2,00,00,000 shares of the Company (representing 18.69% of the equity capital of the Company). A table containing shareholding of the Bipin Ratilal Shah Group is given below:

BOID	BO Name	Date	Description	Credit	Debit	Balance	% to equity capital
30306386	Bipin Ratilal	11-Nov-03	Opening Balance			0	0.00%
30306394	Meeta B. Kumar	11-Nov-03	Opening Balance			0	0.00%
30306369	PB Shah (Preeti)	11-Nov-03	Opening Balance			0	0.00%
30308189	BR Shah (Bharat)	18-Nov-03	Opening Balance			0	0.00%
30308113	Shah Bipinkumar	18-Nov-03	Opening Balance			0	0.00%
30308148	M B Shah	18-Nov-03	Opening Balance			0	0.00%
30308154	Preeti Bharatkumar Shah	18-Nov-03	Opening Balance			0	0.00%
10890887	Bharatkumar Ratilal Shah	01-Jan-04	Opening Balance	0	0	0	0.00%
10892340	Bipinkumar Ratilal Shah	01-Jan-04	Opening Balance			0	0.00%
10892340	Bipinkumar Ratilal Shah	01-Jan-04	By Bipinkumar Ratilal Shah	3,600,000		3,600,000	3.36%
10892340	Bipinkumar Ratilal Shah	01-Jan-04	To CM Indiabulls		700,000	2,900,000	2.71%
10892340	Bipinkumar Ratilal Shah	01-Jan-04	To Indiabulls Securities		700,000	2,200,000	2.06%
10892340	Bipinkumar Ratilal Shah	01-Jan-04	To Indiabulls Securities		391,850	1,808,150	1.69%
10892340	Bipinkumar Ratilal Shah	01-Jan-04	To Indiabulls Securities	700,000		2,508,150	2.34%
10892340	Bipinkumar Ratilal Shah	01-Jan-04	To Bharatbhai Shah		800,000	1,708,000	1.60%
10892340	Bipinkumar Ratilal Shah	01-Jan-04	To Bipinkumar Ratilal Shah		854,075	854,075	0.80%
10892340	Bipinkumar Ratilal Shah	01-Jan-04	To Bipinkumar Ratilal Shah		854,075	0	0.00%
10052616	Parvati Minerals Pvt. Ltd.	01-Jan-04	Opening Balance			0	0.00%
10052608	Pratik Minerals Pvt. Ltd.	01-Jan-04	Opening Balance			0	0.00%
30306386	Bipin Ratilal	29-Dec-04	By Suketu Ramanlal Patel	1,000,000		1,000,000	0.90%
30306394	Meeta B. Kumar	29-Dec-04	By Kalpesh Ramanbhai Patel	500,000		1,500,000	1.40%
30306394	Meeta B. Kumar	29-Dec-04	Vasudev Ambaram Patel	3,500,000		5,000,000	4.67%
30306386	Bipin Ratilal	30-Dec-04	By Kalpesh Ramanbhai Patel	3,000,000		8,000,000	7.48%
30308189	BR Shah (Bharat)	4-Jan-05	By Narendra Kashiram Patel	2,000,000		10,000,000	9.35%
30308189	BR Shah (Bharat)	4-Jan-05	By Subhadraben R. Patel	2,000,000		12,000,000	11.21%
30308154	Preeti Bharatkumar Shah	4-Jan-05	By Narendra Kashiram Patel	1,000,000		13,000,000	12.15%
30308154	Preeti Bharatkumar Shah	4-Jan-05	By Mukesh Chamanlal Bhayani	3,000,000		16,000,000	14.95%
30306369	PB Shah (Preeti)	4-Jan-05	By Vasantkumar Bababhai Patel	3,500,000		19,500,000	18.22%
30306369	PB Shah (Preeti)	4-Jan-05	By Narendra Kashiram Patel	500,000		20,000,000	18.69%
30308113	Shah Bipinkumar	5-Jan-05	By Ashok Purushottambhai Patel	3,500,000		23,500,000	21.96%
30308113	Shah Bipinkumar	5-Jan-05	By Mahendra Kashiram Patel	500,000		24,000,000	22.43%
30308148	M B Shah	6-Jan-05	By Suresh H Patel	3,450,000		27,450,000	25.65%
10337884	Shah Bharatbhai	9-May-05	Opening Balance	0	0	27,450,000	25.65%
10337884	Shah Bharatbhai	13-Jun-05	By CM India Infoline	12,000		27,462,000	25.67%

10337884	Shah Bharatbhai	15-Jun-05	By CM India Infoline	2,000		27,464,000	25.67%
10337884	Shah Bharatbhai	16-Jun-05	By CM India Infoline		1,000	27,463,000	25.67%
10337884	Shah Bharatbhai	17-Jun-05	By CM India Infoline		1,000	27,462,000	25.67%
10337884	Shah Bharatbhai	27-Jun-05	By CM India Infoline		1,000	27,461,000	25.66%
10337884	Shah Bharatbhai	30-Jun-05	By CM India Infoline		1,000	27,460,000	25.66%
10337884	Shah Bharatbhai	26-Jul-05	By CM India Infoline		10,000	27,450,000	25.65%
10337884	Shah Bharatbhai	12-Aug-05	By Anand Ramanlal Trivedi	1,500,000		28,950,000	27.06%
10337884	Shah Bharatbhai	12-Aug-05	To CM India Infoline		639,066	28,310,934	26.46%
10337884	Shah Bharatbhai	22-Aug-05	To CM India Infoline		860,934	27,450,000	25.65%
10337884	Shah Bharatbhai	23-Aug-05	By Anand Ramanlal Trivedi	40,468		27,490,468	25.69%
10337884	Shah Bharatbhai	23-Aug-05	To CM India Infoline		40,468	27,450,000	25.65%
10337884	Shah Bharatbhai	29-Aug-05	By BR Shah	4,000,000		31,450,000	29.39%
10337884	Shah Bharatbhai	29-Aug-05	To CM India Infoline		1,350,000	30,100,000	28.13%
10337884	Shah Bharatbhai	29-Aug-05	To CM India Infoline		1,300,000	28,800,000	26.92%
30308189	BR Shah (Bharat)	29-Aug-05	To Shah Bharatbhai		4,000,000	24,800,000	23.18%
10337884	Shah Bharatbhai	30-Aug-05	To CM India Infoline		1,300,000	23,500,000	21.96%
30306394	Meeta B. Kumar	30-Aug-05	To CM Galaxy broking		4,000,000	19,500,000	18.22%

20. From the above table, I note that the holding of Noticee 1), Noticee 2), Noticee 3) and Noticee 4) increased to 18.69% on January 04, 2005. I also note that the combined shareholding of Noticee 1), Noticee 2), Noticee 3) and Noticee 4) reached as much as 29.39% of the equity capital of the Company on August 29, 2005. I further note that during the period January 04, 2005 to August 30, 2005, Noticee 5) and Noticee 6) were not holding any shares of the Company. Therefore, Noticee 1), Noticee 2), Noticee 3) and Noticee 4) acquired more than 15% of shares of the Company on January 04, 2011 and they continued to hold till August 30, 2005. Hence, as per the provisions of Regulation 10 of SAST Regulations, Noticee 1), Noticee 2), Noticee 3), and Noticee 4) were under obligation to make a public announcement to acquire shares of the Company in accordance with the provisions of SAST Regulations before exceeding the threshold limit as specified in Regulation 10 of SAST Regulations. However, no such public announcement had been made by Noticee 1), Noticee 2), Noticee 3), and Noticee 4).

21. I note that Noticee 1) and Noticee 2) vide their letters dated October 18, 2011, have made analogous statements and, *inter alia*, have submitted that they had lent money and in turn had received the shares of the Company as security. They also submitted

that they were not aware of the transactions of their family members and their dealings were based on individual decision only. I note that Noticee 3) and Noticee 4) vide their letters dated October 15, 2011, and October 17, 2011 have taken similar plea and, *inter alia*, have submitted that they received and held the shares of the Company as security. Noticee 3) submitted that he was not aware of the transactions of his family members and Noticee 4) submitted that she had acted in her individual capacity. However, I observe that these pretexts will not come to the rescue of Noticee 1), Noticee 2), Noticee 3), and Noticee 4) keeping in view the facts of the present case.

22. I note that Noticee 1), Noticee 2), Noticee 3), and Noticee 4) have submitted similar plea, but they have not made any submissions in their reply regarding the issue of not making a public announcement to acquire shares of the Company in accordance with the provisions of SAST Regulations as alleged in the SCN. I do not find any merit in the submissions of Noticee 1), Noticee 2), Noticee 3), and Noticee 4) as they have not submitted any documentary evidence in support of their claims made vide their replies. From the Demat statements of Noticee 1), Noticee 2), Noticee 3), and Noticee 4), I find that they were holding these shares of the Company as a beneficial owner and no where any kind of pledge/encumbrance is shown in their Demat Statements. I note that the procedure for pledging of demat shares is clearly laid down within the bye-laws of the Depositories framed under the Depositories Act, 1996 and SEBI (Depositories and Participants) Regulations, 1996. The requirement therein is that shares pledged have to be identified separately as 'pledged' shares. I also refer to the observations made by the Securities Appellate Tribunal in Appeal No. 83 of 2010 (Liquid Holdings Pvt. Ltd. vs. SEBI, decided on 11-03-2011) – "*....................The law also prescribes a mode for the creation and revocation of a pledge. The parties cannot agree to create a pledge contrary to the provisions of Regulation 58....................................In the case of shares held in demat form, the Depositories Act and the Regulations framed thereunder provide the manner in which the pledge is to be created and invoked.........................*".

23. Further, I do not find any merit in the submissions of Noticee 1), Noticee 2), Noticee 3), and Noticee 4) that they were not aware of the transactions of their family members and their dealings were based on individual decision only. As already mentioned, Noticee 2) is the wife of Noticee 1); Noticee 3) is the brother of Noticee 1) and Noticee 4) is the wife of Noticee 3). Hence, Noticee 1), Noticee 2), Noticee 3) and Noticee 4) are members of the same family sharing the same address. I also note that within a span of just seven days, i.e., from December 29, 2004 to January 04, 2005,

Noticee 1), Noticee 2), Noticee 3) and Noticee 4) received 2,00,00,000 shares of the Company thereby taking their cumulative shareholding to 18.69% of the equity capital of the Company. I also note that they kept increasing their shareholding in the Company and by January 06, 2005, cumulative shareholding of Noticee 1), Noticee 2), Noticee 3) and Noticee 4) was more than 25% of the equity capital of the Company. Hence, it is two much of a coincidence that four members of the same family were holding more than 25% of the equity capital of the Company and that they were not aware of the transactions of each other. I further note that Noticee 1), Noticee 2), Noticee 3) and Noticee 4) exceeded the threshold limit of 15% of the equity capital of the Company on January 04, 2005 and they continued to hold beyond 15% till August 30, 2005. From the material available on record, I note that subsequently, Noticee 1), Noticee 2), Noticee 3) and Noticee 4) reduced their shareholdings, which tends to indicate that they were not intending to acquire control. However, this does not absolve them from the violation of provisions of Regulation 10 of SAST Regulations.

24. Therefore, I find that Noticee 1), Noticee 2), Noticee 3) and Noticee 4) were persons acting in concert who for a common objective of acquiring shares, acquired more than 15% of shares of the Company without making a public announcement to acquire shares of the Company in accordance with the SAST Regulations. Thus Noticee 1), Noticee 2), Noticee 3) and Noticee 4) have violated Regulation 10 of SAST Regulations. I further note that since Noticee 5) and Noticee 6) were not holding any shares of the Company during the relevant period, the allegation of violation of Regulation 10 of SAST Regulations does not stand established in respect of Noticee 5) and Noticee 6).

25. In view of my considerations discussed in the previous paragraphs, I find that Noticee 1), Noticee 2), Noticee 3) and Noticee 4) have violated the provisions of Regulation 10 of SAST Regulations by not making a public announcement to acquire shares of the Company in accordance with the SAST Regulations.

ISSUE 2: Whether the Noticee 1), Noticee 2), Noticee 3), Noticee 4), Noticee 5) and Noticee 6) are liable for monetary penalty under Section 15H (ii) of the SEBI Act, 1992?

26. The provisions of Section 15 H of the Act reads,

"15H Penalty for non-disclosure of acquisition of shares and takeovers.

If any person, who is required under this Act or any rules or regulations made thereunder, fails to,-

(i) disclose the aggregate of his shareholding in the body corporate before he acquires any shares of that body corporate; or
(ii) make a public announcement to acquire shares at a minimum price;
(iii) make a public offer by sending letter of offer to the shareholders of the concerned company; or
(iv) make payment of consideration to the shareholders who sold their shares pursuant to letter of offer.
he shall be liable to a penalty twenty-five crore rupees or three times the amount of profits made out of such failure, whichever is higher."

27. As already observed, Noticee 1), Noticee 2), Noticee 3) and Noticee 4) failed to make a public announcement to acquire shares of the Company in accordance with the SAST Regulations. Therefore, I find that Noticee 1), Noticee 2), Noticee 3) and Noticee 4) are liable for monetary penalty under Section 15H (ii) of the SEBI Act, 1992. Also, since Noticee 5) and Noticee 6) have not violated Regulation 10 of SAST Regulations, Noticee 5) and Noticee 6) are not liable for any monetary penalty under Section 15H (ii) of the SEBI Act, 1992.

ISSUE 3: What quantum of monetary penalty should be imposed on Noticee 1), Noticee 2), Noticee 3), Noticee 4), Noticee 5) and Noticee 6) taking into consideration the factors mentioned in Section 15J of the Act?

28. While imposing monetary penalty it is important to consider the factors stipulated in Section 15J of the Act, which reads as under:

> ***"15J - Factors to be taken into account by the adjudicating officer***
> *While adjudging quantum of penalty under section 15-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."*

29. It is difficult, in cases of this nature, to quantify exactly the disproportionate gains or unfair advantage enjoyed by an entity and the consequent losses suffered by the investors. Further, there is no material on record which dwells on the extent of specific gains made by Noticee 1), Noticee 2), Noticee 3) and Noticee 4). Further it is also not possible to ascertain the loss to the investors in monetary terms. However, by not complying with the regulatory obligation of making the public announcement, Noticee 1), Noticee 2), Noticee 3) and Noticee 4) had deprived the shareholders of the Company the statutory right to exit through the open offer mechanism. Also, there is no material on record to indicate that such default was repetitive.

30. In the forgoing paragraphs it is now established that Bipin Ratilal Shah [Noticee 1)], Meeta B. Shah [Noticee 2)], Bharat Kumar Ratilal Shah [Noticee 3)] and Preeti Bharat Kumar Shah [Noticee 4)] failed to make necessary public announcement to acquire the shares of the Company in accordance with SAST Regulations. Considering the facts and circumstances of the case and the violation committed by Bipin Ratilal Shah, Meeta B. Shah, Bharat Kumar Ratilal Shah and Preeti Bharat Kumar Shah I find that imposing a penalty of ₹ 10,00,000/- (Rupees Ten Lakhs only) on Bipin Ratilal Shah, Meeta B. Shah, Bharat Kumar Ratilal Shah and Preeti Bharat Kumar Shah would be commensurate with the violations committed by them.

ORDER

31. Considering the facts and circumstances of the case, in terms of the provisions of Section 15H(ii) of SEBI Act, 1992 and Rule 5(1) of the Adjudication Rules, I hereby impose a penalty of ₹ 10,00,000/- (Rupees Ten Lakhs only) on Bipin Ratilal Shah, Meeta B. Shah, Bharat Kumar Ratilal Shah and Preeti Bharat Kumar Shah for violating provisions of Regulation 10 of SAST Regulations and shall be jointly and severally liable to pay the said monetary penalty. As no violation has been established against Parvati Minerals Private Limited and Pratik Minerals Private Limited, therefore the Adjudication Proceedings in respect of Parvati Minerals Private Limited and Pratik Minerals Private Limited are disposed off.

32. The penalty shall be paid by way of demand draft drawn in favour of "SEBI – Penalties Remittable to Government of India" payable at Mumbai within 45 days of receipt of this Order. The said demand draft shall be forwarded to the Deputy General Manager, Investigation Department, Securities and Exchange Board of India, Plot No. C4-A, 'G' Block, Bandra Kurla Complex, Bandra (E), Mumbai – 400051.

33. In terms of the provisions of Rule 6 of the SEBI (Procedure for Holding Inquiry and Imposing Penalties by Adjudicating Officer) Rules 1995, copies of this Order are being sent to Bipin Ratilal Shah, Meeta B. Shah, Bharat Kumar Ratilal Shah, Preeti Bharat Kumar Shah, Parvati Minerals Private Limited and Pratik Minerals Private Limited and also to Securities and Exchange Board of India.

Date: January 05, 2012 **P. K. Bindlish**
Place: Mumbai **Adjudicating Officer**