BEFORE THE ADJUDICATING OFFICER

SECURITIES AND EXCHANGE BOARD OF INDIA

(ADJUDICATION ORDER NO. Order/JS/VC/2025-26/31802-31804)

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

In respect of

Noticee No.	Name and PAN of the Noticee
1	Mr. Dipak Kumar Singh (PAN: AMAPS1805K)
2	Ms. Laxmi Singh (PAN: ALXPS7786D)
3	Mr. Yash Singh (PAN: EZFPS4754H)

In the matter of Emkay Consultants Limited

BACKGROUND OF THE CASE

1. Securities and Exchange Board of India (hereinafter referred to as **'SEBI'**), conducted an examination in the matter of the Emkay Consultants Limited (hereinafter referred to as **'Emkay'** or **'the Company'** or **'target company'**). Based on the findings of examination, SEBI initiated adjudication proceedings under section 15H(ii) of the Securities and Exchange Board of India Act, 1992 (hereinafter referred to as **'SEBI Act'**) against Mr. Deepak Kumar Singh (hereinafter referred to as **'Noticee-1'**), Ms. Laxmi Singh (hereinafter referred to as **'Noticee-2'**) and Mr. Yash Singh (hereinafter referred to as **'Noticee-3'**) [hereinafter together referred to as **'Noticees'**] for alleged violation of the following provisions:
   (a) Regulation 31A (5) of SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015 (hereinafter referred to as **'LODR Regulations'**);
   (b) Regulations 3(1), 3(2) and 4 of SEBI (Substantial Acquisition of Shares and Takeovers) Regulations, 2011 (hereinafter referred to as **'SAST Regulations'**).

APPOINTMENT OF ADJUDICATING OFFICER

2. SEBI appointed the undersigned as Adjudicating Officer vide order dated July 25, 2025, under section 15-I of the SEBI Act and rule 3 of SEBI (Procedure for Holding Inquiry and Imposing Penalties) Rules, 1995 (hereinafter referred to as **'Rules'**) read with section 19 of the SEBI Act, to inquire into and adjudge the alleged violations by the Noticees under the provisions of section 15H(ii) of the SEBI Act.

SHOW CAUSE NOTICE, REPLY AND HEARING

3. Show Cause Notice Ref. No. SEBI/EAD-2/JS/VC/22522/1-3/2025 dated August 21, 2025 (hereinafter referred to as **'SCN'**) was issued to the Noticees in terms of the provisions of rule 4(1) of the Rules read with section 15-I of the SEBI Act, requesting the Noticees to show cause as to why an inquiry should not be held against them and why penalty, if any, should not be imposed upon them under section 15H(ii) of the SEBI Act for the alleged violations.

4. The allegations levelled against the Noticees in the SCN are as under:

   (a) SEBI conducted examination in the matter and it was observed that the Noticees were public shareholders of the target company till quarter ended on March 2019, thereafter, they were classified as promoters of the target company from quarter ended on June 2019, which triggered the obligation to make an open offer as per regulation 31A (5) of SAST Regulations ***(First Trigger)****.*

   (b) Further, it was observed that pursuant to acquisition of 7.95% shares of the target company by the Noticees on July 04, 2019 (viz., promoter and promoters group), the shareholding of the Noticees as persons acting in concert (hereinafter referred to as ***'PAC'****) exceeded the threshold, i.e., 25% shareholding of the target company, which triggered the open offer requirements as per regulation 3(1) of SAST Regulations* ***(Second Trigger)****.*

   (c) It was observed that the Noticees as PAC were holding 31.31% shares of the target company, which is above 25% shareholding. Further, Noticees acquired 21.78% shares of the target company on August 27, 2019, which triggered the open offer requirements as per regulation 3(2) of SAST Regulations ***(Third Trigger)****.*

   (d) Further, it was observed that the Noticees as PAC were holding 53.09% shares of the target company as on August 27, 2019. Noticees as PAC acquired 5.00% and 4.83% shares of the target company on September 03, 2019 and on September 05, 2019, respectively, which triggered the open offer requirements as per regulation 3(2) of SAST Regulations ***(Fourth Trigger)****.*

   (e) Further, it was observed that the Noticees as PAC were holding 63.09% shares of the target company as on September 18, 2019. Noticees acquired 6.67% shares of

*the target company on September 19, 2019, which triggered the open offer requirements as per regulation 3(2) of SAST Regulations **(Fifth Trigger)**.*

(f) *In view of the above, it was noted that obligation of the Noticees as PAC to make an open offer as per requirements of SAST Regulations was triggered on five different occasions as detailed above, however, open offer was not made by the Noticees on any of the five occasions. The details of transactions which triggered the obligation to make an open offer by the Noticees are given below in the table:*

Table-1

Particulars	***Shareholding of Noticee-1***		***Shareholding of Noticee-2***		***Shareholding of Noticee-3***		***Total shareholding as PAC (Noticee-1, 2 and 3)***		***Activation of trigger***
	In No.	***In %***	***In No.***	***In %***	***In No.***	***In %***	***In No.***	***In %***	
Shareholding as on 31.03.2019 till 30.06.2019 (A)	*273200*	*9.11*	*277400*	*9.25*	*0*	*0*	*550600*	*18.36*	*1st Trigger - regulation 31A (5) of LODR Regulations and regulation 4 of the SAST Regulations*
Acquisition as on 04.07.2019 (B)	*105800*	*3.53*	*0*	*0*	*132700*	*4.42*	*238500*	*7.95*	
Shareholding as on 04.07.2019 (C=A+B)	*379000*	*12.64*	*277400*	*9.25*	*132700*	*4.42*	*789100*	*26.31*	*2nd Trigger - regulation 3 (1) of SAST Regulations*
Acquisition as on 15.07.2019 (D)	*0*	*0*	*0*	*0*	*150000*	*5*	*150000*	*5*	
Shareholding as on 04.07.2019 (E=C+D)	*379000*	*12.64*	*277400*	*9.25*	*282700*	*9.42*	*939100*	*31.31*	
Acquisition as on 27.08.2019 (F)	*0*	*0*	*653550*	*21.78*	*0*	*0*	*653550*	*21.78*	
Shareholding as on 27.08.2019 (G=E+F)	*379000*	*12.64*	*930950*	*31.03*	*282700*	*9.42*	*1592650*	*53.09*	*3rd Trigger - regulation 3 (2) of SAST Regulations*
Acquisition as on 03.09.2019 (H)	*0*	*0*	*150000*	*5*	*0*	*0*	*150000*	*5*	
Shareholding as on 03.09.2019 (I=G+H)	*379000*	*12.64*	*1080950*	*36.03*	*282700*	*9.42*	*1742650*	*58.09*	
Acquisition as on 05.09.2019 (J)	*0*	*0*	*0*	*0*	*145000*	*4.83*	*145000*	*4.83*	
Shareholding as on 05.09.2019 (K=I+J)	*379000*	*12.64*	*1080950*	*36.03*	*427700*	*14.25*	*1887650*	*62.92*	*4th Trigger - regulation 3 (2) of SAST Regulations*
Acquisition as on 18.09.2019 (L)	*0*	*0*	*0*	*0*	*5000*	*0.17*	*5000*	*0.17*	
Shareholding as on 18.09.2019 (M=K+L)	*379000*	*12.64*	*1080950*	*36.03*	*432700*	*14.42*	*1892650*	*63.09*	

Particulars	*Shareholding of Noticee-1*		*Shareholding of Noticee-2*		*Shareholding of Noticee-3*		*Total shareholding as PAC (Noticee-1, 2 and 3)*		*Activation of trigger*
	In No.	*In %*	*In No.*	*In %*	*In No.*	*In %*	*In No.*	*In %*	
Gross Acquisition as on 19.09.2019 (N)	*200000*	*6.67*	*0*	*0*	*0*	*0*	*200000*	*6.67*	
Shareholding as on 19.09.2019 (O=M+N)	*579000*	*19.31*	*1080950*	*36.03*	*432700*	*14.42*	*2092650*	*69.76*	*5th Trigger - regulation 3 (2) of SAST Regulations*
Sale as on 18 and 19.09.2019 (P)	*0*	*0*	*500000*	*16.67*	*0*	*0*	*500000*	*16.67*	
Shareholding as on 19.09.2019 (Q=O-P)	*579000*	*19.31*	*580950*	*19.36*	*432700*	*14.42*	*1592650*	*53.09*	
Acquisition as on 20.09.2019 (R)	*4500*	*0.15*	*0*	*0*	*0*	*0*	*4500*	*0.15*	
Shareholding as on 20.09.2019 (S=Q+R)	*583500*	*19.46*	*580950*	*19.36*	*432700*	*14.42*	*1597150*	*53.24*	
Acquisition as on 15.01.2020 (T)	*1000*	*0.03*	*0*	*0*	*0*	*0*	*1000*	*0.03*	
Shareholding from 15.01.2020 to 31.12.2023 (U=S+T)	*584500*	*19.49*	*580950*	*19.36*	*432700*	*14.42*	*1598150*	*53.27*	

(g) In view of the above, it was alleged that the Noticees violated the provisions of regulation 31A (5) of LODR Regulations and regulations 3(1), 3(2) and 4 of SAST Regulations.

5. I note that the SCN issued to the Noticees was duly served upon them. Vide email / letter dated August 26, 2025, Noticees submitted their reply to the SCN.

6. Relevant extracts of the reply of the Noticees dated August 26, 2025 is as under:

(a) At the outset, we humbly submit our unconditional apology for the alleged non-compliances. We place our detailed submission for your kind, just, and sympathetic consideration as follows:

(b) Background of the company and listing status

- *Emkay Consultants Limited has been listed on the Calcutta Stock Exchange Limited (CSE), which has remained non-functional for a prolonged period. During this period, the Company's business activities were limited, with minimal financial transactions and no major commercial engagements. This background is crucial to understanding the inadvertence and lack of active engagement with the securities market by the promoters of the Company.*

(c) Reasons for the alleged non-compliance

- *The alleged lapses primarily pertain to the non-making of open offers under the SAST Regulations on five occasions. We respectfully submit that these instances arose purely due to lack of awareness and understanding of the technical requirements of the Takeover Regulations, especially in the context of a company with limited business operations listed on a defunct exchange.*
- *Given the Company's limited business operations and the absence of trading in its shares due to the non-functional state of CSE, we inadvertently failed to discharge our obligations under the SAST Regulations at the relevant time.*
- *This was not an intentional omission but arose from lack of awareness and oversight, for which we sincerely regret.*
- *There was no mala fide intention to suppress information or evade compliance. The lapses occurred in good faith and were unintentional.*

(d) No prejudice to investors or the market

- *Being a small-cap company with shares listed only on a defunct stock exchange, there was no active public participation or trading in the securities. Consequently, the omission to make open offers has not resulted in any loss, harm, or adverse impact to investors or the securities market at large.*
- *We respectfully submit that the absence of investor prejudice may be considered as a mitigating factor in determining the course of action.*

(e) Commitment to compliance and governance

- *We wish to place on record that we deeply value transparency, compliance, and corporate governance. The present lapse has been a learning experience and we are committed to ensuring strict adherence to SEBI Regulations in the future.*
- *We are in the process of strengthening our compliance framework, including seeking professional advice for future regulatory obligations to prevent recurrence of such instances.*

(f) Request for leniency

- *Considering the above circumstances, namely the Company's limited business operations, the non-functional status of CSE, the inadvertent and technical nature of the default, absence of mala fide intention, and no adverse impact on investors or the market, we humbly request your good self to take a lenient view of the matter.*
- *We further request that no penal action be taken against us, and that the matter may kindly be disposed of by acknowledging our bona fides and remedial intent.*

(g) In conclusion, we reiterate that we are law-abiding individuals with no intent to conceal or mislead the regulator or the public. We remain fully committed to regulatory compliance going forward. We therefore humbly request your good self to kindly consider the mitigating factors outlined above and dispose of the proceedings without imposing any penalty.

7. Thereafter, Noticees vide their separate letters dated September 05, 2025, made further submissions in the matter. Relevant extract of the submissions made by the Noticees is as follows:

(a) Noticees refute and deny each and every allegation / statement / averment / contention / observation made against them in the SCN.

<u>The SCN is without jurisdiction</u>

(b) Noticees submitted that the purported SCN is without jurisdiction in as much as it purports to impose a penalty upon them and is, as such, beyond the powers vested with the Adjudicating Officer in terms of under rule 4 of the Rules. The purported SCN has been served without following the due process as prescribed under the Rules. The Paragraph 6 of the purported SCN states as follows:

> *"12. You are, therefore, called upon to show cause as to why an inquiry should not be held against you in terms of rule 4(1) of the Rules read with section 15-I of the SEBI and why penalty, if any, be not imposed under section 15H(ii) of the SEBI Act for the aforesaid alleged violations of provisions of LODR Regulations and SAST Regulations."*

Thus, in the SCN, Noticees have been called upon to show cause as to why an inquiry should not be held against them in terms of rule 4(1) of the Rules read with section 15-I of the SEBI Act and why penalty should not be imposed under sections 15H(ii) of the SEBI Act, 1992 for the alleged violations of provisions of LODR Regulations and SAST Regulations.

(a) The rule 4(1) of the Rules states as follows:

"4. (1) In holding an inquiry for the purpose of adjudging under sections 15A, 15B, 15C, 15D, 15E, [15EA, 15EB,] 15F, 15G [, 15HA and 15HB] whether any person has committed contraventions as specified in any of sections 15A, 15B, 15C, 15D, 15E, [15EA, 15EB,] 15F, 15G [15HA and 15HB] , the [the Board or the adjudicating officer] shall, in the first instance, issue a notice to such person requiring him to show cause within such period as may be specified in the notice (being not less than fourteen days from the date of service thereof) why an inquiry should not be held against him.

(2) Every notice under sub-rule (1) to any such person shall indicate the nature of offence alleged to have been committed by him.

(3) If, after considering the cause, if any, shown by such person, the [the Board or the adjudicating officer] is of the opinion that an inquiry should be held, he shall issue a notice fixing a date for the appearance of that person either personally or through his lawyer or other authorised representative.

(4) On the date fixed, the [the Board or the adjudicating officer/ shall explain to the person proceeded against or his lawyer or authorised representative, the offence, alleged to have been committed by such person indicating the provisions of the Act, rules or regulations in respect of which contravention is alleged to have taken place.

(5) The [the Board or the adjudicating officer] shall then give an opportunity to such person to produce such documents or evidence as he may consider relevant to the inquiry and if necessary the hearing may be adjourned to a future date and in taking such evidence the [the Board or the adjudicating officer] shall not be bound to observe the provisions of the Evidence Act, 1872 (11 of 1872):

Provided that the notice referred to in sub-rule (3), and the personal hearing referred to in sub-rules (3), (4) and (5) may, at the request of the person concerned be waived.

[(5A) The Board may appoint a presenting officer in an inquiry under this rule.]

(6) While holding an inquiry under this rule the [the Board or the adjudicating officer] shall have the power to summon and enforce the attendance of any person acquainted with the facts and circumstances of the case to give evidence or to produce any document which, in the opinion of the [the Board or the adjudicating officer], may be useful for or relevant to, the subject matter of the inquiry.

(7) If any person fails, neglects or refuses to appear as required by sub-rule (3) before the [the Board or the adjudicating officer], the [the Board or the adjudicating officer] may proceed with the inquiry in the absence of such person after recording the reasons for doing so."

(b) It is clear from a perusal of rule 4(1) of the Rules that at the first instance the Adjudicating Officer may only issue a notice for the limited purpose of determining whether an inquiry ought to be initiated against a Noticee. It is only after the Noticee is given an opportunity to show cause and an order instituting inquiry is issued that an adjudication may occur of what, if any, penalty should be imposed. In as much as the SCN seeks to directly proceed to a consideration of whether and what penalty should be imposed in the same proceedings where the Adjudicating Officer is considering whether an inquiry ought to be conducted against the Noticees, the SCN is contrary to the mandatory process prescribed in the Rules and is without jurisdiction. The Adjudicating Officer has therefore ventured to illegally combine the two stages contemplated under rules 4(1) and 4(3) of the Rules into one single stage and has thereby combined procedures, in a manner unknown to law.

(c) Noticees submitted that the Rules contemplate a three-stage process to be followed by SEBI before imposing a penalty on any person under section 15H(ii) of the Act:

- *(i) SEBI under rule 3 of the Rules is required to form an opinion that there are grounds for adjudging provisions in Chapter VI-A of the Act and upon forming such an opinion appoint an adjudicating officer;*
- *(ii) rule 4(1) requires that at the first instance the adjudicating officer appointed should issue a notice to such person for the limited purpose of requiring it to show why no inquiry should be held against it for contravention of applicable provisions of the Act;*
- *(iii) rule 4(3) contemplates issuance of a second notice. However, this second notice is only required to be sent by the adjudicating officer in such cases where after the step under rule 4(1) has concluded, and the adjudicating officer is of the opinion that inquiry is required to be held. It is at this stage that the determination on the issue of imposing penalty or not on the concerned person is made after considering the merits.*

(d) In the matter of Natwar Singh v. Director of Enforcement (2010) 13 SCC 255 ("Natwar Singh"), the Hon'ble Supreme Court, in relation to the Foreign Exchange Management

(Adjudication Proceeding and Appeal) Rules, 2000, which are pari materia to the Rules held that:

"22. That a bare reading of the relevant provisions of the Act and the Rules makes it abundantly clear that the manner, method and procedure of adjudication are completely structured by the statute and the Rules. The Authority is bound to follow the prescribed procedure under the statute and the Rules and is not free and entitled to devise its own procedure for making inquiry while adjudicating under section 13 of the Act since it is under legislative mandate to undertake adjudication and hold inquiry in the prescribed manner after giving the person alleged to have committed contravention against whom a complaint has been made, a reasonable opportunity of being heard for the purpose of imposing any penalty. The discretion of the Authority is so well structured by the statute and the Rules.

23. The Rules do not provide and empower the Adjudicating Authority to straightaway make any inquiry into allegations of contravention against any person against whom a complaint has been received by it. Rule 4 of the Rules mandates that for the purpose of adjudication whether any person has committed any contravention, the Adjudicating Authority shall issue a notice to such person requiring him to show cause as to why an inquiry should not be held against him. It is clear from a bare reading of the rule that show cause notice to be so issued is not for the purposes of making any adjudication into alleged contravention but only for the purpose of deciding whether an inquiry should be held against him or not...."

(e) In the matter of T. Takano v. Securities and Exchange Board of India & Anr. (Civil Appeal Nos. 487-488 of 2022) ("Takano"), the Hon'ble Supreme Court, in relation to the rule considered in Natwar Singh, held that:

"29. The show cause notice under rule 4(1) is not for the purpose of making an adjudication into the alleged contravention but only for deciding whether an enquiry must be conducted. The stage when an enquiry is held is subsequent to the initial stage contemplated by Rule 4(1)."

*(f) Further, the position of law has been clarified by the Hon'ble Securities Appellate Tribunal ("**SAT"**), on several occasions. In Shingar Ltd. v. Adjudicating Officer, Securities and Exchange Board of India, 2009 SCC Online SAT 72, the Hon'ble SAT held that:*

"…. The scheme of the Rules is clear. Before embarking upon an inquiry, the adjudicating officer has to, in the first instance, issue notice to the delinquent calling upon him to show cause why an inquiry should not be held against him. If, after considering the cause, if any, shown by the delinquent, the adjudicating officer forms an opinion that an inquiry should be held, then he shall issue a notice and proceed with the inquiry. It is incumbent upon the adjudicating officer to examine the cause if any shown by the delinquent. After considering the cause he may come to the conclusion that no inquiry is called for and can drop the proceedings at that stage. In the instant case, the adjudicating officer did not examine the reply filed by the appellant and on the contrary observed that no reply had been filed and proceeded to hold the inquiry. Since the cause shown by the appellant was not examined, rule 4(3) of the Rules stood violated which has caused prejudice to the appellant.

The learned counsel for the respondent Board submitted that no material prejudice was caused to the appellant and, therefore, the impugned order should be upheld. We cannot accept this argument. The impugned order was passed after the adjudicating officer conducted the inquiry. The order under rule 4(3) was required to be passed before the commencement of the inquiry after examining the cause shown by the appellant. Not having done so, the impugned order cannot be sustained."

(g) *Furthermore, in Shruti Vora v. Securities and Exchange Board of India, 2020 SCC OnLine SAT 19, it was held that:*

'15. A perusal of the provisions of the Act and the Rules as extracted hereinbefore makes it apparently clear that the manner, method and procedure of adjudication are completely structured by the Act and the Rules. The AO is bound to follow the prescribed procedure under the Act and the Rules and it is not open for him to device its own procedure for making an inquiry while adjudicating under Chapter VI-A of the SEBI Act. The AO can only hold inquiry in the prescribed manner after giving the person concerned a reasonable opportunity of being heard for the purpose of imposition of any penalty. The Rules provide that where any person has committed any contravention, the AO shall issue a notice to such person requiring him to show cause as to why an inquiry should not be held against him. Such issuance of notice at this stage is not for the purpose of making any adjudication into the alleged violation but is only for the purpose of deciding whether an inquiry should be held against him or not. If a response is made by person concerned against a notice the AO is required to consider the response and form an opinion as to whether an inquiry is required to be held into the allegations of the contravention of the provisions of the Act, Rules or Regulations. It is only then that substantial inquiry into allegations of contravention begins. Under section 15-I (2) of the Act read with rule 4(6) of the rules the AO while holding an inquiry has the powers of a civil court under the Code of Civil Procedure in respect of summoning and enforcing the attendance of any person and examining him on oath, requiring discovery and production of documents, receiving evidence on affidavits, issuing commissions for examination of witnesses or documents, etc."

(h) *In, Top Telemedia Ltd. v. Securities and Exchange Board of India, 2007 SCC OnLine SAT 61, it was clarified:*

"11. The Board was equally arbitrary in initiating the adjudication proceedings. Rule 3 of the Rules which is an enabling provision provides that whenever the Board is of the opinion that there are grounds for adjudging under any of the provisions in Chapter VI A of the Act it may appoint an adjudicating officer for holding an enquiry for the said purpose. The words which have been highlighted by us are of importance and the Board as a statutory regulator is not expected to initiate adjudication proceedings as a matter of course merely on the recommendation of the investigating officer. It has to form an opinion that it is necessary to initiate such proceedings. Such an opinion has to be formed only after applying its mind and examining objectively the complete record including the investigation report and the reply, if any, filed by the delinquent entity. We may hasten to add that while forming its opinion, the Board is not expected to record findings on the guilt or otherwise of the delinquent which is the duty of the adjudicating officer. Once the proceedings

are initiated, the adjudicating officer shall, in the first instance, issue a notice to the delinquent requiring him to show cause why an enquiry should not be held against him. Every such notice shall indicate the nature of offence alleged to have been committed by the delinquent. On receipt of the notice the delinquent will have right to file his reply and state therein all that he wants to say as to why an enquiry against him should not be held. The adjudicating officer will consider the reply, if any, filed by the delinquent and come to a conclusion whether the latter has been able to show sufficient cause or not. If the person proceeded against is able to show sufficient cause for not proceeding against him, the adjudicating officer shall drop the proceedings and pass an order and communicate the same to the delinquent. Since he is concluding the proceedings, he, shall record the reasons as well. If, after considering the cause, if any, shown by such person, the adjudicating officer forms an opinion that the former has not shown sufficient cause, he shall ordinarily record such opinion without recording reasons and continue with the enquiry. He shall issue notice fixing a date for the appearance of that person either personally or through his lawyer or other authorised representative. He shall then explain to the person proceeded against or his representative the offence alleged to have been committed by such person indicating the provisions of the Act, rules or regulations in respect of which contravention is alleged to have taken place. He shall then give an opportunity to such person to produce his evidence as he may consider relevant to the enquiry, and if necessary, the hearing could be adjourned to a future date for taking evidence. If any person fails, neglects or refuses to appear as required by rule 4(3) before the adjudicating officer, the latter may proceed with the enquiry in the absence of such a person after recording reasons for doing so. If upon consideration of the evidence produced before the adjudicating officer, he is satisfied that the person has become liable to penalty, he shall by order in writing impose such penalty as he thinks fit in accordance with Chapter VIA of the Act after taking into consideration the factors enumerated in section 15J of the Act. It goes without saying that he shall record his reasons for the same."

(i) It is thus clear from the law laid down in Takano, Natwar Singh and other aforesaid matters that the Adjudicating Authority is mandatorily required to follow the procedure laid down in the Rules and first decide only whether an inquiry ought to be initiated against the Noticees. It is a settled principle that when a statute prescribes a mode of doing something, then the authority under the statute must do the thing in the manner prescribed or not at all. Noticees submitted that the Adjudicating Authority cannot deviate from the procedure prescribed in the Rules or merge any of the stages under the sub-rules of rule 4 of the Rules. The determinations sought to be made in the SCN are two separate determinations required to be made at separate stages. The imposition of a penalty cannot arise, as it has in the present SCN, at the same stage as that of assessing whether an inquiry is required to be instituted against a Noticee.

(j) If any inquiry would have been initiated, the Noticees would have had the benefit of the elaborate inquiry procedure prescribed in rules 4(3) to 4(6) of the Rules, whereas through the present impugned SCN, the Noticees being deprived of this key entitlement and being subjected to an unknown summary process in violation of the procedural protections explicitly incorporated in rule 4.

(k) In as much as SEBI has sought to adjudicate imposition of penalty, i.e., the third stage of rule 4 of the Rules, without first determining whether an inquiry should be initiated against them at all, SEBI has acted outside its jurisdiction because until the determination of that preliminary issue, it is vested with no power to determine the issue of whether and what penalty ought to be imposed on the Noticees.

(l) Noticees further submitted that SEBI has proceeded against them on the basis of mere suppositions, misconceptions and an incorrect assessment of facts, and SEBI has not provided them with a fair and reasonable opportunity to meet the case against the Noticees.

(m) It is therefore apparent that the SCN has been issued without jurisdiction and de hors the process prescribed under the Rules. Noticees submitted that the manner in which SEBI is proceeding against them is completely arbitrary and unfair.

(n) The manner in which the SEBI has proceeded against the Noticees, including by issuing the SCN, gives the impression that a decision adverse to them has been pre-ordained and it is clear that SEBI, for reasons best known to it, is determined to proceed against the Noticees by giving a go-by to its own rules and regulations. The approach adopted by SEBI and its conduct suggests that SEBI is keen on imposing penalty on them one way or the other.

(o) It is therefore clear that not only has the purported SCN been issued without jurisdiction but also SEBI has failed to follow the process prescribed by law, i.e., the process under the Rules. The manner in which SEBI has chosen to proceed is against the settled principle of law that when the statute prescribes that manner in which a power given to an authority is to be exercised, then it must be exercised in that way or not at all, which makes it further evident that the SEBI has been trying to hide its negligence and deprive the Noticees of exercising their rights as granted by the statue.

(p) Noticees further requested to provide them the reasons behind delay in initiation of the present proceeding stating that it highly prejudiced them.

8. Vide reply dated September 05, 2025, Noticees also requested for inspection of documents in the matter, which was granted to them on September 25, 2025. Vide notice of hearing dated September 30, 2025, an opportunity of hearing was granted to the Noticees on October 13, 2025. In response, vide e-mail dated October 04, 2025, Noticees requested for providing a copy of the CFD Enforcement Policy. In this regard, Noticees were informed that the CFD Enforcement Policy is an internal policy document, hence, it cannot be provided. Vide said e-mail dated October 04, 2025, Noticees further submitted that rule 4(1) of the Rules has not been complied with and only after considering reply to the SCN and forming an opinion that an inquiry is warranted, a notice under rule 4(3) of the Rules may be issued for hearing. In this regard, Noticees were informed that all the required procedures

have been complied with. Thereafter, vide letter dated October 10, 2025, Noticees made additional submissions in the matter.

9. The additional submissions made by the Noticees vide common reply dated October 10, 2025 are, *inter alia*, as under:

   A. *Preliminary Objections*

(a) In continuation to our submissions made vide letters dated September 05, 2025 and email dated October 04, 2025, the Noticees submit that the present proceeding is without jurisdiction since the mandatory preliminary stage envisaged under rule 4(1) of the Rules has not been followed. The said rule contemplates that before any inquiry is ordered, the Adjudicating Officer must issue a notice calling upon the person concerned to show cause why an inquiry should not be held, and only after considering such reply and forming an opinion that an inquiry is warranted, may a notice under rule 4(3) be issued.

(b) In the present case, SEBI has directly issued a notice under rule 4(3) of the Rules "to conduct an inquiry", thereby bypassing the threshold determination under rule 4(1). This procedural short-circuiting vitiates the jurisdiction of the Adjudicating Officer and renders the present notice void ab initio, as held in Natwar Singh v. Director of Enforcement (2010) 13 SCC 255; T. Takano v. SEBI (Civil Appeal Nos. 487-488 of 2022), Shingar Ltd. v. SEBI (2009 SCC OnLine SAT 72); and Shruti Vora v. SEBI (2020 SCC OnLine SAT 19).

   B. *Submissions on the delay in the issue of the SCN*

(a) The SCN is bad in law as the same has been issued after a period of almost 6 years from the date of alleged open offer to be made. The issue of SCN after a lapse of 6 years has caused extreme mental agony to the Noticees and Noticees are not recollecting all the circumstances happened 6 years before. This highly prejudiced the case of the Noticees as justice delayed is justice denied. The Noticees further submit that although under the SEBI Act, there is no mention about limitation period for starting and conclusion of the Proceedings. However, the Hon'ble SAT and Hon'ble Supreme Court in catena of cases have held that whenever in a Statute, limitation period is not mentioned, the proceedings should be initiated and concluded within a reasonable period of time. The reasonable period depends on fact and circumstances of each case.

(b) The Noticees further submit that SEBI has not been clothed with blanket powers to initiate and conclude proceedings at any time. The proceedings should be initiated and concluded within a reasonable period of time. In this connection, the Noticees places reliance on the following Judgements and Orders passed by the Hon'ble Supreme Court and Hon'ble Tribunal. In all these following Judgement and Orders, SEBI, the Hon'ble Supreme Court and Hon'ble SAT allowed the Appeals/Matters of the respective parties on the ground of inordinate delay and latches:

(c) *The Noticees placed reliance on the Order of Hon'ble SAT dated June 28, 2023 in the Appeal No. 524/2023 in the matter of Mr. Kiran M Joshi v. SEBI, wherein the Hon'ble SAT held that:*

"1. The appellant has challenged the order dated December 19, 2022 passed by the Adjudicating Officer (hereinafter referred to as 'AO of Securities and Exchange Board of India (hereinafter referred to as 'SEBI') imposing a penalty of Rs. 1 lakh for violation of Regulation 13(4A) read with Regulation 13(5) of the Securities and Exchange Board of India (Prohibition of Insider Trading) Regulations, 1992 (hereinafter referred to as 'PIT Regulations ').

2. The facts leading to the filing of the present appeal is, that a show cause notice dated February 16, 2022 was issued to the appellant to show cause as to why an inquiry should not be initiated and penalty should not be imposed for violation of Regulation 13(4A) read with Regulation 13(5) of the PIT Regulations. It was alleged that the appellant had acquired the shares in the scrip of Shree Krishna Biotech Ltd. but failed to make disclosures under the PIT Regulations.

…………..

10. In the light of the aforesaid, we are of the opinion that there has been an inordinate delay in the issuance of the show cause notice. Even though there is no period of limitation prescribed in the Act and the Regulations for issuance of a show cause notice and for completion of the adjudication proceedings, nonetheless, the authorities are required to exercise its powers within a reasonable period. In AO, SEBI vs. Bhavesh Pabari, 2019 SCC OnLine SC 294 the Supreme Court held that an authority is required to exercise its powers within a reasonable period.

11. In view of the aforesaid, the impugned order cannot be sustained on account of an inordinate delay in initiating proceedings. Consequently, for the reasons stated aforesaid, the impugned order is quashed in so far as it relates to the appellant. The appeal is allowed."

The case of the Noticee is no different from the case cited above. The alleged violations are same. The delay in issue of the SCN is also same. Thus, the allegation made in the SCN qua the Noticee is liable to be dropped on the ground of inordinate delay in issue of the SCN.

(d) *The Noticees further placed reliance on the Order dated September 04, 2023 passed by the Ld. Whole Time Member of SEBI in the matter of Yamini Investment Company Limited wherein the Ld. WTM held that:*

"105. Given the delay by SEBI in concluding these proceedings, no separate monetary penalty is being imposed on Noticees 1-67 under section 11B(2) of the SEBI Act, 1992. Interest is also not being charged on the disgorgement amount for the same reason…."

(e) *In the Appeals filed by Mr. Ashok Shivpal Rupani & Ors. v. SEBI, the Hon'ble SAT vide its Order dated August 22, 2019 set aside the Order of SEBI and allowed the Appeal. (Appeal Nos. 417 and 440 of 2018):*

"5. We have heard the learned counsel for the parties. It was contended that there was an inordinate delay in the issuance of the show cause notice for violation of provisions of PIT Regulations or of the LODR Regulations and therefore on the

ground of inordinate delay the proceeding should have been dropped and no penalty could have been imposed. It was contended that the alleged violation occurred in the year 2010 whereas the show cause notice was issued in the year 2018 after eight years for which no explanation has been given.

6. Having considering the matter, we are of the view that there has been an inordinate delay on the part of the respondent in initiating proceedings against the appellants for alleged violations. Much water has flown since the alleged violations and at this belated stage the appellants cannot be penalized. It is alleged that disclosure under PIT Regulations was not made but similar disclosure was made by the appellant under SAST Regulations. Therefore, information was available on the Stock Exchange and therefore it cannot be said that the respondents were unaware of the alleged violations. Further, the purpose of disclosure was to make the market aware of the change of shareholding of the shareholders. When a disclosure was made by the company under SAST Regulations the investors became aware of the change in the shareholding. The non-compliance of Regulation 13 if any becomes technical in nature.

7. In Mr. Rakesh Kathotia & Ors. v. SEBI (Appeal No. 07 of 2016 decided by this Tribunal on 27.05.2019) proceedings were quashed on account of inordinate delay. The said decision is squarely applicable to the instant case. For facility, the relevant paragraph of the order is extracted hereunder:

> *"23. It is no doubt true that no period of limitation is prescribed in the Act or the Regulations for issuance of a show cause notice orfor completion of the adjudication proceedings. The Supreme Court in Government of India vs, Citedal Fine Pharmaceuticals, Madras and Others, [AIR (1989) SC 1771] held that in the absence of any period of limitation, the authority is required to exercise its powers within a reasonable period. What would be the reasonable period would depend on the facts of each case and that no hard and fast rule can be laid down in this regard as the determination of this question would depend on the facts of each case. This proposition of law has been consistently reiterated by the Supreme Court in Bhavnagar University v. Palitana Sugar Mill (2004) Vol.12 SCC 670, State of Punjab vs. Bhatinda District Coop. Milk P. Union Ltd (2007) Vol.11 SCC 363 and Joint Collector Ranga Reddy Dist. & Anr. vs. D. Narsing Rao & Ors. (2015) Vol. 3 SCC 695. The Supreme Court recently in the case of Adjudicating Officer, SEBI vs. Bhavesh Pabari (2019) SCC Online SC 294 held:*
>
> *"There are judgments which hold that when the period of limitation is not prescribed, such power must be exercised within a reasonable time. What would be reasonable time, would depend upon the facts and circumstances of the case, nature of the default/statute, prejudice caused, whether the third-party rights had been created etc."*

8. In the light of the aforesaid, we are of the opinion that there has been an inordinate delay in the issuance of the show cause notice and for completion of the adjudication proceedings. Since the power to adjudicate has not been exercised within a reasonable period no penalty could have been imposed for the alleged violations. As a result, without going into the merits of the case, we are of the opinion that on account of inordinate delay the initiation of proceedings by issuance of the *show cause notice which culminated into a penalty order cannot be sustained. The show cause notice and the impugned orders passed by the AO are quashed. Both the appeals are allowed."*

It is very pertinent to mention that SEBI had challenged the said Order before the Hon'ble Supreme Court by filing Civil Appeal Nos. 8444-8445 of 2019. The Hon'ble Supreme Court by passing Order dated November 15, 2019 had pleased to dismiss the Appeals filed by SEBI. Thus, the said Order passed by the Hon'ble Tribunal became binding upon SEBI.

(f) In the Appeal filed by Anilkumar Nandkumar Harchandani & Ors. v. SEBI (Appeal No. 75 of 2019), the Hon'ble SAT vide its Order dated December 05, 2019 held that:

"7. Upon hearing both the sides, in our view the appeal deserved to be allowed for the following reasons: -….... The time line of the events would show that the alleged violation had occurred between March, 2004 to June, 2004. The appellant had disclosed the transaction to the BSE at that time. The show cause notice however was issued in the present case dated 7th November, 2017. The investigation report itself would show that for non availability of the documentary evidences the investigating authority did not recommend taking drastic action to direct making of public announcement. Thus, there was inordinate delay in initiation of the proceedings. In the circumstance, it would be relevant to quote the reasoning forwarded by us in the case of Ashok Shivlal Rupani & Anr. vs. SEBI, Appeal nos. 471 of 2018 and 440 of 2018 dated 22nd August, 2019 in para nos. 6 and 7 as under:-

8. In the light of the reasons quoted above there is no escape from the conclusion that the proceedings are required to be quashed. Therefore the appeal is hereby allowed with no order as to costs."

The said Order of the Hon'ble SAT was also challenged by SEBI before the Hon'ble Supreme Court. The Hon'ble Supreme Court vide its Order dated February 20, 2020 pleased to dismiss the Appeal filed by SEBI and upheld the Order of the Hon'ble SAT.

(g) In the Appeals filed by Mr. Rajiv Bhanot & Ors. v. SEBI (Appeal No. 396 of 2018, Order dated 09-07-2021) and other connected Appeals, the Hon'ble SAT held that:

"18. ……We are constrained to observe that in spite of specific orders being issued from time to time on the question of delay the WTM chooses to ignore those decisions as if they do not exist or is not binding upon them. In the instant case, we find that the WTM has trenchantly asserted that it is a settled position that there is no time limit for issuing notice and that an order cannot be set aside on the ground of delay. Such assertion being used time and again in the order passed by the AO or the WTM is patently erroneous. This Tribunal in a large number of appeals have set aside the orders only on the ground of delay. In one such case namely, Ashok Shivlal Rupani vs. SEBI appeal no. 417 of 2018 decided on August 22, 2019. This Tribunal held:

………...

19. SEBI carried this matter to the Supreme Court in Civil Appeal no. 8444-8445 of 2019 which was dismissed by judgment dated November 15, 2019. Thus, the order *passed by this Tribunal became binding upon SEBI which they have chosen to ignore completely.*

………..

23. On the issue that the delay does not cause prejudice, we are of the opinion that the contention of the learned senior counsel for the respondent is patently misplaced. In the first instance, prejudice has been caused to the heirs of the deceased acquirers by issuing an order without impleading them and without giving them an opportunity of hearing. Further, promoters who have not made any acquisition are being prejudiced because they are not acting in concert nor was there any provision under the SAST Regulation of 1997 that promoters are deemed to be acting in concert. Further, there has to be an assessment and a finding that the promoters were acting with a common objective in mind which in the instant case, is lacking. Even otherwise, long delay in initiating proceedings by itself causes prejudice. In addition to the aforesaid, we find that the target Company had merged with another Company. Nothing has been brought on record to show as to who are the original shareholders to whom the open offer is to be made. It is not known as to whether the original shareholders of the original target Company are alive or dead. In the absence of any exercise being done by the respondent on these grounds a serious prejudice has been caused and, therefore, the contention of the respondent cannot be accepted.

………..

25. In our view, considering the long lapse of time in initiating the proceedings, the direction to make an open offer was not appropriate in the circumstances of the case.

26. For the reasons stated aforesaid, the impugned order cannot be sustained and is quashed. The appeals are allowed. In the circumstances of the case, parties shall bear their own costs."

This Order of the Hon'ble SAT was also challenged by SEBI before the Hon'ble Supreme Court by filing Appeal Nos. 6441-6443 of 2021. However, the Hon'ble Supreme Court vide its Order dated 08-11-2021 pleased to dismiss the Appeal filed by SEBI and upheld the Order of the Hon'ble SAT.

(h) Further, in the Appeal filed by Shriram Insight Share Brokers Ltd. (Appeal No. 559/2020, Order dated January 04, 2022), the Hon'ble SAT while allowing the Appeal with costs held that:

7. In our view, the view taken by the AO is patently erroneous and cannot be allowed to stand. We are of the view, that when a defence is raised by the appellant it is the onerous duty of the AO, as a quasi-judicial authority, to deal with the matter instead of skirting the issue and pushing it under the carpet without dealing with it. The ground raised and not dealt with amounts to judicial indiscipline. We are of the view, when a question of delay has been raised, it is imperative for the AO to deal with the issue.

8. In the instant case, we find that there is an inordinate delay in the issuance of the show cause notice. No explanation whatsoever has been given by the respondent as to why the show cause notice could not be issued earlier. In the absence of any justification, we are of the view that the show cause notice was not issued within a *reasonable time and, in fact there has been an inordinate delay in the issuance of the show cause notice. We are further of the opinion, that old and stale disputes should not be raised.*

9. In Ashlesh Gunvantbhai Shah vs. SEBI (Appeal No. 169 of 2019) decided on January 31, 2020. The relevant paragraphs are extracted herein below:-

………

12. In view of the aforesaid, the impugned order cannot be sustained and is quashed. The appeal is allowed with costs. The Misc. Application is accordingly disposed of "

This Order of the Hon'ble SAT was also challenged by SEBI before the Hon'ble Supreme Court by filing Appeal No. 1863 of 2022. However, the Hon'ble Supreme Court vide its Order dated March 28, 2022 held that:

"We have heard learned senior counsel for the appellant and perused the record. We do not see any cogent reason to entertain this Appeal. The judgment impugned does not warrant any interference. However, the cost imposed by the Securities Appellate Tribunal, Mumbai, vide its impugned order, is hereby waived."

Thus, the Appeal filed by SEBI was dismissed.

(i) *Further, in the matter of Yatin Pandey HUF v. SEBI (Appeal No. 719 of 2021), the Hon'ble SAT vide its Order dated 24-03-2022 held that:*

"3. The appellant on receipt of the show cause notice contended that there is an inordinate delay in the issuance of the show cause notice and at this belated stage the appellant is unable to collate the exact circumstances and situation with regard to the trades executed by him. It was contended that such delay has not only caused prejudice but has placed him in a disadvantage position and is unable him to defend the allegations levelled against him. It was contended that in view of the decision of this Tribunal in Ashok Shivlal Rupani & Anr. vs. SEBI Appeal No. 417 of 2018 decided on August 22, 2019, the adjudication proceedings are liable to be quashed on account of inordinate delay. The appellant also placed reliance on the order of the Hon'ble Supreme Court in Government of India vs. Citedal Fine Pharmaceuticals, Madras & Ors. [AIR 6 (1989) SC 1771].

………..

7. Having heard the learned counsel for the parties, we find that there is an inordinate delay in the issuance of the show cause notice. The disputed trades are of the year 2008-2009. The investigation in the irregular trading activities was conducted during the period May 1, 2008 to September 30, 2009. After the investigation, it has taken the respondent more than 11 years to issue the show cause notice. There is no explanation in the impugned order as to why the show cause notice could not be issued earlier.

………..

11. In the instant case, we find that the disputed trades are of the year 2008-09. Investigation was done 11 years ago and no steps were taken to issue a show cause notice. No reason has been given in the impugned order as to why the show cause notice could not be issued earlier. An attempt has been made by the respondent in paragraph no. 9 of the reply justifying the delay in the issuance of the show cause notice. In our opinion, such new facts which are not borne out from the impugned *order cannot be taken into consideration. We are of the view that there was an inordinate delay in the issuance of the show cause notice. On account of this delay serious prejudice was caused to the appellant as he was unable to collate the circumstances in executing the trades. We are further of the opinion that old and stale disputes should not be raised. Thus, on this short ground, the impugned order is liable to be quashed.*

(j) In view of the foregoing judicial precedents and settled legal position, Noticees submitted that the present proceedings are vitiated by inordinate and unexplained delay. The alleged cause of action pertains to the year 2019, whereas the SCN was issued only in 2025, after an unreasonable lapse of nearly six years. Such delay is contrary to the principles of natural justice and has caused serious prejudice to the Noticees, who are unable to effectively recollect or reconstruct all relevant facts and circumstances at this belated stage. It is a settled law, as consistently held by the Hon'ble Supreme Court and the Hon'ble SAT, that even in the absence of a prescribed limitation period, regulatory authorities must exercise their powers within a reasonable time. The failure to do so renders the proceedings arbitrary, stale, and unsustainable in law. Accordingly, the SCN deserves to be quashed and dropped solely on the ground of inordinate and unexplained delay.

(k) Without prejudice to the submissions made in our reply dated September 5, 2025, our email dated October 4, 2025, and the foregoing submissions herein, we hereby file our reply to the allegations contained in the SCN. This reply is being filed jointly, as the allegations have been made collectively against Noticees in the capacity as Promoters of the Company.

C. <u>Submissions on merit of the case</u>

(a) Noticees denied and disputed the allegation, statement, averment, contention, and observation made against them in the SCN. All actions of the Noticees have been bona fide, transparent, and in good faith, undertaken without any intent to evade compliance with law.

(b) Noticees specifically deny that they have failed to make any public announcement to acquire shares at a minimum price as contemplated under section 15H(ii) of the SEBI Act or any rules or regulations made thereunder. The provisions of section 15H(ii) are not attracted to the present case. The Noticees had, in fact, clearly expressed their readiness and willingness to proceed with the open offer in May 2024, at a fair price along with interest for the intervening period. However, SEBI consciously did not permit such open offer, taking the view that the same would be disadvantageous to the public shareholders.

(c) It is pertinent to note that a new promoter subsequently made an open offer in 2025 at Rs. 20/- per share, whereas any open offer in 2019 would have been at around Rs. 12/- per share. Hence, the investors were not placed in any disadvantageous position, on the contrary, they stood to gain from the higher valuation in the subsequent offer.

(d) The Company is listed on the CSE, which has been non-operational for several years, with no trading activity taking place in companies listed there. The Noticees, being promoters of a small, closely held company on a defunct exchange, were not

conversant with the intricate procedural requirements applicable to entities listed on active, nationalized stock exchanges.

(e) *The acquisition of shares by the Noticees was undertaken only after repeated requests and pressure from shareholders who desired to exit, and was carried out at Rs. 12/- per share, though the fair value as per the independent valuation report was Rs. 9.02/-. Thus, there was no loss, prejudice, or disadvantage to any shareholder, rather, the shareholders were paid a premium over the fair value.*

(f) *A significant portion of the Company's public shareholding comprised struck-off or inactive body corporates, who would, in any event, not have been eligible or able to participate in an open offer process in 2019.*

(g) *Further, a substantial portion of 21.27% of the Company's shareholding was already held by the new promoter, i.e., Mr. Ramchandra M Kulkarni, who subsequently made the open offer in 2025. Accordingly, the practical effect of the alleged omission, if any, was entirely nil, as neither the inactive shareholders nor the incoming promoter was in a position to be adversely affected by the alleged non-making of the open offer.*

(h) *Upon examination in 2023, SEBI had an option, i.e., to direct the Noticees to make an open offer with interest for the intervening period. Considering the peculiar facts and the investors' interest, SEBI rightly exercised regulatory discretion and refrained from directing an open offer, acknowledging that the same would be infructuous and disadvantageous to the shareholders, especially when no shareholder even tendered shares in the 2025 open offer at Rs. 20/- per share (open offer came in 2025 as RBI permissions received belatedly).*

(i) *The Noticees, vide letter dated 08 May 2024, voluntarily expressed their readiness to comply with the open offer requirements at fair value along with interest for the delayed period and had furnished complete disclosure tables to SEBI. However, SEBI, after due consideration, did not pursue the open offer route keeping in mind investor welfare and policy considerations.*

(j) *In view of the inordinate delay in the issuance of the SCN, i.e., nearly six years after the alleged trigger in 2019 and considering that no investor has suffered any loss or prejudice, this is a fit case for dropping the proceedings and not imposing any monetary penalty.*

(k) *The parameters laid down under section 15J of the SEBI Act, namely, the disproportionate gain or unfair advantage, the loss caused to investors, and the repetitive nature of default are clearly inapplicable to the present case. There has been no gain to the Noticees, no loss to investors, and no repetitive or deliberate non-compliance.*

(l) *It is well settled that mere technical or procedural non-compliance, in the absence of any mens rea, investor harm, or unlawful gain, does not warrant imposition of penalty under the SEBI Act. The alleged lapse, if any, is purely technical in nature, arising from bona fide circumstances, and does not merit penal consequences.*

10. On October 13, 2025, Authorized Representative (**"AR"**) of the Noticees, viz., Mr. Vikas Bengani attended hearing in person at SEBI and reiterated the submissions made by the Noticees vide replies dated September 05, 2025 and October 10, 2025. Further, AR stated to furnish post hearing submissions in the matter within a week, which was submitted by the Noticees vide e-mail dated October 18, 2025.

11. The post hearing submissions made by the Noticees are, *inter alia*, as under:

(a) In continuation to the hearing held in the captioned matter and as directed during the proceedings, Noticees enclosing a summary sheet containing illustrative cases where SEBI directed the acquirers to make an open offer but did not impose any monetary penalty for non-compliance.

(b) Noticees submitted that the present case bears peculiar facts and circumstances which make it a fit case for dropping the proceedings and not imposing any penalty, even of the minimum amount. For clarity, the legal and factual position is summarized as follows:

(i) Bona fide conduct and readiness to comply

- *The Noticees had voluntarily expressed their readiness to comply with the open offer requirements vide their letter dated 08 May 2024, including payment of interest for the delayed period.*
- *SEBI consciously did not direct an open offer, considering that such a step would be disadvantageous to shareholders (as per internal notes, Para 16).*
- *This demonstrates that the alleged "failure" was not deliberate or mala fide, but arose in bona fide circumstances.*

(ii) Section 15H(ii) and Section 15J considerations

- *Section 15H(ii) prescribes penalty for failure to make a public announcement, but the statutory parameters under Section 15J require consideration of:*
  1. Disproportionate gain or unfair advantage;
  2. Loss caused to investors; and
  3. Repetitive or deliberate default.

- *In the present case:*
  1. *No gain accrued to the Noticees;*
  2. *No investor suffered loss (later open offer in 2025 at ₹20 benefited shareholders);*
  3. *The alleged lapse is neither repetitive nor deliberate.*

Therefore, the statutory conditions for imposing a penalty are clearly absent.

(iii) Investor interest and market impact

- *The alleged non-compliance in 2019 would have triggered an open offer at around ₹12 per share.*
- *A subsequent open offer in 2025 was conducted at ₹20 per share and further interest thereon, benefiting shareholders.*

- *Substantial portions of the public shareholding were inactive or struck-off entities, and therefore would not have participated in an open offer.*
- *The company is listed on the CSE, which has been non-operational for several years, and there was no active market impact from the alleged non-compliance.*

(iv) Delay in issuance of SCN

- *The SCN was issued nearly six years after the alleged triggers in 2019.*
- *Courts and SAT have consistently held that excessive delay vitiates penalty proceedings, especially where no investor harm occurs.*

(v) SEBI's own discretion

- *SEBI, upon examination in 2023, had the discretion to direct an open offer but refrained from doing so in the interest of investor welfare.*
- *Once SEBI exercised discretion in favour of shareholders, it would be inconsistent to now impose a penalty for the same conduct.*

(c) Conclusion
In view of the above, Noticees submitted that the present matter is one of technical non-compliance under bona fide circumstances, with no gain to the Noticees, no loss to investors, and no deliberate or repetitive default. Accordingly, no monetary penalty, even of the minimum prescribed amount, is warranted.

CONSIDERATION OF ISSUES AND FINDINGS

12. I have carefully perused the charges levelled against the Noticees in the SCN, their replies, submissions made during personal hearing and the material available on record. The issues that arise for consideration in the present case are as follows:

    I. Whether Noticees as PAC failed to make an open offer as per the requirements of SAST Regulations on five occasions and thereby violated regulation 31A (5) of LODR Regulations and regulations 3(1), 3(2) and 4 of SAST Regulations?

    II. Does the violation, if any, attract monetary penalty under section 15H(ii) of the SEBI Act?

    III. If so, what would be the monetary penalty that can be imposed upon the Noticees taking into consideration the factors stipulated in section 15-J of the SEBI Act read with rule 5(2) of the Rules?

13. Before proceeding further, it is pertinent to refer to the relevant provisions of LODR Regulations and SAST Regulations, which are alleged to have been violated by the Noticees, as under:

<u>LODR Regulations</u>:

"31A. Conditions for re-classification of any person as promoter / public
(5) If any public shareholder seeks to re-classify itself as promoter, it shall make an open offer in accordance with the provisions of Securities and Exchange Board of India (Substantial Acquisition of Shares and Takeovers) Regulations, 2011 and the intention to get reclassified as a promoter shall be disclosed in the letter of offer."

<u>SAST Regulations</u>:

"3. Substantial acquisition of shares or voting rights.
3(1) No acquirer shall acquire shares or voting rights in a target company which taken together with shares or voting rights, if any, held by him and by persons acting in concert with him in such target company, entitle them to exercise twenty-five per cent or more of the voting rights in such target company unless the acquirer makes a public announcement of an open offer for acquiring shares of such target company in accordance with these regulations.

3(2) No acquirer, who together with persons acting in concert with him, has acquired and holds in accordance with these regulations shares or voting rights in a target company entitling them to exercise twenty-five per cent or more of the voting rights in the target company but less than the maximum permissible non-public shareholding, shall acquire within any financial year additional shares or voting rights in such target company entitling them to exercise more than five per cent of the voting rights, unless the acquirer makes a public announcement of an open offer for acquiring shares of such target company in accordance with these regulations."

"4. Acquisition of control.
Irrespective of acquisition or holding of shares or voting rights in a target company, no acquirer shall acquire, directly or indirectly, control over such target company unless the acquirer makes a public announcement of an open offer for acquiring shares of such target company in accordance with these regulations."

14. The issues raised in this matter are dealt in the following paragraphs.

Issue I. Whether Noticees as PAC failed to make an open offer as per the requirements of SAST Regulations on five occasions and thereby violated regulation 31A (5) of LODR Regulations and regulations 3(1), 3(2) and 4 of SAST Regulations?

15. Before proceeding to the merits of the case, it is appropriate to deal with the following preliminary issues raised by the Noticees. Noticees submitted that the present proceeding is without jurisdiction since the mandatory preliminary stage envisaged under rule 4(1) of the Rules has not been followed. Noticees stated that the said rule contemplates that before any inquiry is ordered, the Adjudicating

Officer must issue a notice calling upon the person concerned to show cause why an inquiry should not be held, and only after considering such reply and forming an opinion that an inquiry is warranted, may a notice under rule 4(3) be issued. However, in the present case, SEBI has directly issued a notice under rule 4(3) of the Rules to conduct an inquiry, thereby bypassing the threshold determination under rule 4(1) of the Rules. In this regard, Noticees relied on the observations of Hon'ble Supreme Court in the matters of *Natwar Singh v. Director of Enforcement* and *T. Takano v. SEBI & Anr.* and observations of Hon'ble SAT in the matters of *Shingar Ltd. v. Adjudicating Officer, SEBI* and *Shruti Vora v. SEBI*, etc. Noticees further contended that the present proceeding against them is arbitrary and unfair and the approach adopted by SEBI and its conduct suggests that SEBI is keen on imposing a penalty on them.

16. In this regard, I note that pursuant to appointment of Adjudicating Officer vide order dated July 25, 2025, the SCN dated August 21, 2025 was issued to the Noticees in terms of rule 4(1) of the Rules read with Section 15-I of the SEBI Act. Subsequently, Noticees filed their replies to the SCN vide letters dated August 26, 2025 and September 05, 2025. Therefore, considering the replies of the Noticees dated August 26, 2025 and September 05, 2025, an opinion under rule 4(3) of the Rules was formed and accordingly, the notice of hearing dated September 30, 2025 was issued to the Noticees in terms of rule 4(3) of the Rules. Therefore, all the procedures laid down under Rules were complied with, thus the contentions of the Noticees that the present proceeding is without jurisdiction, arbitrary and unfair is devoid of any merit.

17. Noticees further submitted that the present proceedings are vitiated by inordinate and unexplained delay. They contended that the SCN is bad in law as the same was issued after a period of almost six years from the date of alleged violations. The issue of SCN after a lapse of six years has caused mental agony to the Noticees and they are unable to recollect or reconstruct all relevant facts and circumstances at this belated stage, which highly prejudiced them, hence the SCN is liable to be quashed and dropped. In this regard, I note that the Noticees have mainly contented that the alleged violations pertain to the period from June 2019 to September 2019 and the SCN was issued only on August 21, 2025, i.e., with a

delay of around six years. To address the contention, it is pertinent to reproduce the judgment of Hon'ble Supreme Court in the case of *Adjudicating Officer, SEBI vs. Bhavesh Pabari* (2019) SCC Online SC 294, wherein it was held that:

> *"There are judgments which hold that when the period of limitation is not prescribed, such power must be exercised within a reasonable time. What would be reasonable time will depend upon the facts and circumstances of the case, nature of the default/statute, prejudice caused, whether the third party rights had been created etc."*

18. In this regard, I note from the records that the instant matter came to the knowledge of SEBI during September 2023, when a Draft Letter of Offer ("**DLOF"**) in relation to open offer for acquisition of 7,57,150 fully paid-up equity shares of face value of ₹10/- each of the target company by Rajesh Raghuvir Mantri, Seema Pravin Josh, Harshala Nitin Gaikwad, Shruti Tejas Kulkarni, Aakanksha Rajesh Mantri, Dattaraj Rajesh Mantri along with Ramchandra Mangesh Kulkarni ("**New Promoter / New Acquirers"**), at a price of ₹20.00/- per share in terms of SAST Regulations was filed with SEBI. In this context, further clarifications were sought from Finshore Management Services Limited, Manager to the open offer (**"Manager"**) and Noticees during September-October 2023. Thereafter, DLOF was examined and observation letter was issued to Manager on November 06, 2023, for necessary compliance. Required information and clarifications were obtained from Manager and the Company and the matter was examined during September 2023 to June 2024. During examination, it was noted that the application dated September 05, 2023 filed by the Company was pending with Reserve Bank of India (RBI) for approval of open offer for effecting change in management since the target company was involved in the business of providing loans as a non-deposit taking NBFC. Therefore, considering a possible situation of refusal of statutory approval by RBI, where the new acquirers would be constrained to withdraw the open offer, adjudication proceedings against the Noticees may not be sufficient to meet the ends of justice. In the absence of a new acquirer (i.e., if RBI had refused approval), the Noticees would have been compelled to make the open offer. In the event of their failure, SEBI would have passed an enforcement order directing Noticees to make an open offer. Hence, in order to avoid multiple enforcement actions, initiation of enforcement action was kept in abeyance till the time RBI took a final decision on the application of the target company. Thereafter, vide email dated

March 12, 2025, the Manager informed SEBI that the Company received said approval of RBI on March 11, 2025. In view thereof, adjudication proceedings against the Noticees were approved by SEBI on March 13, 2025. Subsequently, the undersigned was appointed as the Adjudicating Officer vide order dated July 25, 2025 and SCN was issued on August 21, 2025. In view of the aforesaid, it is noted that there was no inordinate and unexplained delay in initiation of adjudication proceedings.

19. Further, the Noticees contented that the delay has caused grave prejudice to them and they are not in a position to recollect or reconstruct all relevant facts and circumstances at this belated stage. In respect of contention of delay, I note that delay, if any, itself may not be a ground that would vitiate the instant proceedings. However, it is required to examine whether delay has caused any prejudice to the Noticees. In this regard, I note that Noticees have merely made a bald statement and they have not specified any particular detail of the alleged transactions, which was not available with them. Further, I note that Noticees were provided with all the relevant and relied upon documents for issuance of the SCN, including copies of Office Notes concerning examination in the matter along with relevant annexures and correspondence in the matter. Moreover, during inspection of the documents, other relevant and relied upon documents for issuance of the SCN were provided to the Noticees. The said documents contained all the relevant information related to the classification of the Noticees as promoters and acquisition of shares of the target company, based on which SCN was issued. Thus, in my view the Noticees had sufficient material to defend their case. In fact, Noticees were able to put forth their defense in detail, as apparent from their replies and submissions. In this regard, I note that the Hon'ble SAT in the matter of *Pooja Vinay Jain v. SEBI* (SAT Appeal No. 152 of 2019, decided on March 17, 2020) held as follows:

> *"13. In the present case, the appellant neither put a plea of prejudice before the AO nor before us. It was simply stated that since the proceedings were launched by respondent SEBI after a period seven years, the same should be quashed on the ground of delay. The record would show that all the documents concerning the defense of the appellant were filed by her before the AO. Therefore, for want of any prejudice the proceedings cannot be quashed simply on the ground of delay in launching the same. Further, as explained by the learned counsel for the respondent as recorded in*

paragraph No. 6.4 above, large numbers of entities and transactions were analysed by SEBI which took some time."

20. Further, it is also noted that in the matter of *Ravi Mohan & Ors. v. SEBI* decided on August 08, 2013, Hon'ble SAT while referring to its own decision in the matter of *HB Stockholdings Ltd. v. SEBI* (Appeal no. 114 of 2012) decided on August 27, 2013 and decision of Hon'ble Supreme Court in the matter of *Collector of Central Excise, New Delhi v. Bhagsons Paint Industry (India)* reported in 2003 (158) ELT 129 (S.C.), observed as under:

    "...Based on decision of this Tribunal in case of HB Stockholdings Ltd. vs. SEBI (supra) it was contended on behalf of the appellants that in view of the delay of more than 8 years in issuing the show cause notice, the impugned order is liable to be quashed and set aside. There is no merit in this contention, because, this Tribunal while setting aside the decision of SEBI on merits has clearly held in para 20 of the order, that delay itself may not be fatal in each and every case. Moreover, the Apex Court in case of Collector of Central Excise, New Delhi vs. Bhagsons Paint Industry (India) (supra) has held that if there no statutory bar for adjudicating the matter beyond a particular date, the Tribunal cannot set aside the adjudication order merely on the ground that the adjudication order is passed after a lapse of several years from the date of issuing notice...."

21. In view of the above, I find that no prejudice has been caused to the Noticees and they have failed to make out a case of prejudice due to the alleged delay in initiation of proceedings. Thus, it cannot be said that there is an inordinate delay in the issuance of SCN and hence the said contentions of the Noticees cannot be accepted.

22. Therefore, the preliminary issues raised by the Noticees hold no merit. Having dealt with the preliminary contentions, I shall now proceed to address the key issues that arise for consideration.

23. It was alleged in the SCN that the Noticees were public shareholders of the target company till quarter ended on March 2019, thereafter, they were classified as promoters of the target company from quarter ended on June 2019, which triggered the obligation to make an open offer as per regulation 31A (5) of LODR Regulations (First Trigger). Further, pursuant to acquisition of 7.95% shares of the target

company by the Noticees on July 04, 2019 (viz., promoter and promoters group), the shareholding of the Noticees as PAC exceeded the threshold, i.e., 25% shareholding of the target company, which triggered the open offer requirements as per regulation 3(1) of SAST Regulations (Second Trigger). Noticees as PAC were holding 31.31% shares of the target company, which was above 25% shareholding. Further, Noticees acquired 21.78% shares of the target company on August 27, 2019, which triggered the open offer requirements as per regulation 3(2) of SAST Regulations (Third Trigger). Noticees were holding 53.09% shares of the target company as on August 27, 2019. Thereafter, Noticees as PAC acquired 5.00% and 4.83% shares of the target company on September 03, 2019 and September 05, 2019, respectively, which triggered the open offer requirements as per regulation 3(2) of SAST Regulations (Fourth Trigger). Noticees as PAC were holding 63.09% shares of the target company as on September 18, 2019. They further acquired 6.67% shares of the target company on September 19, 2019, which again triggered the open offer requirements as per regulation 3(2) of SAST Regulations (Fifth Trigger).

24. In response to above allegations, Noticees in their reply dated August 26, 2025, admitted the violation and apologised for the alleged non-compliances. Noticees submitted that these instances of said non-compliances arose purely due to lack of awareness and understanding of the technical requirements of the Takeover Regulations. Noticees further stated that they inadvertently failed to discharge their obligations under the SAST Regulations at the relevant time, which was an unintentional omission arose due to the lack of awareness and oversight. There was no mala fide intention to suppress information or evade compliance, the lapses occurred in good faith and it was unintentional, inadvertent and technical nature of the default.

25. However, subsequently, Noticees vide their replies dated September 05, 2025, October 10, 2025 and October 18, 2025, made further submissions in the matter, wherein they denied and refuted the allegations levelled against them in the SCN. In this regard, I note that Noticees had unequivocally admitted the violations during the course of examination and in their earlier reply dated August 26, 2025 to the SCN, as mentioned hereinabove. Therefore, the Noticees’ subsequent attempt to

retract from the earlier admissions and their abrupt reversal in stance appears to be an afterthought and lacks credibility, and hence it cannot be accepted. However, for the sake of completeness and fairness, the subsequent submissions of the Noticees are also considered and dealt with on merit in the succeeding paragraphs.

26. Noticees have argued that they had vide letter dated May 08, 2024 to SEBI, voluntarily expressed their readiness to comply with the open offer requirements at fair value along with interest, however, SEBI did not pursue the open offer route keeping in mind investor welfare and policy considerations. In this regard, it is relevant to mention that SEBI does not approve open offer rather it happens automatically, by operation of law upon on crossing the thresholds explicitly provided under the SAST Regulations. However, SEBI has the power to direct an open offer for failure to act upon crossing of such thresholds. Thus, the claim of the Noticees' that SEBI did not pursue their letter expressing readiness for an open offer that too after violating the open offer trigger for five times, appears to be an attempt to shift the onus on the regulator. Apparently, the Noticees' have misconceived that the regulator's nod is required to pursue open offer once its triggered as per the SAST Regulations and their claim would have some merit if they had filed a draft letter of offer at any point of time after triggering the open offer five times.

27. With regard to above contentions of the Noticees, it is further observed that the Noticees' letter dated May 08, 2024 to SEBI, *inter alia*, stated that "*Accordingly, as per our understanding of Regulation 8(2) of SEBI SAST Regulations, Offer Price as on 19.09.2019 is coming as Rs. 12/- per share. Since, the Open Offer was not given to the shareholders on 19.09.2019, we agree to pay interest @10% for the delayed period from 19.09.2019 to 11.08.2023 on price of Rs. 12/- per share as per applicable Regulations of SEBI SAST Regulations and confirm the below offer price as calculated below:*

Existing offer Price - (A)	*₹12.00*
Date of Trigger	*19-09-2019*
Date of Public Announcement by new Acquirers	*11-08-2023*
No of Days Delayed	*1422*
Interest @10% - (B)	*₹4.68*
New offer Price as on August 11.2023 (A-B)	*₹16.68*

……"

28. From perusal of the said letter dated May 08, 2024, it is noted that Noticees only agreed to pay interest at the rate of 10% for the delayed period from September 19, 2019 to August 11, 2023 on price of Rs. 12/- per share, however, they did not express their readiness and willingness to proceed with the open offer as claimed by them in their submission to the SCN. Therefore, the above contention of the Noticees is misplaced. Further, in any event, even if the Noticees had expressed their readiness and willingness to proceed with the open offer during May 2024, the violations of the provisions of regulation 31A (5) of LODR Regulations and regulations 3(1), 3(2) and 4 of SAST Regulations occurred during June to September 2019 when obligation to make open offers by the Noticees was triggered on five occasions and persisted thereafter. Hence, the contention of the Noticees is devoid of any merit.

29. Noticees further contended that a new promoter subsequently made an open offer in 2025 at Rs. 20/- per share, whereas any open offer in 2019 would have been at around Rs. 12/- per share. Hence, the investors were not in any disadvantageous position, on the contrary, they stood to gain from the higher valuation in the subsequent offer. In this regard, it is noted that the price at which new acquirers subsequently made an open offer in 2025 was higher than the probable price at which open offer would have been made in 2019 by the Noticees, cannot be a ground or justification for failure to make the mandatory open offers by the Noticees in 2019. As per the provisions of regulation 31A (5) of LODR Regulations and regulations 3(1), 3(2) and 4 of SAST Regulations, the Noticees were under obligation to make the open offers on said five different occasions during June to September 2019 when trigger events occurred, however, they failed to do so. Further, it noted that the Noticees were required to make open offers in 2019, whereas, an open offer by new acquirers was made in 2025 at Rs. 20/- per share, i.e., after a period of around six years. The rate at which open offer was made by new acquirers in 2025, almost six year later, is irrelevant for determining whether investors were deprived of exit opportunities in 2019. Also, the higher price offered by new acquirers after six years cannot be a justification for not giving open offers by the Noticees in 2019. Thus, the submission of the Noticees that the investors were not in any disadvantageous position, on the contrary, they stood to gain from the higher valuation in the subsequent offer is not acceptable.

30. Further, Noticees submitted that the Company is listed on the CSE, which has been non-operational for several years, with no trading activity taking place in companies listed there and they, being promoters of a small, closely held company on a defunct exchange, were not conversant with the intricate procedural requirements applicable to entities listed on active, nationalized stock exchanges. In this regard, I note that it is the responsibility of the Noticees to comply with the applicable provisions of LODR Regulations and SAST Regulations and ignorance of law does not absolve the Noticees from their obligations and liabilities.

31. Noticees further submitted that the acquisition of shares by the Noticees was undertaken only after repeated requests and pressure from shareholders who desired to exit, and was carried out at Rs. 12/- per share, though the fair value as per the independent valuation report was Rs. 9.02/-, thus, there was no loss, prejudice, or disadvantage to any shareholder, rather, the shareholders were paid a premium over the fair value. In this regard, it is noted that when the open offer requirements triggered on said five occasions, the Noticees were required to give open offers to the remaining shareholders who were invested in the Company during the relevant periods, however, the same was not made by them. Hence, the shareholders of the Company were not given exit opportunities on said five occasions when the Noticees were classified as promoters of the target company and open offer requirements were triggered on account of acquisition of shares by them. Therefore, the above submissions of the Noticees cannot be accepted.

32. It is also submitted by Noticees that a significant portion of the Company's public shareholding comprised of struck-off or inactive body corporates, who, in any event, would not have been eligible or able to participate in an open offer process in 2019. In this regard, it is noted that the Noticees have just made the bald statement and have not submitted any supporting documentary evidence in support of their claim. Further, from the material available on records, it is noted that the total shareholding of Noticees was 18.36% as at the end of June 2019 and it increased to 69.76% as on September 19, 2019 after multiple acquisitions of shares as indicated in Table-1. The said multiple acquisitions of shares indicate that there were shareholders of the Company who were selling their shares to the Noticees during June 2019 to September 2019, therefore, it is incorrect to say that

the significant portion of the Company's public shareholding comprised of struck-off or inactive body corporates, who would not have been eligible or able to participate in an open offer process in 2019. Therefore, the above contentions of the Noticee are not tenable.

33. Further, Noticees submitted that a substantial portion of the Company's shareholding, i.e., 21.27% shareholding, was already held by the new promoter, i.e., Mr. Ramchandra M Kulkarni, who subsequently made the open offer in 2025, accordingly, the practical effect of the alleged omission, if any, was entirely nil, as neither the inactive shareholders nor the incoming promoter was in a position to be adversely affected by the alleged non-making of the open offer. In this regard, it is noted that the shareholding pattern of the Company furnished by the Noticees pertains to quarter ended on June 2025, however, the obligation to make open offers by the Noticees triggered in 2019, therefore, the said contention is not tenable. Further, as observed hereinabove, Noticees made continuous acquisition of shares from June 2019 to September 19, 2019, thereby their shareholding in the Company increased from 18.36% to 69.76% during this period. This shows that the Noticees claim that the shareholders were inactive or ineligible and they were not adversely affected by not making of the open offers by the Noticees is untenable. In any event, the Noticees were under obligation to make the open offers on said five different occasions in terms of regulation 31A (5) of LODR Regulations and regulations 3(1), 3(2) and 4 of SAST Regulations.

34. Noticees further submitted that SEBI had an option, i.e., to direct the Noticees to make an open offer with interest for the intervening period, however, considering the peculiar facts and the investors' interest, SEBI exercised regulatory discretion and refrained from directing an open offer, acknowledging that the same would be infructuous and disadvantageous to the shareholders, especially when no shareholder even tendered shares in the 2025 open offer at Rs. 20/- per share. In this regard, I note that whether any shareholder had tendered shares in the 2025 open offer or not is immaterial and irrelevant for deciding the obligations of the Noticees to make open offers during 2019 at five occasions. Whether any shareholder had tendered shares in the 2025 open offer or not, the obligation of the Noticees to make the open offers as PAC was triggered during 2019, hence,

Noticees should have made the open offer(s) as per the provisions of regulation 31A (5) of LODR Regulations and regulations 3(1), 3(2) and 4 of SAST Regulations.

35. In view of the above findings, I note that the Noticees as a PAC failed to make the mandatory open offers on five different occasions during June 2019 to September 2019. Therefore, I hold that Noticees violated the provisions of regulation 31A (5) of LODR Regulations and regulations 3(1), 3(2) and 4 of SAST Regulations.

Issue II. Does the violation, if any, attract monetary penalty under section 15H(ii) of the SEBI Act?

36. In light of the findings and observations brought out against the Noticees in the foregoing paragraphs, it is evident that Noticees violated the provisions of regulation 31A (5) of LODR Regulations and regulations 3(1), 3(2) and 4 of SAST Regulations.

37. With regard to levy of monetary penalty, Noticees submitted that no penalty should be imposed on them as the breach, if any, is unintentional, inadvertent, technical in nature and arose from bona fide circumstances. Noticee also submitted there was no gain to them, no loss was caused to the investors and no repetitive or deliberate non-compliance was done by them. In this regard, it is noted that the violations committed by the Noticees cannot be regarded as merely technical and bona fide as the Noticees failed to make the obligatory open offers on five different occasions during June 2019 to September 2019, which constitute a substantive lapse under the LODR Regulations and SAST Regulations. Further, it is noted that the amount of loss caused to the investors, if any, is not available on records, however, it is a matter of fact that the investors of the Company did not get the exit opportunities on said five occasions when the open offer requirements were triggered and Noticees were under obligation to make the open offers in 2019. Hence, the violations of the Noticees cannot be taken lightly, and should be dealt with suitable penalty.

38. With regard to above contentions of the Noticees, reliance is placed on the observations of the Hon'ble SAT in the matter of *Komal Nahata v. SEBI (Appeal*

No. 5 of 2014 dated January 27, 2014) observed that *"Argument that no investor has suffered on account of non-disclosure and that the AO has not considered the mitigating factors set out under Section 15J of SEBI Act, 1992 is without any merit because firstly penalty for noncompliance of SAST Regulations, 1997 and PIT Regulations, 1992 is not dependent upon the investors actually suffering on account of such non-disclosure"*.

39. I also note that in Appeal No. 78 of 2014 in the case of *Akriti Global Traders Ltd. v. SEBI*, the Hon'ble SAT vide order dated September 30, 2014 observed that *"… Argument of appellant that the delay was unintentional and that the appellant has not gained from such delay and therefore penalty ought not to have been imposed is without any merit, because, firstly, penal liability arises as soon as provisions under the regulations are violated and that penal liability is neither dependent upon intention of parties nor gains accrued from such delay".*

40. Further, reliance is placed on the judgment of Hon'ble Supreme Court dated May 23, 2006 in the matter of *SEBI v. Shriram Mutual Fund,* wherein it was, *inter alia,* observed 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. A breach of civil obligation which attracts penalty in the nature of fine under the provisions of the Act and the Regulations would immediately attract the levy of penalty irrespective of the fact whether contravention must made by the defaulter with guilty intention or not.'*

41. In view of the above, the aforesaid violations make the Noticees liable for penalty under section 15H(ii) of the SEBI Act, which reads as under:

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

15H. *If any person, who is required under this Act or any rules or regulations made thereunder, fails to, —*

…………

(ii) make a public announcement to acquire shares at a minimum price; or

…………

he shall be liable to a penalty which shall not be less than ten lakh rupees but which may extend to twenty-five crore rupees or three times the amount of profits made out of such failure, whichever is higher."

Issue III. If so, what would be the monetary penalty that can be imposed upon the Noticees taking into consideration the factors stipulated in section 15-J of the SEBI Act read with rule 5(2) of the Rules?

42. While determining the quantum of penalty, the following factors stipulated in section 15-J of the SEBI Act are taken into account: -

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

15J *While adjudging quantum of penalty under 15-I or section 11 or section 11B, the Board 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."

43. In this case, from the material available on record, any quantifiable gain or unfair advantage accrued to the Noticees or the extent of loss suffered by the investors as a result of non-compliance to the provisions of LODR Regulations and SAST Regulations is not available. With respect to the repetitive nature of the default, I do not find anything on record against the Noticees. However, I note that the findings of the examination brought out five instances where Noticees as a PAC failed to make the open offers and thereby violated the provisions of LODR Regulations and SAST Regulations. The said violations by the Noticees attract monetary penalty.

44. In this context, it is noted that at the time of the first trigger for making open offer by the Noticees, they were collectively holding 18.36% of the shares of the target company. At that point of time, if they had made an open offer, they should have offered to buy 26% shares of the target company by bringing in an amount of approx. Rs. 93.6 Lakh, i.e., to buy 7.8 Lakh shares at Rs.12 per share. The per share value is taken from Noticees' own admission in their reply mentioned at para 9.C(c) at page 18 above. It was likely that shareholders would have tendered their

shares upto 26% then as the floating stock of the target company at the relevant time was substantial which is evident from the subsequent acquisitions of shares by the Noticees to the extent of 69.76% of the shareholding. Similarly, Noticees were required to earmark considerable amounts for the subsequent four open offer triggers, which they failed to make. This would in turn mean that the Noticees prevented the shareholders from exercising their choice as to remain invested or exit the target company, five times as narrated above. These factors are also taken into account while deciding the quantum of penalty.

ORDER

45. Taking into account the facts and circumstances of the case, material available on record, submissions of the Noticees, findings made hereinabove and factors mentioned in section 15J of the SEBI Act, in exercise of the powers conferred upon me under section 15-I of SEBI Act read with rule 5 of the Rules, I hereby impose monetary penalty of ₹ 20,00,000/- (Rupees Twenty Lakh Only) on the Noticees under section 15H(ii) of the SEBI Act. Noticees are jointly and severally liable to pay the said penalty. In my view, the said penalty is commensurate with the violations committed by Noticees in this case.

46. Noticees shall remit / pay the said amount of penalty within 45 days of receipt of this order 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

47. In the event of failure to pay the said amount of penalty within 45 days of the receipt of this Order, 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.

48. In terms of rule 6 of the Rules, copy of this order is sent to the Noticees and also to SEBI.

JAI SEBASTIAN
Digitally signed by JAI SEBASTIAN
Date: 2025.11.25 17:33:45 +05'30'

Place: Mumbai **JAI SEBASTIAN**
Date: November 25, 2025 **ADJUDICATING OFFICER**