BEFORE THE ADJUDICATING OFFICER

SECURITIES AND EXCHANGE BOARD OF INDIA

(ADJUDICATION ORDER NO: Order/SV/RM/2023-24/30176-30179)

UNDER SECTION 15-I (2) OF SECURITIES AND EXCHANGE BOARD OF INDIA ACT, 1992 READ WITH RULE 5 OF SEBI (PROCEDURE FOR HOLDING INQUIRY AND IMPOSING PENALTIES) RULES, 1995 AND UNDER SECTION 23-I (2) OF SECURITIES CONTRACTS (REGULATION) ACT, 1956 READ WITH RULE 5 OF SECURITIES CONTRACTS (REGULATIONS) (PROCEDURE FOR HOLDING INQUIRY AND IMPOSING PENALTIES) RULES, 2005

In respect of:

Noticee	Name of the Noticee	PAN
1.	Perfect Octave Media Projects Limited	AADCP0466B
2.	Mr. Ratish Tagde	AAZPT7580P
3.	Ms. Rajni Sharadchandra Tagde	AMOPT3346E
4.	Rutmarg Commercials Pvt. Ltd.	AABCR6975K

In the matter of Perfect Octave Media Projects Limited

BACKGROUND OF THE CASE

1. Securities and Exchange Board of India (hereinafter referred to as 'SEBI') upon receipt of a complaint dated August 15, 2020 against the Perfect Octave Media Projects Limited, conducted an examination and based on the findings of examination, SEBI initiated adjudication proceedings against Perfect Octave Media Projects Limited (hereinafter referred to as **Noticee 1**/"**POMPL" / "the Company**"), Mr. Ratish Tagde (hereinafter referred to as **Noticee 2**), Ms. Rajni Sharadchandra Tagde (hereinafter referred to as **Noticee 3**), and Rutmarg Commercials Pvt. Ltd. (hereinafter referred to as **Noticee 4**), (hereinafter together to as 'Noticees') as detailed below :

   a. Under Section 23A of Securities Contracts (Regulations) Act (hereinafter referred to as '**SC(R)A'**) against Noticee 1 for the alleged violations of Regulations 31A(8)(a), 31A, Clause no. 7 of Para A of Part A of Schedule III read with Regulation 30, Regulation 27(2) and the circulars issued thereunder;

of SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015 (hereinafter referred to as **LODR Regulations**)

b. Under Section 15A(b) of SEBI Act, 1992 against Noticee 2, 3 and 4 for the alleged violations of Regulation 29(2) read with Regulation 29(3) 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 the Adjudicating Officer, vide order dated April 18, 2023, to inquire into and adjudge under the provisions of the Section 15A(b) of the SEBI Act,1992 and Section 23A of SC(R)A for the violations alleged to have been committed by the Noticees.

SHOW CAUSE NOTICE, REPLY AND HEARING

3. Show Cause Notice ref. SEBI/HO/EAD-8/SV/RM/2023/34675,34676,34678, 34679 dated August 28, 2023 (hereinafter referred to as "**SCN"**) were issued to the Noticees in terms of the provisions of Rule 4 of the SEBI Adjudication Rules and Rule 4 of the SCR Adjudication Rules vide speed post acknowledgement due and email dated August 28, 2023. I note that SCN was successfully delivered through speed post and email to the Noticees.

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

5. <u>Allegation of Non-reclassification of Mr. Ratish Tagde from promoter to public:</u> It was alleged that Noticee 2 had made an application for reclassification from promoter to public under regulation 31A of the LODR Regulations as he holds 0.26% of the equity capital in the Company; however, the request was not acceded to. Further, due to several other non-compliances by the Company, his shareholding was frozen.

6. In response to the aforesaid allegation Noticee 1 submitted the following comments:
   a. Noticee 2, is the promoter of the Company and there is no change in this status. While he resigned as a director from the board of directors of the Company, there is no documentation from Noticee 2 regarding the transfer of shares held by him as the promoter.
   b. Noticee 4 owned shares of the Company originally to the extent of 24%. The new shares have come into Rutmarg and associate's possession only as the collateral security and not on account of sale / purchase.
   c. Disclosures related to December 2017 and prior period were done under the board and leadership of Noticee 2 and the Company is not in a position to comment on incorrect shareholding pattern as neither the minutes of board meeting nor any assets have been handed over to the Company by Noticee 2.

7. In regard to the aforesaid allegation BSE submitted the following comments to SEBI:
   a. that Noticee 1 has not considered the request made by Noticee 2 for reclassification from promoter to public category as there is no change in promoter-ship of the Noticee 1 Company.
   b. that Noticee 1 has submitted that Noticee 2 needs to document his inability to pay back the loan granted by Noticee 4; Noticee 4 is not interested in becoming a promoter unless all paperwork, assets and past financial dealings are in order with proper audit.
   c. that, the Company vide announcement dated August 28, 2019 had informed the Exchange that they were in receipt of request from Noticee 2 under Regulation 31A of LODR Regulations.
   d. that there were 8 promoters in quarter ended June 2017 and September 2017 and thereafter the count of the promoters got reduced to 6 (for December 2017), 2 (for March 2018) and 1 from June 2018 till September 2020 as per the shareholding patterns filed with the exchange. However, the Company has not made any application to the exchange for reclassification of promoters.

e. In terms of Regulations 31 of LODR and SEBI circular dated November 30, 2015, even those entities which do not hold any shares in the listed entity but form a part of the promoter group have to be disclosed in the statement showing shareholding pattern of the promoter and promoter group. Hence, the Company has violated the provisions of SEBI circular dated November 30, 2015 and Regulation 31 of LODR.

8. As regards allegation on non-reclassification of Noticee 2 from promoter to public, from Noticee 1's email dated August 28, 2020 and email dated January 6, 2021 it was noted that the request was not acceded to by the Company, owing to non-completion of paperwork, past financial dealings, etc. It was also informed by the Company that the board of POMPL was not in a position to consider the reclassification request as there were no supporting documents to warrant the change in promoter.

9. Regulation 31A (8) of the LODR specifies certain events to be deemed as material events and shall be disclosed by the listed entity to stock exchange as soon as reasonably possible and not later than twenty-four hours from the occurrence of the event, which *inter-alia* include:

   a) receipt of request for re-classification by the listed entity from the promoter(s) seeking re-classification;
   b) minutes of the board meeting considering such request which would include the views of the board on the request.

10. In this regard, it was noted that while the request for reclassification by the promoter was received by the Company on 19th/20th August, 2019, the Company informed the same to the exchange vide announcement dated August 28, 2019. In view of the above, the Noticee 1 was alleged to be in non-compliance with regulation 31A(8)(a) of the LODR Regulations. Aforesaid regulations and provisions alleged to be violated by the Noticee is reproduced as follows:

SEBI (LISTING OBLIGATIONS AND DISCLOSURE REQUIREMENTS) REGULATIONS, 2015

Conditions for re-classification of any person as promoter/public

__31A.__ ……(8) The following events shall deemed to be material events and shall be disclosed by the listed entity to the stock exchanges as soon as reasonably possible and not later than twenty four hours from the occurrence of the event:

(a) receipt of request for re-classification by the listed entity from the promoter(s) seeking re-classification;….

11. It was also observed from the shareholding pattern filed by Noticee 1 with the stock exchange that there has been a decline in number of promoters from 8 in quarter ended on June 30, 2017 and September 30, 2017 to 6, 2 and 1 in quarter ended on December 31, 2017; March 31, 2018 and June 30, 2018, respectively. However, the Company neither submitted an application for reclassification of promoter nor made any disclosure in this regard. In view of the above, the Noticee 1 was alleged to be in non-compliance with the provisions of regulation 31A of LODR.

12. <u>Non-disclosure of resignation of directors from POMPL and faulty disclosures:</u> It was alleged that Mr. Mahesh Tagde was shown as a director and Noticee 2 was shown as executive chairman even after their resignation from the board. Further, Ms. Seema Tagde –wife of Noticee 2, was shown as a related party post her death on January 3, 2020.

13. In response to the aforesaid allegation Noticee 1 vide Email dated August 28, 2020 submitted the following:
    a. There was no official communication to the Company about demise of Ms. Seema Tagde. Further, Noticee 2 was the Chairman Emeritus till recently and Ms. Seema Tagde was to be inducted as a director. Since their loan was written off, it had to be reported to BSE.
    b. Noticee 2 has floated several private limited firms with names that are similar and could hurt business of the Company. Further, there have been several large financial transactions with some of these firms, including write-offs and it was thought prudent to continue him as director until all matters are settled.

14. In regard to the aforesaid allegation BSE vide its email dated November 10, 2020 submitted the following comments:

    a. As per the Corporate Governance (CG) report filed by the Company, Noticee 2 had resigned from the post of directorship w.e.f. March 31, 2018. The Company had not submitted corporate announcement in this regard. Further, his name was still appearing as director in the CG report filed with the exchange from March 2018 till September 2019.
    b. The Company also suspects financial irregularities in the accounts during the tenure of Noticee 2 and claims that they will continue to show Noticee 2 as Director in the CG report, till such time all matters are settled.

15. Clause no. 7 of Para A of Part A of Schedule III of LODR read with regulation 30 of LODR requires a listed entity to disclose the following as soon as reasonably possible and not later than twenty-four hours from the occurrence of event or information:

    "Change in directors, key managerial personnel (Managing Director, Chief Executive Officer, Chief Financial Officer, Company Secretary etc.), Auditor and Compliance Officer."

16. Further, Regulation 27(2) of LODR specifies that a listed entity shall submit a quarterly compliance report on CG in the format specified by the Board from time to time to recognised Stock Exchange(s) within fifteen days from close of each quarter. Such format was prescribed vide circulars dated September 24, 2015 and July 16, 2019.

17. From the CG report filed with the exchange, for quarter ended on June 30, 2018, it was noted that Mr. Mahesh Tagde ceased to be a director in the Company from May 11, 2018. However, the announcement in this regard under Regulation 30 of LODR was made to the exchange only on May 18, 2018.

18. Further, while the date of cessation for Noticee 2 was March 31, 2018 as per the CG report; his name was included as a director in the CG reports filed by the

Company from the March 2018 till September 2019. The company did not make any announcement to the stock exchange in this regard till November 07, 2019.

19. In view of the incorrect disclosures in CG report and delayed disclosures with respect to change in Directors, Noticee 1 was alleged to be in non-compliance of clause no. 7 of Para A of Part A of Schedule III read with Regulation 30 of LODR. The Noticee 1 was also alleged to be in non-compliance of provisions of Regulation 27(2) of LODR and the circulars issued thereunder. Aforesaid regulations and provisions alleged to be violated by Noticee are reproduced as follows:

SEBI (LISTING OBLIGATIONS AND DISCLOSURE REQUIREMENTS) REGULATIONS, 2015

SCHEDULE III

PART A: *DISCLOSURES OF EVENTS OR INFORMATION: SPECIFIED SECURITIES*

A. *Events which shall be disclosed without any application of the guidelines for materiality as specified in sub-regulation (4) of regulation (30):*

…..7. *Change in directors, key managerial personnel (Managing Director, Chief Executive Officer, Chief Financial Officer , Company Secretary etc.), Auditor and Compliance Officer. …..*

Disclosure of events or information.

30. *…….. **(2)** Events specified in Para A of Part A of Schedule III are deemed to be material events and listed entity shall make disclosure of such events.*

Other corporate governance requirements.

27. ………

(2) (a) The listed entity shall submit a quarterly compliance report on corporate governance in the format as specified by the Board from time to time to the recognised stock exchange(s) within fifteen days from close of the quarter.

(b) Details of all material transactions with related parties shall be disclosed along with the report mentioned in clause (a) of sub-regulation (2).

(c) The report mentioned in clause (a) of sub-regulation (2) shall be signed either by the compliance officer or the chief executive officer of the listed entity.

20. Delayed / incorrect / non- disclosures: During examination, upon perusal of the quarterly shareholding of the Noticee 1 for the quarter ending June 2016 and September 2016, following changes were noted-

S.R. No.	**Entity**	**Shareholding as disclosed in Quarterly shareholding for June 2016**	**Shareholding as disclosed in Quarterly shareholding for September 2016**	**Change**
1	Mr. Ratish Tagde	60,87,758	46,87,758	(14,00,000)
2	Ms. Rajni SharadChandra Tagde	23,00,400	NIL	(23,00,400)
3	Mr. SharadChandra Tagde	7,15,120	25000	(6,90,120)
4	Rutmarg Commercials Pvt. Ltd.	52,44,444	96,34,964	43,90,520

**Shareholding is reproduced for the subject transaction only*

21. Further, from disclosures under SAST Regulations on BSE Website, following observations were noted-
    a. The three sellers mentioned in Sr. No. 1, 2 & 3 in the table above had disclosed their transaction under Regulation 29(2) of SAST Regulations belatedly on February 06, 2017. However, entity mentioned in Sr. No. 2 & 3 above had mentioned the mode of selling as "pledge" and the entity mentioned in Sr. No. 1 above had mentioned the mode of selling as "Off Market Transfer by way of Loan". However, the Noticee 2 vide its email dated February 09, 2022 had informed that the pledge was not routed/registered with any of the depositories under the relevant provisions of the Depositories Act. This has also been confirmed by perusing the demat account statement of acquirers as well as the sellers.
    b. Furthermore, it was noted that sellers mentioned at Sr. No. 2 & 3 again made a disclosure for the same aforesaid shares as "revocation of pledge" on

September 27, 2018. However, as submitted by the Noticee 2 vide email dated February 09, 2022, the revocation disclosures were filed with no underlined shares. The same was verified by perusing the demat statement of the Noticee 4 and Noticee 2. Further, it was noted that Mr. Sharadchandra Tagde, has expired.

c. Further, no disclosures for subject transactions were made by Noticee 4 in this regard.

22. Further, the examination of the delivery instruction slip dated September 12, 2016, revealed that shares were transferred in off-market from the demat account of Noticee 2 to Noticee 4 and the said transfer was inter-depository transfer. However, Noticee 4 had claimed that the said transaction was a pledge transaction, even though it was observed that no pledge had been created in the depository system.

23. Regulation 58 of the erstwhile SEBI (Depositories and Participants) Regulations, 1996 (hereinafter referred to as "DP Regulations"), the law which was prevalent at the relevant time, provided the manner of creating pledge or hypothecation. The said Regulation, inter-alia, provided that whoever intended to create pledge shall make an application to the depository through the participants. As alleged by the Complainant, no such application was made through depository for creation of pledge. Thus, the parties could not have created a pledge, contrary to the provisions of Regulation 58 of the DP Regulations, prevalent at that time.

24. SEBI vide its letter dated August 17, 2010 to Depositories (subsequently included in the Master Circular dated Dec 15,2016) has inter alia clarified that-

> a*. Any procedure followed other than as specified under the provision of law shall not be treated as pledge.*
> *b. An off market transfer of shares leads to change in ownership and cannot be treated as pledge.*

25. In view of the above, it was clear that an off-market transfer of shares for loan purpose leads to change in ownership and the same cannot be treated as pledge

of shares. Further, any procedure followed other than as specified under the provisions of law cannot be treated as Pledge.

26. Moreover, Noticees 2, and 3 showed the transfer as pledge even though the same was not through depository route, hence the disclosures were incorrect. In this regard, reliance is placed upon observations of Hon'ble SAT in the matter of Premchand Shah and Others V. SEBI, in which Hon'ble SAT vide its order dated February 21, 2011, held that –

   "…when a law prescribes a manner in which a thing is to be done, it must be done only in that manner...."

27. Considering the above, as a consequence of the transfer of shares from the demat accounts of the entities at sr. nos. 1 to 3 in Table 2 above to the demat account of Noticee 4, the latter became the beneficial owner of the said shares. As per Depositories Act, "Beneficial Owner" is defined to mean a person whose name is recorded as such with a depository. A beneficial owner is entitled to all the rights and benefits and is subjected to all the liabilities in respect of his securities held by a depository.

28. As detailed above, Noticee 2, and 3 allegedly made belated disclosures in incorrect format. Further, there was no disclosures from the Noticee 4 for the transaction. In view of the above, Noticee 2, 3 and 4 were alleged to have violated the provisions of Regulation 29(2) read with Regulation 29(3) of SAST Regulations. Aforesaid regulations and provisions alleged to have been violated by aforesaid Noticees are reproduced as follows:

   SEBI (SUBSTANTIAL ACQUISITION OF SHARES AND TAKEOVERS) REGULATIONS, 2011

   Disclosure of acquisition and disposal

   29 (2) *Any person, who together with persons acting in concert with him, holds shares or voting rights entitling them to five per cent or more of the shares or voting rights in a target company, shall disclose the number of shares or voting* *rights held and change in shareholding or voting rights, even if such change results in shareholding falling below five per cent, if there has been change in such holdings from the last disclosure made under sub-regulation (1) or under this sub-regulation; and such change exceeds two per cent of total shareholding or voting rights in the target company, in such form as may be specified.*

(3) *The disclosures required under sub-regulation (1) and sub-regulation (2) shall be made within two working days of the receipt of intimation of allotment of shares, or the acquisition of shares or voting rights in the target company to,—*

(a) every stock exchange where the shares of the target company are listed; and

(b) the target company at its registered office.

29. The aforesaid alleged violations, if established, make the Noticees liable for monetary penalty under section 15 A (b) of the SEBI Act, and Section 23A of SC(R)A.

30. In response to the SCN, Noticees filed their reply to the SCN and attended personal hearing before the undersigned, details of which are as follows:

<table>
<tr><th><u>Noticee No.</u></th><th><u>Reply Date</u></th><th><u>Personal Hearing</u></th><th><u>Attended by</u></th></tr>
<tr><td>1</td><td>September 13, 2023</td><td>27th October 2023</td><td>Shri. Ganesh Kumar and Shri. Anand Ganesh Kumar</td></tr>
<tr><td>2</td><td rowspan="2">September 21, 2023</td><td rowspan="2">27th October 2023</td><td rowspan="2">Mr. Ratish Tagde along with Ms. Shailashri Bhaskar</td></tr>
<tr><td>3</td></tr>
<tr><td>4</td><td>September 15, 2023, October 30, 2023 and November 01, 2023</td><td>27th October 2023</td><td>Shri. Ganesh Kumar, Smt. Latika Ganesh Kumar and Shri. Anand Ganesh Kumar</td></tr>
</table>

31. The key submissions made by Noticees are summarised as under:

<u>Key Submissions of Noticee 1 and Noticee 4</u>

32. Presently Mr. Ganesh Kumar/Rutmarg are managing Noticee 1 as shareholders taking care of day to day affairs and not as Promoters.

33. In 2018/19 when the Promoter of Noticee 1, i.e. Noticee 2 and Ms. Komal Deshmukh, Company Secretary/Secretary Audit of Noticee 1, resigned and deserted the Company, they left behind huge liabilities and zero assets (except for part video content (intangible asset) for which there were no copyright agreements handed over by the Promoter to Noticee 1 and 4). The only business of Noticee 1 is running a 24x7 TV channel 'INSYNC'.

34. At Noticee 1, before Mr. Ganesh Kumar joined the board, there was no revenue stream established for any earnings whatsoever. Moreover, accounting malpractices were rampant and many accounting entries with huge outstanding's are till date are not clarified to Noticee 1. Noticee 4 (owned by Sri. Ganesh Kumar) in 2014, even after infusing over Rs. 4 crores in Noticee 1, was not offered a seat on the board of Noticee 1 that is in violation of the Agreement (placed on records) between the Noticee 2 and Noticee 4. Mr. Ganesh Kumar, MD of Noticee 4 was inducted only in Aug of 2016 (details available in Corporate Governance Report filed by Noticee 1), when Noticee 1 was to collapse. Moreover, Ministry of Information and Broadcasting (MIB) ratified his post as Managing Director of Noticee 1 only in 2017. Therefore, it is only Noticee 2 who mis-managed the affairs of the Noticee 1 singlehandedly till the time of his resignation in April 2019 (and not 31st March 2018 as indicated in the SCN).

35. The only major shareholder in 2016, Noticee 4, was therefore constrained to manage the Noticee 1 company operations only to protect its interest as shareholders and of other shareholders and was not for control or acquisition. All misdeeds by the then Promoter / Ex-Directors and Ex-C, Secretary of Noticee 1 escaped the scanner of all authorities and they were allowed to go scot-free. The Promoter and his associates artificially jacked up the share prices of Noticee 1 in June of 2016 just before the collapse of Noticee 1 in August 2016.

36. All physical assets, documents / other important agreement papers have not been handed over. User names/ Passwords, company rubber stamps, banking

information, minutes of the board meetings etc. were not handed over to enable the new incumbent to comply with compliances etc.

37. Even today, Noticee 4 as the major shareholder holding less than 25% of Noticee 1 continues to infuse funds from time to time to settle the liabilities and operational losses created by the Promoter. These are not business losses but total mis-management of Noticee 1 with fraudulent accounting practices along with non-payment to vendors, non-payment of salaries to staff, non-payment of fees to BSE, NSDL, CSDL, MIB etc.

38. Till the time of Noticee 2 resignation in April 2019, all matters pertaining to compliances, disclosures, announcements to stock exchange, annual report etc. were solely managed by the promoter and ex-Chairman, Noticee 2 who is a Company Secretary by profession along with Ms. Komal Deshmukh, the then (till 2018) Company Secretary & Audit Secretary at POMPL. Mr. Ganeshkumar and the present board were only responsible to clear the liabilities, generate urgent revenue to sustain the business and have domain expertise in the field of Indian Classical Music & Dance. All serious violations as per the SCN have transpired during and due to Noticee 2's actions and tenure first as the Managing Director till 2016 and thereafter as Chairman till 2019 that has damaged the reputation of Noticee 1.

39. Mr. Ganeshkumar agreed in good faith to protect the interest of the shareholders and agreed to infuse his personal funds upon the request by Noticee 2's to hold his Promoter/Promoter Group shares as collateral/pledge to Noticee 4. The verbal agreement then was the promoter of Noticee 1 will pay back the outstanding and reclaim their shares.

40. As per Regulation 31 (1) of SEBI SAST Regulations 2011, if the combined encumbrance by the Promoter along with PACs with him equals or exceeds 50% of the shareholding of the company or 20% of the total share capital of the company, the promoter of every target company shall disclose the details (within 2

days of such encumbrance) of shares in such target company encumbered by the Promoter & Promoter Group along with details of the invocation of such encumbrance. In the case of Noticee 1, the Promoter and Promoter group encumbered over 20% of the total share capital of the company, did not route it through the depositories and therefore did not abide by the rules and regulations as stipulated above. The Promoter has neither followed SAST regulations nor routed the pledge through the depositories.

41. Noticee 2 found a loophole to dump Promoter shares without any documentation. The addition and subsequent removal of pledge unilaterally on the shares was done with no regard for the law or the rules of engagement during the tenure of Noticee 2 as the Chairman of Noticee 1. Noticee 2 was fully aware that “A Pledge” has to be routed through the depositories.

42. The onus of creating the pledge and adequate documentation and compliance was on the promoter as Noticee 4 had no knowledge of these and also never knew the procedure. Whenever Noticee 4 asked Noticee 2 as a qualified Company Secretary and the then MD, assured that everything is in order. Now it transpires that all these were also kept away from the board.

43. Since the resignation of Noticee 2 in April 2019, Noticee 1, till date, is fully compliant and is for the first time ever in its history, on the path to recovery and growth. Mr. Ganeshkumar continues to invest his personal funds and Noticee 4’s to sustain the business at Noticee 1 and carry forward normal operations of Noticee 1 in a fair and transparent manner in keeping with the practices and ethos as required under law. There have been no major policy decisions taken since 2019 and Noticee 1 continues its activities for promotion and nurture of Indian Classical Arts & Culture. The present Board of Directors at Noticee 1 has been constituted while Noticee 2 was the Chairman of Noticee 1. In case of any inquiry or penalties, the same must be levied on the Promoter, Noticee 2 along with Ms. Komal Deshmukh and not Noticee 1 that has survived even after such malpractices.

44. Noticee 2 along with his associate Ms. Komal Deshmukh (the then Company Secretary & Secretary Audit of Noticee 1) 'exclusively' handled all matters pertaining to disclosures, announcements, annual reports. They are fully responsible for faulty disclosures with no supporting documents. In this matter, Noticee 1 is the victim and not the perpetrator. The responsibility to fulfill the actions in letter and spirit is with the Promoter of the Company. Here, Noticee 2 due to his position in Noticee 1 as the Promoter with access to stock exchanges, abused his power to first absolve himself from his misdemeanors with no responsibility towards his actions and exit the company when huge issues were staring at his face.

45. As per the Annexure 4 of the SCN, in the year 2018, please note the following –
    a. The Noticee 1 board till April of 2018 constituted of – Mr. Ratish Tagde, Mr. Bharat Gada, Mr. Mahesh Tagde and Mr. Vivek Sadanand Salian.
    b. Of these, 3 Directors, namely Mr. Mahesh Tagde, Mr. Vivek Salian and Mr. Bharat Gada resigned 'En masse' from the board again simply by writing an email to the company. This was done to ensure Noticee 1 cannot file returns. Copies of the resignation letters of Mr. Ratish Tagde, Mr. Bharat Gada, Mr. Mahesh Tagde and Mr. Vivek Sadanand Salian have been placed on records by Noticee 1.
    c. This gave rise to a vacuum in the board and we believe this was done purposely to ensure quarterly/annual results could not be announced. Noticee 2 continued in the board and all the present directors of the company were constituted with due process of law and on an emergency basis under his Chairmanship. No major policy decisions in Noticee 1 have been taken till date since Mr. Ratish Tagde's resignation.

46. Noticee 2's shareholding has been frozen due to his actions and misdeeds and not that of Noticee 1. However, the present team of Noticee 1 is not privy to this as they were not in the Board then. Noticees 1 and 4 have been made a scapegoat by Noticee 2. What percentage of shares Noticee 2 holds is to be backed with legal documents. If this basic criterion has not been met how can the Promoter even seek reclassification? This is the question Noticee 1 face. At this present moment,

there is only a feeling created by Noticee 2 that Noticee 1 has violated laws, but the fact is the Promoter has violated all rules regarding pledging of his shares and now after his exit from the board is creating stories that suit his needs.

47. Since 2020, multiple clarifications have been sought by Bombay Stock Exchange (BSE) and SEBI to Noticee 1. Questions are raised to Noticee 1 without first confirming with Noticee 2 if he has followed due process for reclassification. There is certainly a methodology that include handing over assets, agreement copies, minutes of the board, bank Login details, Company Stamp, Website details, employee information etc. None of these were ever handed over to us. In such a scenario, there are no 'Material Events' to support his theory of Reclassification. Some important points in our replies dated Aug 28, 2020 and Nov 06, 2020 to be included in this regard are –
    a. Minutes of the Board meetings held were not handed over.
    b. Assets of Noticee 1 have not been handed over.
    c. Content with copyrights documentation - unsubstantiated video content running into many crores of rupees which belongs to Noticee 1 were not handed over. This is a major asset of Noticee 1, for which till date it do not have documents.
    d. Noticee 2 floated several Pvt. Ltd. companies with similar sounding names and transferred huge amounts of content/funds into these companies and amounts surreptitiously written off.
    e. Noticee 1 do not possess documents pertaining to receivables of the company

48. It is verified from BSE website that all the 8 promoters for various quarters mentioned in the SCN are only Noticee 2, his family members and entities controlled by him. Noticee 1 and 4 had no inkling on this whatsoever. This implies that though it was shown to be 8 Promoters which got reduced to 1, they all are 100% in control of Noticee 2. None of the 7 other promoters have signed any document to supplement the reason of transfer of shares as pledge or reason for encumbrance to Noticee 4. None of the promoters have ever been paid towards transfer of shares as collateral. Moreover, due to unavailability of Minutes of the

Board Meeting, for this time period, only Noticee 2 can answer how the promoter numbers were reduced.

49. "The Occurrence of the event" as per Regulation 31A (8) is not applicable to Noticee 1 as the Promoter first has to define the reason for transfer of his shares and not make a reclassification request simply by deserting Noticee 1 and the liabilities created by him.

50. Regulation 31A (2) of the LODR Regulations says that application from Noticee 1 needs to be submitted with "All Relevant Documents". Noticee 1 do not possess any documents that can establish change in ownership or change in shareholding, hence cannot go ahead and make an application that is faulty in its commentary. Secondly, Regulation 31A (3) (a) (i) says that the promoter seeking reclassification shall make a request which shall include the rationale and conditions specified in Regulation 31A (3) (b). As per Regulation 31A (3) (b) (i), the promoters together shall not hold more than 10% of the voting rights in Noticee 1.

51. Since Sept 2016, Noticee 2 has transferred the shares with no agreement, no clear marketable title and as the pledge was not routed through the depositories needs the shares belonged to Mr. Ratish and yet he made a request for reclassification. Therefore, the reclassification request itself cannot be entertained and he continued to be the Promoter of Noticee 1. While facing so many issues, what reclassification announcement is referred to? Should the shareholders suffer because technical announcements should be made within 24 hours, irrespective if the application is totally false in nature? Is this the right information to be shared with exchanges, with no moral standards?

52. Noticee 2 is 100% promoter / group and Noticee 1 is not aware of who the other Promoters were and why the numbers have reduced. Noticee 2 during his tenure as MD and later as Chairman of Noticee 1, being a Company Secretary by profession, managed the announcements/releases to the exchanges. Why he reduced the number of Promoters without following the rules is for him to clarify.

53. Any punitive action against Noticee 1 will only lead to its permanent downfall. Noticee 2 is responsible for bringing Noticee 1 to such disrepute.

Noticee 2 & 3

54. Noticees agree that Noticees had made a delayed disclosure of the transaction on February 06, 2017 and had also received a show-cause notice dated August 05, 2021 in this regard. A penalty of Rs.2,00,000 was imposed by the Adjudicating Officer vide Order No: Order / GR/RK/2021-22/14390 - 14395 dated November 29, 2021. A copy of the aforesaid order is also placed on records.

55. Noticees have also made payment of Rs.2,00,011.80 to SEBI vide receipt no INB/872504475/PAYGOV (Bill Desk) on January 21, 2021 through Axis Bank, copy of which is also placed on records.

56. Noticees have no comments to submit on the non-disclosure by Noticee No: 4 as it is not related to us.

57. Since Noticees have already paid the penalty for the same non-compliance/ late disclosure/ disclosure in the wrong format, Noticees request SEBI to kindly drop all the proceedings as Noticees cannot be penalised twice for the same alleged non-compliance.

Specific Submissions of Noticee 4

58. Noticee 4 was one of the major shareholders of Noticee 1, and the Founder & MD of Noticee 4, Shri. Ganesh Kumar is a domain expert in Indian Classical Music and is considered to be an illustrious person in the fraternity of Indian Classical Music and is deeply involved in promotion and nurture of Classical Music, Dance and tradition. In 2014 Noticee 4 entered into an Agreement with Noticee 2, to purchase 44 Lakh shares of Noticee 1 at the rate of Rs.9/- per share so that the honourable work of promoting arts and culture for Television audiences across India can continue.

59. Mr. Ganesh Kumar, was hurriedly inducted as the Managing Director of Noticee 1 in August of 2016 as an emergency measure only to clear the liabilities or else Noticee 1 was to close down, and to save Noticee 2 from arrest for a Cheque Bouncing Case. All shares “purchased or pledged” by Noticee 4 till date are directly from the Promoter and his associates and never from the Market.

60. The purchase of Noticee 1 shares till August 2016, with consideration, are backed with agreements to supporters, culture and video content creation for INSYNC TV. By August of 2016, Noticee 4 was the largest shareholder behind the Promoter, Noticee 2 holding approximately 24% of Noticee 1. In August 2016, the arrangement was that Noticee 2 will take care all regulatory matters and the role of Mr. Ganesh Kumar was to ensure continuation of business, clear all Noticee 1 liabilities, generate revenue models with his acumen. Further, other matters pertaining to listed company obligations were to be managed exclusively by Noticee 2 and his associate, Ms. Komal Deshmukh.

61. For clearing of the Noticee 1 liabilities exceeding over Rs. 3 Crores Noticee 2 was to induct Mr. Ganesh Kumar into the board of Noticee 1 as the Managing Director (only to manage the company operations). The Promoter/Promoter Group shares, was given by Noticee 2 as collateral to Noticee 4 (not for sale, control or acquisition, but to save Noticee 1) and with an assurance to later pay back the dues with interest.

62. When the addition of pledge was not followed with due process of law, how was the revocation of the pledge allowed with no documents to substantiate the same? Moreover, Annexure 18 of the SCN by Rajni Tagde is contrary to the disclosures made while adding the pledge. Annexure 18 of the SCN claims “Off Market Transfer Revocation of Pledge” and as per Point 21.1 of the SCN Rajni Tagde claims mode of selling as “Pledge”.

63. Unlike the Promoter/Promoter Group, Noticee 4 cannot make any disclosures that is not binding with reason. Noticee 4 never held the title for the shares of the Promoter/Promoter Group and could have been in a disastrous situation, if it went ahead to make faulty disclosures like the Promoter.

64. Notice 4 is, a shareholder who owns 24% of the Noticee 1 and is not interested in control of the company or acquire the company, can grant additional loans to the company against Promoter shares as pledge. This was the process to be followed by Noticee 2 when Noticee 4 confirmed to help him not get arrested in 2016. Noticee 2 should have followed the due process as specified under the provision of law. Noticee 2 has gone against the basic principles of Pledging the Promoter/Promoter Group shares as demanded by Noticee and went ahead to cheat it into SAST Regulations.

65. Noticee 4 reject the argument where it is deemed to be beneficial owners after it has clarified its interests and position. Noticee would like to state on record that it has been made "Sacrificial Owners" and not 'beneficial owners'. The Promoter used his position as Chairman of Noticee 1 and his complete knowledge of the markets to hoodwink Noticee 4.

66. How can Noticee violate provisions of Regulation 29 (2) read with Regulation 29(3) of SAST Regulations when Noticee 2 has offered to Pledge his shares to it, but does not initiate and follow the same.

67. As per SEBI's Substantial Acquisition of Shares & Takeover Regulations, 2011 (SAST hereinafter) Chapter 1 – Preliminary (2) (1) (a) - "acquirer" means any person who, directly or indirectly, acquires or agrees to acquire whether by himself, or through, or with persons acting in concert with him, shares or voting rights in, or control over a target company. Starting Sept 2016, Noticee 4 has neither directly nor indirectly acquired shares. The Promoter, Noticee 2 has fraudulently dumped Promoter/Promoter Group shares on Noticee 4 with no "Clear Marketable Title".

68. Instead, when Mr. Ganesh Kumar checked with Noticee 2 for addition of the pledge, he was directed to check the BSE Website (also confirmed by Noticee 2 in Page 4 of ANNEXURE 17 of the SCN, where he agrees to addition and revocation of the pledge was done by him) where the creation of the pledge was visible to us and all other shareholders of POMPL. Noticee 4 believed him and moved ahead to save Noticee 1 and continue its operations. What shocked Noticee 4 was when the revocation of the pledge was done unilaterally without the consent / permission of Noticee 4.

69. No consideration was paid to Noticee 2 and therefore there was no acquisition or pledging without the consent of the lender. Kindly note, this infusion of funds by Noticee 4 was done by hypothecating their assets and borrowing from Financial Institutions to raise the money so that the liabilities would be cleared. Noticee 4 is still servicing these loans.

70. The promoter unilaterally added a pledge on the shares and this was marked in the BSE records. Noticee 4 could not dispute as it had no access to BSE at the time. Also Noticee 2 maintained that this is a temporary arrangement. It was incumbent upon Noticee 2 to satisfy the obligations for transfer of Promoter shares which was not followed. Additionally, Noticee 2 deserted his Promoter Group shares by not agreeing to sign an agreement with Noticee 4 for lending money to Noticee 1. There was no consideration ever paid to the Promoter for deposit of his shares.

71. Only operational assets were handed over to Noticee 4 to continue operations. All the other movable and immovable assets have still not been handed over. Bank accounts were also not handed over. Noticee 4 had to open a new account to continue with the operations.

72. Noticee 4 waited for many years (intervening pandemic period) and finally decided to take charge of the promoter shares by issuing a Lawyer’s notice to Noticee 2. Since Noticee 4 did not receive a positive reply from Noticee 2 towards his

outstanding, Noticee 4 has taken possession of the promoter shares, but have stayed within the 25% open offer limit by offloading/selling our original shares, by then.

CONSIDERATION OF ISSUES AND FINDINGS

73. I have taken into consideration the facts and material available on record. The issues that arise for consideration in the present case are as follows:

    I. **(i) Whether Noticee 1 has violated provisions of Regulations 31A(8)(a), 31A, Clause no. 7 of Para A of Part A of Schedule III read with Regulation 30, Regulation 27(2) and the circulars issued thereunder; of SEBI LODR Regulations**

       (ii) Whether Noticee 2, 3 and 4 have violated Regulation 29(2) read with Regulation 29(3) of SEBI SAST Regulations

    II. **Do the violations, if any, attract monetary penalty under Section 15A(b) of the SEBI Act,1992 and Section 23A of SC(R)A?**

    III. **If the answer to Issue No. I & II is in affirmative, then what should be the quantum of monetary penalty?**

74. Taking into consideration the allegations and reply of the Noticees the issues are dealt with as hereunder:-

Issue I (i) Whether Noticee 1 has violated provisions of Regulations 31A(8)(a), 31A, Clause no. 7 of Para A of Part A of Schedule III read with Regulation 30, Regulation 27(2) and the circulars issued thereunder; of SEBI LODR Regulations

75. It is alleged in the SCN that the request for reclassification by the Noticee 2 (promoter) was received by Noticee 1 on 19th/20th August, 2019, and on August 28, 2019 Noticee 1 informed the exchange, whereas receipt of reclassification request from promoter was a material event, and had to be disclosed by Noticee 1 to the stock exchange as soon as reasonably possible and not later than twenty four hours from the occurrence of the event. In view of the above, the Noticee 1

was alleged to be in non-compliance with Regulation 31A(8)(a) of the LODR Regulations.

76. In this regard, I note from the material available on records that the application of Noticee 2 for reclassification was received by Noticee 1 on 19/20 August 2019 (Noticee's email dated January 06, 2021 to SEBI) , whereas in this regard Noticee 1 made the announcement on the exchange on August 28, 2019. As per Regulation 31A(8) of SEBI LODR Regulations, the event was deemed to be a material event and accordingly, was to be disclosed immediately or no later than 24 hours from August 19, 2019. I note from records, that the announcement was made eight days after the occurrence of material event, i.e. receipt of request of reclassification by Noticee 1 from Noticee 2, seeking reclassification.

77. I note that in this regard, Noticee 1 has not made any specific submissions in support of the delayed announcement of receipt of reclassification request from Noticee 2, but it has only contended its inability to consider the reclassification application or the ineligibility of Noticee 2 for reclassification on account of various issues/factors.

78. I also note that the Regulation 31A of LODR Regulations, doesn't provide the liberty to listed entity to subjectively decide whether to make mandatory disclosures or not on account of underlying issues if any with the reclassification application received of promoter. I note that the alleged violation is on account of delayed disclosure, and the contentions put forward by the Noticee 1 is not relatable to the violations alleged. I note that as per Regulations the 'receipt of request for re-classification by the listed entity from the promoter(s) seeking re-classification' to be deemed as material event is not contingent to any other condition being fulfilled. I also note that Noticee has neither contended regarding the date of receipt of application nor the date of disclosure made by it to exchange in this regard.

79. In view of the above, it is established that there was delay of eight days in making the disclosure by Noticee 1 to the stock exchange and hence, Noticee 1 is **in non-compliance with Regulation 31A(8)(a) of the LODR Regulations.**

80. Further, it is alleged that despite a decline in number of promoters, Noticee 1 neither submitted an application for reclassification of promoter nor made any disclosure and accordingly is alleged to be in non-compliance with the provisions of Regulation 31A of LODR.

81. I note from the shareholding pattern filed by Noticee 1 with the stock exchange, that there has been a decline in number of promoters from 8 in quarter ended on June 30, 2017 and September 30, 2017 to 6, 2 and 1 in quarter ended on December 31, 2017; March 31, 2018 and June 30, 2018, respectively. However, the Company neither submitted an application for reclassification of promoter nor made any disclosure in this regard with the stock exchange.

82. Noticee 1 has not contended this fact, but has only contended that it is not in possession of Minutes of Board meetings and other important papers for the relevant period, since the same has not been handed over by Noticee 2 to the Noticee 1; and that the Noticee 2 was responsible for the faulty or non-filing of disclosures in the relevant period, since it was Noticee 2, who handled the filing of disclosures and had the access to system for filing of disclosures to the exchange.

83. In this regard, I note that there are certain obligations and disclosures in respect of reclassification of any persons as promoters / public, which is required to be complied by the listed entity in terms of the Regulation 31A of the LODR Regulations. A listed company cannot seek an excuse on account of lack of internal controls or due diligence or disputes between the management of the Company to not to comply with the obligations. Primarily the responsibility of the compliance of laws, regulations and conditions pertaining to listing on a stock exchange is of the listed company, which is a separate juristic person, with an identity distinct and independent of its shareholders, members or directors. A company has perpetual

succession; its life is not co-dependent with that of its shareholders/office holders and it remains in existence irrespective of any change in its shareholders/office holders, until it is dissolved by liquidation.

84. Noticee 1 is a listed company, and was primarily responsible for the compliance of LODR Regulations. Lack of internal control for compliance with regulations in past, or lack of due diligence or internal controls in company while reassignment of roles and responsibilities, or disputes between the Noticee 2 and Noticee 4, doesn't absolve the Noticee 1 of its liability to comply with LODR Regulations. Noticee 1 in its submissions is trying to absolve itself from the compliance of LODR Regulations, and making submissions claiming Noticee 2 to be the one in noncompliance of the LODR Regulations. In this regard, I note that the disputes between two factions is not before undersigned for decision in the adjudicatory proceedings but to decide on whether the specific allegations made in the SCN are established or not.

85. Also I note that as per submission of Noticee 1, Mr. Ganesh Kumar has been on the board of the Noticee 1 since Aug 2016 and was appointed as its MD in 2017, and has been managing the Noticee 1 operations since 2016. As an MD he would have been privy of the information available with the Noticee 1. From 2016-2019, promoter did not resign, and there are no supporting documents on records to showcase efforts made by Mr. Ganesh Kumar to obtain or retrieve the necessary documents and information after his induction in Noticee 1 or at the time of starting managing Noticee 1's operations or infusing of funds by Noticee 4 in Noticee 1. Further, as a prudent investor and before acquiring the shares of Noticee 1, Noticee 4 should have conducted due diligence and ensured that all necessary documents and information have been handed over or are in possession of Noticee 1 of which Mr. Ganesh Kumar was MD

86. Further, the contentions of Noticee 1, regarding acts of Noticee 2 like manipulation of stock price, fraudulent accounting practices along with non-payment to vendors, non-payment of salaries to staff, non-payment of fees to BSE, NSDL, CSDL, MIB

etc. are not related to the alleged violations of the Noticees and hence not before the undersigned to adjudicate upon.

87. I also note that Mr. Ganesh Kumar was MD since Aug 2016 and handling affairs of Noticee 1, given the claimed non-cooperation, gross misconduct by Noticee 2 and the then Company Secretary, it is not clear why still the important responsibilities of handling matters pertaining to compliances, disclosures, announcements to stock exchange, annual report etc. were still assigned by Noticee 1 to Noticee 2.

88. In view of the above, I note that there was reduction of numbers of promoters in the company from 8 to 1 (June 2017 to March 2018) and neither any application for reclassification of promoter nor any disclosure was made to stock exchange in this regard. Further, as discussed above, it was Noticee 1 who was responsible for complying with the requirements. In view of the same, I find that the **Noticee 1 is in non-compliance with the provisions of Regulation 31A of LODR.**

89. Further, it is alleged that Noticee 1 made incorrect disclosures in CG report and delayed disclosures with respect to change in Directors. In this regard, I note from the records that as per the CG report filed with the exchange, for quarter ended on June 30, 2018, it is noted that Mr. Mahesh Tagde ceased to be a director in the Company from May 11, 2018. However, the announcement in this regard under Regulation 30 of LODR was made to the exchange only on May 18, 2018.

90. In this regard also, Noticee 1 has placed similar contention as detailed above in order that it is not in possession of Minutes of Board meetings and other important papers for the relevant period, since the same has not been handed over by Noticee 2 to the Noticee 1; and that the Noticee 2 was responsible for the faulty or non-filing of disclosures in the relevant period, since it was Noticee 2, who handled the filing of disclosures and had the access to system for filing of disclosures to the exchange. For the reasons detailed above in the order, the aforesaid contention is not acceptable.

91. In view of the above, it is established that Mr. Mahesh Tagde ceased to be a director in Noticee 1 from May 11, 2018, however, the announcement in this regard under Regulation 30 of LODR was made to the exchange with a delay of 6 days on May 18, 2018. In view of the same, I find that Noticee 1 is in non-compliance of **Clause no. 7 of Para A of Part A of Schedule III read with Regulation 30 of LODR**.

92. Further, it is also alleged that the date of cessation for Noticee 2 is March 31, 2018 as per the CG report, whereas his name was included as a director in the CG reports filed by the Company from the March 2018 till September 2019 and the company did not make any announcement to the stock exchange in this regard till November 07, 2019.

93. I have perused the records and observe that the CG report for period January 01, 2018 to March 31, 2018, doesn't provide the date of cessation for Noticee 2 as March 31, 2018. Further, the Noticee 2 is shown as director in the CG reports for March 2018 till September 2019. Further, it is noted from the Noticee 2's letter dated August 14, 2019 annexed with Noticee 1's disclosure dated August 28, 2019 that the Noticee 2 resigned from the Board of Director on April 24, 2019. However, Noticee 1 made announcement w.r.t. this only on November 07, 2019, and stopped showing Noticee 2 as Director in CG Reports from December 2019. In view of the above, I find that Noticee 1 is in non-compliance of **provisions of Regulation 27(2) of LODR and the circulars issued thereunder** with respect to showing Noticee 2 as Director.

Issue I: (ii) Whether Noticee 2, 3 and 4 have violated Regulation 29(2) read with Regulation 29(3) of SEBI SAST Regulations

94. It is alleged in SCN that Noticee 2 and 3 transferred shares to Noticee 4 from June 2016 to September 2016, disclosed to exchange belatedly on February 06, 2017 as "pledge". Subsequently Noticee 2 and 3 vide disclosure dated September 27, 2018 informed exchange about "revocation of pledge" on aforesaid shares. SCN alleges that the transfer lead to change in ownership, and cannot be treated as

pledge since the same was not through depository route, hence the disclosures by Noticee 2 and 3 were belated and incorrect. Further SCN allege that there was no disclosures by Noticee 4 in regard to aforementioned transfer of shares.

95. In this regard, I note that Regulation 58 of the DP Regulations, inter-alia, provided that whoever intended to create pledge shall make an application to the depository through the participants. I also note from the records that, no such application was made through depository for creation of pledge by Noticees. Further, SEBI vide its letter dated August 17, 2010 to Depositories (subsequently included in the Master Circular dated Dec 15,2016) has inter alia clarified that-

    a. Any procedure followed other than as specified under the provision of law shall not be treated as pledge.

    b. An off market transfer of shares leads to change in ownership and cannot be treated as pledge.

96. In view of the above, it is clear that the off market transfer of shares without following the procedure specified under the provision of law cannot be treated as pledge and such transfers lead to change in ownership of impugned shares from Noticee 2 & 3 to Noticee 4. Further, once there was change in ownership of the shares, in view of the Regulation 29(2) read with Regulation 29(3) of SAST Regulations, the same was required to be disclosed to exchanges by Noticee 2, 3 and 4. Noticees have also not disputed the above that the transactions cannot be treated as pledge but transfer of shares, leading to change in ownership.

97. The only contention submitted by the Noticee 4 is it was not aware about such legal requirements of routing the pledge and they relied on the Noticee 2 w.r.t. procedural aspects of the pledging of shares, and Noticee 2 deliberately did not route the pledge through depository. In this regard, I note that *ignorantia juris non excusat* (Latin for "ignorance of the law excuses not"), or *ignorantia legis neminem excusat* ("ignorance of law excuses no one"), is an established legal tenet holding that a person who is unaware of a law may not escape liability for violating that law merely by being unaware of its content.

98. It has been underlined by courts that when a law prescribes a manner in which a thing is to be done, it must be done only in that manner. Noticee 4 should have ensured that if it intended to lend money to Noticee 1 in lieu of shares as collateral from Noticee 2, all the legal requirements were met by all involved parties, and it should have conducted all its due diligence and taken steps to safeguards its own interest.

99. I note that the Noticee 2 and 3 had 17.54% and 6.63% shareholding respectively, and Noticee 4 had 15.11% shareholding in Noticee 1 at the end of quarter June 2016. Further, Noticee 2 and 3 had 13.51% and 0.00% shareholding respectively, and Noticee 4 had 27.77% shareholding in Noticee 1 at the end of quarter September 2016. The demat account statements of Noticee 2, 3 and 4 also confirm the transfer of the shares. In view of the above, the Noticee 2 and 3 were required to disclose disposal of shares and Noticee 4 was required to disclose acquisition of shares to the stock exchanges.

100. I note that the Noticee 2 and 3 have made following disclosures :

a. Disclosure dated February 06, 2017: disclosing "Off Market Transfer by way of Loan"/ "Pledge" respectively of impugned shares.
b. Disclosure dated September 27, 2018: disclosing "revocation of pledge" on impugned shares

The aforesaid disclosures are not only delayed/belated but also incorrect, given that the shares were transferred leading to change in beneficial ownership and were not pledged.

101. Noticees 2 & 3 have contended that for the delayed disclosure of the transaction on February 06, 2017 already penalty of Rs.2,00,000 was imposed by the Adjudicating Officer vide Order No: Order / GR/RK/2021-22/14390 - 14395 dated November 29, 2021, for which Noticees have also made payment of Rs.2,00,011.80 to SEBI on January 21, 2022. Noticees requested that the instant

proceedings may be dropped as Noticees cannot be penalised twice for the same alleged non-compliance.

102. In this regard, I have perused the Order No: Order/GR/RK/2021-22/14390- 14395 dated November 29, 2021, and note that vide aforesaid order SEBI imposed penalty of Rs.2,00,000 on six Entities including Noticees 2 and 3 (jointly and severally) for their failure to make disclosures on dates August 11, 2016, August 30, 2016 and September 14, 2016 in the correct format within the stipulated timeline under Regulations 29(2) read with 29(3) of SAST Regulations 2011. The disclosure dated February 06, 2017 was to rectify the earlier disclosures made in wrong format.

103. Whereas in the instant matter the alleged delayed incorrect disclosures by Noticee 2 and 3, is pertaining to disclosures dated February 06, 2017 and September 27, 2018. Disclosure dated February 06, 2017 was incorrect since Noticees wrongly informed “Off Market Transfer by way of Loan”/ “Pledge” in place of ‘Sale / transfer of ownership’, whereas Disclosure dated September 27, 2018 wrongly informed “revocation of pledge”, when there was none. Hence, the violations established under SEBI order dated November 29, 2021 and violation alleged under instant proceedings are different, therefore the contention of the Noticees that the instant proceedings will lead to penalizing Noticees twice for same non-compliance is not correct.

104. Further, Noticee 1 has contended that as per Regulation 31 (1) of SEBI SAST Regulations 2011, since the Promoter and Promoter group encumbered over 20% of the total share capital of the company they shall have disclosed the details within 2 days of such encumbrance of shares along with details of the invocation of such encumbrance; whereas the promoters did not route the pledge through the depositories and did not follow SAST regulations. In this regard I note that the Regulation 31(1) of SAST Regulations deals with Disclosure of encumbered shares, and mandates that, “*The promoter of every target company shall disclose details of shares in such target company encumbered by him or by persons acting*

in concert with him in such form as may be specified". In this regard, as noted above in the order there was no pledge but transfers of shares, hence the contention is not acceptable.

105. I also note from records that Noticee 4 did not make any disclosure in respect of the transfer of shares from Noticee 2 and 3, since it had become the beneficial owners of the transferred shares, which it was obliged to disclose to stock exchanges. In this regard, Noticee 4 has contended that the transfer of shares from Noticee 2 and 3 to Noticee 4 was as collateral in lieu of the loan extended by Noticee 4 to Noticee 1, and it was the duty of Noticee 2 to comply with the legal requirements of routing pledge through the depository. Further, Noticee 4 has contended that the Noticee 2 deliberately did not route the pledge through depository to trap the Noticee 4. Further, Noticee 4 is not interested in control of Noticee 1, and as well as Noticee 4 did not transfer any consideration to Noticee 2 and 3, there were no underlying agreement signed, leading non-marketable title of impugned shares, hence disclosure of ownership of the impugned shares by it would have been wrong. Further, it relied on Noticee 2, and was not aware about the requirement of routing the pledge through depositories, and always the understanding between Noticees was to return the shares upon repayment of loan by Noticee 2 to Noticee 4.

106. In this regard, I note that as discussed above, lack of knowledge of the law is no excuse and Noticee 4 should have done its legal, operational due diligence to execute the transaction as it presumably agreed upon between Noticees. The transfer of impugned shares from Noticee 2 and 3 to Noticee 4 has resulted in change in ownership and mandated disclosures under SAST Regulations, which Noticee 4 failed to do. Further, the contention regarding lack of marketable title is also not acceptable on account of the fact that the Noticee 4 was indeed the beneficial owner of the impugned shares in the records of the depositories and such shares also reflected in its demat account.

107. In view of the above, I find that w.r.t. impugned transfer of shares of Noticee 1 from Noticee 2 and 3 to Noticee 4; Noticee 2 and 3 made incorrect disclosures and Noticee 4 did not make any disclosure, therefore it is established that Noticees 2, 3 and 4 are in non-compliance of **Regulation 29(2) read with Regulation 29(3) of SEBI SAST Regulations**

Issue III. Does the violation, if any, attract monetary penalty under Section 23A of SCRA Act and Section 15A(b)of the SEBI Act.

108. In light of findings and observations made against the Noticees brought out in the foregoing paragraphs, I hold that Noticees have violated applicable Regulations and Circulars. The violations established above, make the Noticees liable for monetary penalty under the provisions of Section 23A of SCRA Act and Section 15A(b) of the SEBI Act. In this regard, reliance is placed upon the judgment of Hon'ble Supreme Court of India in the matter of *SEBI Vs. Shri Ram Mutual Fund [2006] 68 SCL 216(SC) which inter-alia has held that - "In our considered opinion, penalty is attracted as soon as the contravention of the statutory obligation as contemplated by the Act and the Regulations is established and hence the intention of the parties committing such violation becomes wholly irrelevant...".* The relevant provisions of the aforementioned Section 23A of SCRA Act and Section 15A(b)of the SEBI Act. are as under:

SECURITIES CONTRACTS (REGULATION) ACT, 1956

Penalty for failure to furnish information, return, etc.

23A. *Any person, who is required under this Act or any rules made thereunder,—*

(a) to furnish any information, document, books, returns or report to the recognised stock exchange or to the Board, fails to furnish the same within the time specified therefor in the listing agreement or conditions or bye-laws of the recognised stock exchange or the Act or rules made thereunder, or who furnishes false, incorrect or incomplete information, document, books, return or report, shall be liable to a penalty which shall not be less than one lakh

rupees but which may extend to one lakh rupees for each day during which such failure continues subject to a maximum of one crore rupees for each such failure;

(b) to maintain books of account or records, as per the listing agreement or conditions, or bye-laws of a recognised stock exchange, fails to maintain the same, shall be liable to a penalty which shall not be less than one lakh rupees but which may extend to one lakh rupees for each day during which such failure continues subject to a maximum of one crore rupees.

SEBI Act, 1992

Penalty for failure to furnish information, return, etc.

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

(b) *to file any return or furnish any information, books or other documents within the time specified therefor in the regulations, fails to file return or furnish the same within the time specified therefor in the regulations or who furnishes or files false, incorrect or incomplete information, return, report, books or other documents, he shall be liable to a penalty which shall not be less than one lakh rupees but which may extend to one lakh rupees for each day during which such failure continues subject to a maximum of one crore rupees;*

Issue IV. If the answer to Issue No. I, II & III is in affirmative, then what should be the quantum of monetary penalty?

109. While determining the quantum of penalty under the provisions of Section 23A of SCRA Act and Section 15A(b)of the SEBI Act, it is important to consider the relevant factors as stipulated in Section 23J of SCRA and Section 15J of the SEBI Act, respectively, which reads as under:

SCRA Act, 1956

23J *Factors to be taken into account by the adjudicating officer.—While adjudging the quantum of penalty under section 23-I, the adjudicating officer shall have due regard to the following factors, namely:—*

(a) the amount of disproportionate gain or unfair advantage, wherever quantifiable, made as a result of the default;

(b) the amount of loss caused to an investor or group of investors as a result of the default;

(c) the repetitive nature of the default.

SEBI Act, 1992

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.

[Explanation. —For the removal of doubts, it is clarified that the power to adjudge the quantum of penalty under sections 15A to 15E, clauses (b) and (c) of section 15F, 15G, 15H and 15HA shall be and shall always be deemed to have been exercised under the provisions of this section.]

110. In the present matter, I note from the material available on record, it is difficult to quantify the disproportionate gains made by the Noticees. Further I note that, it may not be possible to ascertain the exact monetary loss to the investors on account of default by the Noticees in the instant matter. Further, I note that there are no other complaints from any other shareholder, other than Noticee 2 in the matter.

111. Further, issue of open offer in the matter was before WTM, SEBI in which an order dated March 13, 2024 has been passed, inter alia directing Noticee 4 of following:

a. To make public announcement under SAST Regulations to acquire shares of Noticee 1 at highest price calculated for the dates when open offer was triggered, within 45 days from date of order.

b. along with the offer price, to pay interest at the rate of 10% per annum.

112. In view of the above, and in order to protect the interest of all the investors and considering the past actions against the Noticees, I feel appropriate to levy a penalty, which is commensurate with the nature of violation and which acts as a deterrent factor for the Noticees and others in protecting the interest of the investors in securities market.

ORDER

113. Having considered all the facts and circumstances of the case, the material available on record, the factors mentioned in Section 15J of the SEBI Act and Section 23J of SCRA and in exercise of the powers conferred upon me under Section 15-I of the SEBI Act read with Rule 5 of the SEBI Adjudication Rules 1995; and Section 23I of SCRA read with Rule 4 of SCR Adjudication Rules, 2005, I hereby impose following penalties on the Noticees:

Sr. No.	Noticee	Violative Provisions	Penalty Provisions	Amount of penalty (in ₹)
1.	Perfect Octave Media Projects Limited	Regulations 31A(8)(a), 31A, Clause no. 7 of Para A of Part A of Schedule III read with Regulation 30, Regulation 27(2) and the circulars issued thereunder; of SEBI LODR Regulations	Section 23A of SCRA	4,00,000/- (Four Lakhs only)
2.	Mr. Ratish Tagde	Regulation 29(2) read with Regulation 29(3) of SEBI SAST Regulations	Section 15A(b) of SEBI Act	2,00,000/- (Two Lakhs only)
3	Ms. Rajni Sharadchandra Tagde			2,00,000/- (Two Lakhs only)

4	Rutmarg Commercials Pvt. Ltd.			2,00,000/- (Two Lakhs only)

114. I am of the view that the aforesaid penalty is commensurate with the violation/allegations levelled against the Noticees.

115. The 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

116. 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, 1992 for realization of the said amount of penalty along with interest thereon, *inter alia*, by attachment and sale of movable and immovable properties.

117. In terms of Rule 6 of the SEBI Adjudication Rules and Rule 6 of the SCR Adjudication Rules, copy of this order is sent to the Noticees and also to the SEBI.

Place: Mumbai **SHASHI KUMAR VALSAKUMAR**

Date: March 27, 2024 **ADJUDICATING OFFICER**