BEFORE THE ADJUDICATING OFFICER

SECURITIES AND EXCHANGE BOARD OF INDIA

ADJUDICATION ORDER No. Order/AN/RG/2023-24/30075

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

In respect of:

Power and Instrumentation (Gujarat) Limited

PAN: AACCP4292Q

In the matter of Power and Instrumentation (Gujarat) Limited

A. BRIEF BACKGROUND

1. Securities and Exchange Board of India (hereinafter also referred to as '**SEBI**') has initiated Adjudication Proceedings under Section 15-I of the SEBI Act, 1992 in respect of Power and Instrumentation (Gujarat) Limited (hereinafter also referred to as "**PIGL**"/ "**Noticee**"/ "**Company**"), for the alleged violation of Regulation 167(6) of Securities and Exchange Board of India (Issue of Capital and Disclosure Requirements) Regulations, 2018 (hereinafter also referred to as, "**SEBI ICDR Regulations, 2018**" / "**ICDR Regulations**").

B. APPOINTMENT OF ADJUDICATING OFFICER

2. Whereas, the Competent Authority was prima facie of the view that there were sufficient grounds to adjudicate upon the alleged violation by the Noticee, as stated above and therefore, in exercise of the powers conferred under Section 19 read with Section 15-I of the SEBI Act, 1992 and Rule 3 of SEBI (Procedure for Holding Inquiry and Imposing Penalties) Rules, 1995 ("Adjudication Rules" / "AO Rules"), the Competent Authority appointed the undersigned as the Adjudicating Officer ("AO") vide order dated November 10, 2023 to inquire into and adjudicate under Section 15HB of the SEBI Act, 1992, for the aforesaid alleged violation by the Noticee. The said proceedings of appointment were communicated to the undersigned vide Communique dated November 13, 2023.

C. SHOW CAUSE NOTICE, REPLY AND HEARING

3. The Show Cause Notice no. SEBI/EAD-5/AN/RG/50723/1/2023 dated December 15, 2023 ("SCN"), was served upon the Noticee under Rule 4 of the SEBI (Procedure for Holding Inquiry and Imposing Penalties) Rules, 1995 to show cause as to why an inquiry should not be held and penalty not be imposed upon the Noticee under Section 15HB of the SEBI Act, for the violation alleged to have been committed by the Noticee.

4. The following was inter alia observed and /or alleged in the SCN in respect of the Noticee:

> "
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> …
>
> *4. Findings and Observations by SEBI and alleged violations thereto in respect of the Noticee:*
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> *4.1. The shareholders of PIGL approved the issue and allotment of 15,40,000 equity shares and 40,50,000 warrants convertible into equal number of equity shares on preferential basis at the Extraordinary General Meeting ("EGM") held on March 13, 2021. PIGL received in principle*

approval from NSE on April 20, 2021 and the company in May 2021 made allotment of 40,50,000 warrants at a price of Rs16.52/- per warrant (premium of Rs. 6.52/- per warrant), convertible into 40,50,000 equity shares of Rs. 10/- each. The Company also made allotment of 15,40,000 equity shares on May 04, 2021 at a price of Rs. 16.52/- per share (premium of Rs. 6.52/- per share), on preferential basis to select group of persons. However, out of total 15,40,000 shares allotted, the company received listing and trading approval for only 13,50,000 equity shares from NSE. NSE did not grant listing and trading approval for total 1,90,000 shares (1,50,000 shares allotted to Mr. Prxxxal Bhxxxri and 40,000 equity shares allotted to Ms. Naxxxni Agxxxal, both being public shareholders) owing to non- fulfilment of Regulation 167(6) of SEBI ICDR Regulations as both entities executed trades in their pre-preferential allotment shareholding of the company during April 15, 2021 to May 17, 2021.

4.2. *The chronology of events is given in the table below:*

S. No.	*Chronology of the events*	*Dates*
1	*Board Meeting approving the preferential issue*	*February 10, 2021*
2	*Relevant date*	*February 11,2021*
3	*Extra Ordinary General Meeting approving the preferential issue*	*March 13, 2021*
4	*Trades executed by the allottees (i.e. Prxxxal Bhxxxri and Naxxxni Agxxxal) during April 15, 2021 to May 17, 2021*	*April 15, 2021 to May 17, 2021*
5	*In-principle approval granted by NSE in respect of 15,40,000 equity shares*	*April 20, 2021*
6	*Allotment of 15,40,000 equity shares*	*May 04, 2021*
7	*Listing approval granted by NSE in respect of 13,50,000 equity shares*	*May 27, 2021*

4.3. *In terms of Regulation 167(6) of SEBI ICDR Regulations the entire pre- preferential allotment shareholding of the allottees, if any, was required to be locked in from the relevant date up to a period of six months from the date of trading approval. Accordingly, the relevant date in the matter is February 11, 2021 and the listing approval was granted by NSE on May 27, 2021. Thus, the entire pre- preferential allotment shareholding of the allottees was required to be locked till November 27, 2021 i.e. six months from the date of trading approval. However, the pre preferential allotment shareholding of two allottees, Mr. Prxxxal Bhxxxri & Ms. Naxxxni Agxxxal were not locked as they executed trades in the shares of the company during the period April 15, 2021 to May 17, 2021 as given in the table below:*

Name	*Buy Quantity*	*Date of Buy*	*Sale Quantity*	*Date of sale*	*Buy / Sell*
Prxxxal Bhxxxri	*16000*	*15-Apr-21*	*12000*	*19-Apr-21*	*Buy & sell before allotment*
	4000	*16-Apr-21*	*8000*	*20-Apr-21*	
Naxxxni Agxxxal	*4000*	*8-Apr- 21*	*4000*	*17-May-21*	*Sell after allotment*

Average buy price was between Rs. 41 to Rs. 50. Average sell price was Rs. 52 to Rs. 58. However, the preferential issue price was 16.52/- which was decided in the month of February 2021.

From the above table, it is clear that two allottees, Mr. Prxxxal Bhxxxri & Ms. Nandini executed trades in the shares of the company during the period when the pre- preferential allotment shareholding of the allottees, if any, was required to be locked in.

4.4. *In view thereof, the Noticee by not locking trading of the shares of PIGL during the period February 11, 2021 to six months from May 27, 2021, i.e. till November 27, 2021 has violated the provisions of Regulation 167(6) of ICDR Regulations.*

…

"

5. Vide email and letter dated January 04, 2024, the Noticee submitted its reply to the SCN. The key submissions made by Noticee as reply to the SCN, are as under:

1) *The shareholders of PIGL approved the issue and allotment of 15,40,000 Equity Shares and 40,50,000 warrants convertible into Equal number of Equity Share on preferential basis at the Extra-ordinary General Meeting("EGM") held on March 13, 2021. The Relevant date for the issue was 11th February, 2021. The Company made allotment of 15,40,000 Equity Shares on May 4, 2021 on preferential basis and out of 15,40,000 Equity Shares the Company has received listing and trading approval for 13,50,000 Equity Shares from NSE. The NSE did not grant listing and trading approval for 1,90,000 Equity Shares (1,50,000 shares Allotted to Mr. Prxxxal Bhxxxri and 40000 Shares allotted to Ms. Naxxxni Agxxxal both being public Shareholders) owing to non-Fulfilment of Regulation 167(6) of the SEBI (Issue of Capital and Disclosure Requirements) Regulation, 2018 (hereinafter also referred to a "ICDR Regulations") as both the Entities executed trades in their pre preferential allotment Shareholding of the Company during April 15, 2021 to May 17, 2021.*

   In terms to Regulation 167(6) of the SEBI (Issue of Capital and Disclosure Requirements) the entire pre preferential Allotment shareholding of the allottees if any was required to be locked in from the relevant date up to a period of six months from the date of trading approval.

2) *There were no shares held by Mr. Prxxxal Bhxxxri and Ms. Naxxxni Agxxxal on the Relevant date of the issue therefore the company did not require to fulfil the lock-in requirements on the relevant date as mentioned in the Regulation 167(6) of the SEBI (Issue of Capital and Disclosure Requirements).*

3) *Both the aforesaid allottees were from public and there trade details are as under*

   a) Mr Prxxxal Bhxxxri who has been allotted 1,50,000 equity shares executed buy and sale trades in between the Relevant date and allotment date. On the date of

Allotment i.e. May 4, 2021 there were no shares hold by the Prxxxal Bhxxxri. The transaction is executed by the public allottee without any intimation to the Company.

b) Ms Naxxxni Agxxxal who has been allotted 40,000 equity shares executed buy trades after Relevant date and sale trades after allotment date. On the date of Allotment i.e. May 4, 2021, she was holding 4,000 equity shares.

4) *The Company at the time of allotment of 1,50,000 equity shares to Mr. Prxxxal Bhxxxri and 40,000 equity shares to Mrs. Naxxxni Agxxxal missed to verify from the transaction statements of these allottees about the trades conducted by these two allottees between Relevant Date and Allotment Date. The Error of the Company was inadvertent with no mala fide intention.*

5) *The trades executed by these two allottees were beyond Company's control. Further, there has not been any significant market wide adverse impact of such trading by the allottees.*

6) *To rectify the violation, the board decided to cancel the allotment done to these two allottees and proposed to Reduce the Share capital by 1,90,000 Equity shares of Rs 10/- each by filing the Scheme of Selective Capital reduction for 1,90,000 Equity shares under Section 66 of the Companies Act, 2013 on NSE in July 2022. The Company has filed an application to NSE under Regulation 37 of SEBI (LODR) Regulations 2015 for their observation letter, however the said application has been rejected by NSE/SEBI.*

*The Scheme provides for undertaking capital reduction of POWER AND INSTRUMENTATION (GUJARAT) LIMITED (hereinafter referred as "PIGL or "the Company"),whereby the paid-up share capital of the PIGL shall be reduced from Rs.8,58,39,000/- divided into 85,83,900 equity shares of Rs.10/- each fully paid-up to Rs.8,39,39,000/- divided into 83,93,900 equity shares of Rs.10/-each fully paid-up and that such selective reduction be effected by reducing the paid-up share capital of the Company by Rs.19,00,000/-, divided into 1,90,000 equity shares of Rs.10/- each, and payment of premium thereon, at the rate of Rs. 6.52 per **share and that such** premium aggregating to Rs.12,38,800/- (Rupees Twelve lakhs Thirty-Eight thousand Eight Hundred Only) be utilized and paid out of the balance in the Securities Premium Account of the Company as on September 30,2021,to the shareholders whose equity shares were not permitted for listing and trading by National Stock Exchanges (NSE EMERGE).*

7) *The NSE vide it's communication asked the Company to provide the status of the said unlisted 1,90,000 equity shares.*

8) *The Company vide it's letter/clarification dated 28/07/2023,informed the NSE that the Company would take necessary steps as per the advice of SEBI/NSE to resolve the violation in respect of these 1,90,000 equity shares. A copy of the letter is attached herewith and marked as "Annexure-1".*

9) *The NSE vide it's oral communication advised the Company to re-process the Scheme of Selective Capital reduction for 1,90,000 Equity shares under Section 66 of the Companies Act,2013. The Company responded the same vide it's email dated 05/10/2023 to initiate the process of capital reduction. A copy of the said e-mail is attached herewith and marked as "Annexure-2".*

10) *The Company is under process to update the said Scheme of Selective Capital reduction for 1,90,000 Equity shares under Section 66 of the Companies Act, 2013 and also*

preparing other required documents and will initiate the process of cancellation of these unlisted 1,90,000 equity shares through Scheme of Selective Capital Reduction.

11) We further reiterates that the violation of Regulation 167 (6) of the SEBI ICDR in relation to allotment of 1,90,000 equity shares to these two allottees were unintentional, inadvertent in nature with no mala fide intention and therefore even willing to file settlement application under SEBI (Settlement Proceedings) Regulations, 2018 for adjudication of violation of Regulation 167(6)of SEBI ICDR, if advised by the SEBI to do so.

6. Vide Hearing Notice dated January 05, 2024, the Noticee was provided an opportunity of personal hearing on January 10, 2024.

7. On the scheduled date of hearing, the Noticee's Authorized Representative (AR) viz., Mr. Devesh Khandelwal, Practicing Company Secretary, appeared on behalf of Noticee and relied upon and reiterated the written submissions made vide letter dated January 04, 2024. Further, the AR inter alia submitted that there were no further /additional submissions to be made and the submissions made vide letter dated January 04, 2024 be taken as final and complete submissions in the matter.

8. Before proceedings with the matter on merits, it would first be pertinent to deal with the preliminary technical submissions made by the Noticee as part of Para 11 of its reply, dated January 04, 2024, to the SCN. I note that Noticee as part of its reply to the SCN had inter alia submitted that it was, " … willing *to file settlement application … , if advised by the SEBI to do so …*". In this regard, vide email dated January 05, 2024, the Noticee was inter alia informed that, " … as regards Para 11 of your reply to the SCN vide letter dated January 04, 2024, please note that it is for Noticee to opt for the settlement … *and Noticee is at liberty to opt for settlement process as per /provided under the Securities and Exchange Board of*

India (Settlement Proceedings) Regulations, 2018. In this regard, your attention is once again inter alia drawn to Para 11 of the Show Cause Notice dated December 15, 2023. Accordingly, you are advised to be guided by the Securities and Exchange Board of India (Settlement Proceedings) Regulations, 2018. Further in this regard, please also note that for any aspect relating to settlement, you are advised to contact the concerned department /division of SEBI directly under prompt intimation to undersigned. No further intimation from Noticee was received in this regard. I now proceed to deal with the matter having regard to the submissions of the Noticee on merits.

D. CONSIDERATION OF ISSUES AND FINDINGS

9. The issues that arise for consideration in the instant matter are:

Issue No. I: Whether the Noticee has violated the provision of Regulation 167(6) of SEBI ICDR Regulations, 2018?

Issue No. II: If yes, whether the Noticee is liable for imposition of monetary penalty under Section 15HB of the SEBI Act, 1992?

Issue No. III: If yes, what should be the monetary penalty that can be imposed upon the Noticee?

Issue No. I: Whether the Noticee has violated the provision of Regulation 167(6) of SEBI ICDR Regulations, 2018?

10. Before I proceed further with the matter, it would be pertinent to mention the relevant provisions of the SEBI ICDR Regulations, 2018, alleged to have been violated by the Noticee. The same are provided as under:

> **SECURITIES AND EXCHANGE BOARD OF INDIA (ISSUEOF CAPITAL AND DISCLOSURE REQUIREMENTS) REGULATIONS, 2018**
>
> *"*
>
> *…*
>
> ***PART V: LOCK-IN AND RESTRICTIONS ON TRANSFERABILITY***
>
> ***Lock-in***
> *…*
>
> *167. (6) The entire pre-preferential allotment shareholding of the allottees, if any, shall be locked-in from the relevant date up to a period of six months from the date of trading approval:*
> *Provided that in case of convertible securities or warrants which are not listed on stock exchanges, the entire pre-preferential allotment shareholding of the allottees, if any, shall be locked-in from the relevant date up to a period of six months from the date of allotment of such securities.*
> *…*
> *"*
>
> *.*

11. From the above I note that as per extant Regulation 167(6) of SEBI ICDR Regulations, 2018, the entire pre-preferential allotment shareholding of the allottees, if any, was required to be locked-in from the relevant date up to a period of six months from the date of trading approval.

12. In this regard, I note that it had inter alia been observed and alleged that in respect of the issue and allotment of 15,40,000 equity shares on preferential basis by the Noticee, as approved by the shareholders of the company at the EGM held on March 13, 2021, the pre-preferential allotment shareholding of the allottees was not locked-in and that by not locking the entire pre-preferential allotment shareholding of the two allottees from February 11, 2021 to November 27, 2021 Noticee had

violated the provisions of Regulation 167(6) of SEBI ICDR Regulations, 2018.

13. In this regard, I note that Noticee made its submissions as its reply to the SCN vide letter dated January 04, 2024. I note that in so far as relating to the alleged violation in the instant proceedings broadly speaking key submissions made by the Noticee in this regard inter alia narrows to five aspects viz., the issue and allotment of 15,40,000 equity shares on preferential basis; that the company did not require to fulfil the lock-in requirements on the relevant date; that to rectify the violation, the board decided to cancel the allotment to these two allottees; that the company is under process to update the said Scheme of Selective Capital reduction; and that the violation of Regulation 167(6) of the SEBI ICDR in relation to allotment of 1,90,000 equity shares to these two allottees were unintentional, inadvertent in nature with no mala fide intention. I note that the subject matter of the instant proceedings being about alleged violation on part of Noticee that the pre-preferential allotment shareholding of the said two allottees was not locked-in, the instant proceedings inter alia constricts to the same and are being dealt with accordingly in the ensuing paragraphs.

14. In this regard, I note that as part of submissions as its reply to the SCN vide letter dated January 04, 2024, while on one hand Noticee has inter alia contended that, " … *There were no shares hold by Mr. Prxxxal Bhxxxri and Ms. Naxxxni Agxxxal on the Relevant date of the issue therefore the company did not require to fulfil the lock-in requirements on the relevant date as mentioned in the Regulation 167(6) of the SEBI (Issue of Capital and Disclosure Requirements} … ",* on the other hand it has inter alia also submitted that*,* " … *The Company at the time of allotment of 1,50,000 equity shares to Mr. Prxxxal Bhxxxri and 40,000 equity shares to Mrs. Naxxxni Agxxxal missed to verify from the transaction statements of these allottees about the trades conducted by these two allottees between*

Relevant Date and Allotment Date. The Error of the Company was inadvertent with no mala fide intention … ", and that, " … We further reiterates that the violation of Regulation 167 (6) of the SEBI ICDR in relation to allotment of 1,90,000 equity shares to these two allottees were unintentional, inadvertent in nature with no mala fide intention … .", and that, " … To rectify the violation, the board decided to … .". Accordingly, I note that the submissions of the Noticee are not only contradictory in nature but also in nature of admission.

15. Further in this regard, I note from material available on record that the relevant date in the matter is February 11, 2021 and the listing approval was granted by NSE on May 27, 2021. Accordingly, in terms of extant provisions of Regulation 167(6) of SEBI ICDR Regulations, 2018, entire pre-preferential allotment shareholding of the allottees was required to be locked-in from relevant date till six months from the date of trading approval i.e., from February 11, 2021 to November 27, 2021, however I note from material available on record that shares of PIGL were purchased and sold by two preferential allottees viz., Ms Naxxxni Agxxxal and Mr. Prxxxal Bhxxxri during April /May 2021 viz., the period falling between relevant date and six months from the date of trading approval. I note from material available on record that the said two allottees had traded during April /May 2021 and the details of trades executed in the shares of the company during the period April 15, 2021 to May 17, 2021 are as given in the table below:

Name	*Buy Quantity*	*Date of Buy*	*Sale Quantity*	*Date of sale*	*Buy / Sell*
Prxxxal Bhxxxri	*16000*	*15-Apr-21*	*12000*	*19-Apr-21*	*Buy & sell before allotment*
	4000	*16-Apr-21*	*8000*	*20-Apr-21*	
Naxxxni Agxxxal	*4000*	*8-Apr- 21*	*4000*	*17-May-21*	*Sell after allotment date*

In this regard, I note that Noticee has neither denied nor disputed about the trading in the scrip of the company by the two allottees during April /May 2021 viz., the period falling between relevant date and six months from the date of trading approval, in so far as Noticee as part of its submission has inter alia itself stated that, *‘ … The Relevant date for the issue was 11th February, 2021. …’*, and that, *‘Mr Prxxxal Bhxxxri … executed buy and sale trades in between the Relevant date and allotment date and that Ms Naxxxni Agxxxal … executed buy trades after Relevant date and sale trades after allotment date …”.* Accordingly, I note that the submissions of the Noticee in this regard are in nature of admission.

16. In view thereof, I hold that violation alleged in respect of the Noticee that by not locking the entire pre-preferential allotment shareholding of the two allottees viz., Mr Prxxxal Bhxxxri and Ms Naxxxni Agxxxal, from February 11, 2021 to November 27, 2021, Noticee had violated the provisions of Regulation 167(6) of SEBI ICDR Regulations, 2018, stands established.

Issue No. II: If yes, whether the Noticee is liable for imposition of monetary penalty under Section 15HB of the SEBI Act, 1992?

17. It has been established in the foregoing paragraphs that Noticee had violated provisions of Regulation 167(6) of SEBI ICDR Regulations, 2018.

18. In this regard, it is noted that the Hon’ble Supreme Court of India in the matter of SEBI v/s Shri Ram Mutual Fund [2006] 68 SCL 216(SC) inter alia 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 .... "

19. Therefore, for the established violation, as brought out in the foregoing paragraphs, I find that Noticee is liable for monetary penalty under section 15HBof the SEBI Act, 1992, which reads as under:

> *"...*
> ***Penalty for contravention where no separate penalty has been provided.***
>
> *15HB.Whoever fails to comply with any provision of this Act, the rules or the regulations made or directions issued by the Board thereunder for which no separate penalty has been provided, shall be liable to a penalty which shall not be less than one lakh rupees but which may extend to one crore rupees*
> *....*
> *"*
> .

Issue No. III: If yes, what should be the monetary penalty that can be imposed upon the Noticee?

20. While determining the quantum of penalty under Section 15HB of the SEBI Act, it is important to consider the factors as stipulated in Section 15J of the SEBI Act, which reads as under: -

> **SEBI Act**
> *"………..*
> *Factors to be taken into account while adjudging quantum of penalty.*
> *15J. While adjudging quantum of penalty under 15- 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.*
> *…………..*"

21. In the instant case, I note that the material available on record does not quantify any disproportionate gain or unfair advantage or consequent loss caused to investors or profit made by the Noticee as a result of the violations committed by the Noticee. Further, there is nothing on record to show that the violations committed by the Noticee are repetitive in nature. In this regard, I also note that Noticee had inter alia contended that there has not been any significant market wide adverse impact of such trading by the allottees. However, I cannot ignore that provisions of Regulation 167(6) of SEBI ICDR Regulations, 2018, as in the instant matter were obligatory which the Noticee failed to comply, as dealt with and established in the foregoing and that SEBI is duty-bound to inter alia enforce compliance of these Regulations. In view thereof, I am of the view that such violation on part of the Noticee needs to be dealt with imposition of suitable penalty.

E. ORDER

22. After taking into consideration the facts and circumstances of the case, material available on record, submissions made by the Noticee and also the factors mentioned in the preceding paragraphs, in exercise of the powers conferred upon me under section 15-I of the SEBI Act, 1992 r/w Rule 5 of the SEBI (Procedure for Holding Inquiry and Imposing Penalties) Rules, 1995, I hereby impose penalty of Rs. 1,00,000/- (Rupees One Lakh Only), on the Noticee, for the aforementioned violation, as discussed in this order. In my view, the said penalty will be commensurate with the violations committed by the Noticee in this case.

23. The Noticee 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

24. In the event of failure to pay the said amount of penalty within 45 days of the receipt of this Order, SEBI may initiate consequential actions including but not limited to recovery proceedings 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.

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

Date: March 07, 2024	**AMAR NAVLANI**
Place: MUMBAI	**ADJUDICATING OFFICER**