BEFORE THE ADJUDICATING OFFICER

SECURITIES AND EXCHANGE BOARD OF INDIA

(ADJUDICATION ORDER NO: Order/KS/VC/2019-20/6662)

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

In respect of:

Kesar Petroproducts Ltd.

CIN: L23209PN1990PLC054829

404, Naman Centre,

G-Block, Bandra Kurla Complex,

Bandra (East), Mumbai-400051

FACTS OF THE CASE

1. An amendment was carried out in Securities Contracts (Regulation) Rules, 1957 (hereinafter referred to as '**SCR Rules**') by amending Rule 19(2)(b) and by inserting a new Rule 19A in it by way of Securities Contracts (Regulation) (Amendment) Rules, 2010. The said amendment introduced a requirement of maintaining Minimum Public Shareholding ('**MPS**') of at least 25% of total issued share capital of every listed company. Further, the companies, which were having their public shareholding less than 25% were given a time of three

years from the date of commencement of the abovementioned amendment i.e. by June 03, 2013 to comply with the requirements of MPS in the manner specified by the Securities and Exchange Board of India (hereinafter referred to as ‘**SEBI**’).

2. Thereafter, SEBI, vide Circulars dated December 16, 2010, February 08, 2012 and August 29, 2012, specified certain methods to comply with the MPS requirements. Further, SEBI, vide circular dated August 29, 2012, had specified that listed entities desirous of achieving the MPS requirement through other means may approach it (SEBI) with appropriate details that would be considered by SEBI based on merit.

3. Thereafter, Whole Time Member of SEBI (**WTM**) passed an interim Order dated June 04, 2013 ("**interim order**") with respect to 105 listed companies including Kesar Petroproducts Limited (hereinafter referred to as ‘**KPL**’/‘**Noticee**’/‘**Company**’), which did not comply with the MPS norms, as stipulated under Rules 19(2)(b) and 19A of the SCR Rules, within the due date i.e. June 03, 2013. Vide the said Order, WTM, *inter alia*, issued the following directions:

    - *Prohibit the promoters/promoter group and directors of these non-compliant companies from buying selling or otherwise dealing in securities of their respective companies, either directly or indirectly, in any manner whatsoever, except for the purpose of complying with minimum public shareholding requirement till such time these companies comply with the minimum public shareholding requirement,*

- *Restrain the shareholders forming part of the promoter/promoter group in the non-compliant companies from holding new position as a director in any listed company, till such time these companies comply with the minimum public shareholding requirement,*
- *Restrain the directors of non-compliant companies from holding new position as a director in any listed company, till such time these companies comply with the minimum public shareholding requirement.*

4. The said directions were confirmed against KPL vide SEBI order dated January 11, 2016. Thereafter, vide another order dated September 05, 2017 ('**Final Order**'), SEBI vacated the abovementioned directions against KPL and observed that KPL had complied with MPS requirements.
5. However, WTM, in his order dated September 05, 2017, had noted certain violations of various provisions of law, namely SCR Rules, SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015 (hereinafter referred to as '**LODR Regulations**') and certain circulars issued by SEBI, by the Noticee and its connected entities as well as the delay on the part of the Noticee in complying with MPS requirements and directed to initiate a separate adjudication proceedings in respect of the said violations.

APPOINTMENT OF ADJUDICATING OFFICER

6. The undersigned was appointed as the Adjudicating Officer, vide Order dated March 22, 2019 under Section 19 read with Section 15-I(1) of the Securities and Exchange Board of India Act, 1992 (hereinafter referred to as '**SEBI Act**')

read with Rule 3 of SEBI (Procedure for Holding Inquiry and Imposing Penalties) Rules, 1995 (hereinafter referred to as '**SEBI Adjudication Rules**') and Section 23-I(1) of the Securities Contracts (Regulation) Act, 1956 (hereinafter referred to as '**SCR Act**') read with Rule 3 of Securities Contracts (Regulation)(Procedure for Holding Inquiry and Imposing Penalties) Rules, 2005 (hereinafter referred to as '**SCRA Adjudication Rules'**) to inquire into and adjudge under the provisions of Section 15HB of the SEBI Act and Sections 23E & 23H of SCR Act, the alleged violations of the relevant provisions of law.

SHOW CAUSE NOTICE, REPLY AND PERSONAL HEARING:

7. A Show Cause Notice ref. SEBI/HO/EAD-8/KS/VC/11398/2019 dated May 06, 2019 (hereinafter referred to as '**SCN'**) was issued to the Noticee under the provisions of Rule 4(1) of the Adjudication Rules, to show cause as to why an inquiry should not be held against it and why penalty, if any, should not be imposed on it under the provisions of Section 15HB of the SEBI Act and Sections 23E & 23H of SCR Act for alleged violation of the relevant provisions of law.
8. The details in respect of allegations levelled against the Noticee are as below:
   a. *It is observed that violations mentioned at paragraph No. 4.2.2, 4.2.3 and 4.2.4 respectively (of Final Order) are "Sale of shares of the promoter, Shreyas Sharma when SEBI's order was in force", "Re-classification of Raj Kumar from promoter to public shareholder from quarter ended March 2017" and "Use of a non-prescribed method to meet MPS norms i.e.*

Issuance of warrants convertible into equity shares to non-promotes on preferential basis".

b. *In view of this, the following allegations have been levelled against the Noticee:*

Name of the Noticee	*Alleged violations*	*Penalty provisions*
Kesar Petroproducts Limited	*1. Clause 40A of the Listing Agreement read with Rules 19(2) (b) & 19A of SCRR read with Regulation 38 of LODR Regulations further read with section 21 of SCRA.*	*Section 23E of SCR Act*
	2. Rules 19(2)(b) and 19A of SCRR and Clause 40A of the Listing Agreement read with Regulation 38 of LODR Regulations read with SEBI Circular CIR/CFD/CMD/14/2015 dated November 30,2015 read with SEBI Circular CIR/CFD/DIL/11/2012 dated August 29,2012 read with SEBI Circular CIR/CFD/DIL/1/2012 dated February 8,2012 read with SEBI Circular CIR/CFD/DIL/10/2010 dated December 16,2010.	*Section 23H of SCR Act*

	3. Regulation 31A(2) of LODR Regulations.	*Section 15HB of the SEBI Act.*

c. *It is observed that by way of Securities Contracts (Regulations) (Amendment) Rules, 2010, a new provision of Rule 19A(1) was inserted in SCRR according to which it was made mandatory for every listed company to maintain a minimum public shareholding of at least twenty five per cent at all points of time during which it was listed. In this regard, a one-time relaxation of 3 years was provided to all the companies listed prior to the amendment during which they were required to increase their public shareholding to the required levels of 25% of total shareholding. However, the Companies were required to do so in the manner specified by SEBI.*

d. *The said provision of Rule 19A(1) of SCR Rules came into effect from June 04, 2010. In this regard, it is observed that the Noticee which had less than 25% public shareholding as on June 04, 2010 was required to achieve the same, within a period of three years from the date of commencement of Rule 19A(1) of SCRR i.e. by June 03, 2013. However, it is observed from the shareholding pattern available on the website of Bombay Stock Exchange (hereinafter referred to as 'BSE') for the quarter ended December 2015 that out of total shares, 51.84% shares of the Noticee were held by Public shareholders. However, it is observed from public shareholding that Mr. Shreyas Dinesh Sharma and Ms. Shruti Sharma,* *children of Dinesh Sharma who is the promoter of the Noticee, were holding a total of 43.73% of total shares of the Company. In this regard, it has already been held by WTM in the final order that Mr. Shreyas Dinesh Sharma and Ms. Shruti Sharma belong to promoter group of the Company. Therefore, the public shareholding of the Company was only 8.11% of the total shareholding of the Company.*

e. *In this regard, it is further observed from the Shareholding pattern of the Noticee available on BSE website for the quarter ended March 2016 that the public shareholding was shown as 62.23% out of which 34.23% shares of the Company were held by Mr. Shreyas Dinesh Sharma and Ms. Shruti Sharma. Thus, actual public shareholding in this case was 28% of total shareholding of the Company.*

f. *In view of this, it is alleged that the Noticee has failed to comply with the public shareholding norms at the end of the one-time relaxation granted under Rule 19A(1) of SCR Rules and it complied with the MPS norms only in March, 2016 which is after a delay of 2 years 9 months. Therefore, it has been alleged that the Noticee has violated Clause 40A of the Listing Agreement read with Rule 19(2)(b) & 19A of SCRR read with Regulation 38 of the LODR Regulations further read with section 21 of SCRA.*

g. *It is further observed from the proviso to Rule 19A(1) of SCR Rules that the said increase in public shareholding of the company to meet the MPS requirement has to be done in the manner specified by SEBI. In this regard, SEBI, vide circular No. CIR/CFD/CMD/14/2015 dated November*

30, 2015, directed all listed companies, which do not meet the MPS requirement i.e. which has less than 25% shares held by public shareholders, to adopt certain methods to achieve the MPS specified in Rule 19(2)(b) and/or Rule 19A of the SCRR.

h. *Further, from the material available on record, it is observed that the company issued 24 Lakh convertible share warrants at a premium of around Rs. 49/- in February 2015. These warrants were converted into equity shares in months of March 2016 & April 2016. On account of the conversion of the warrants, the public shareholding increased from 8.11 % to 28.00% in March 2016, to 30.98% in April 2016. However, it is alleged that the issue of warrants and their conversion into equity shares is not a prescribed method for compliance with MPS requirements.*

i. *It is further observed that Clause 40A of Listing Agreement read with Regulation 38 of SEBI LODR Regulations and SEBI circular No. CIR/CFD/CMD/14/2015 dated November 30, 2015 read with SEBI Circular CIR/CFD/DIL/11/2012 dated August 29, 2012, inter alia, state that for adoption of any other method apart from the methods prescribed in the said SEBI Regulations and Circulars, for complying with the requirement of MPS, the company has to obtain prior approval from SEBI. However, there is no record of the Noticee applying for or obtaining prior approval from SEBI to issue the abovementioned warrants to increase its public shareholding.*

j. Therefore, it is alleged that the Noticee, by its failure to obtain prior approval for issuance of warrants, has violated the provisions of Rule 19(2)(b) of SCR Rules and Clause 40A of the Listing Agreement read with Regulation 38 of the LODR Regulations read with SEBI Circular CIR/CFD/CMD/14/2015 dated November 30, 2015, SEBI Circular CIR/CFD/DIL/11/2012 dated August 29, 2012, SEBI Circular CIR/CFD/DIL/1/2012 dated February 8, 2012 and SEBI Circular CIR/CFD/DIL/10/2010 dated December 16, 2010.

k. It is also observed from the shareholding pattern of the Noticee available on BSE website that one Mr. Raj Kumar was shown as part of promoter category of KPPL till quarter ended December, 2016. Thereafter, he was reclassified as a public shareholder for the quarter ended March 2017. In terms of Regulation 31A(2) of the LODR Regulations, specific approval has to be sought either by the company or by shareholder from the exchange for the modification or reclassification of the status of the shareholders. In this regard, BSE, vide email dated August 31, 2017, has submitted to SEBI that KPPL had not made any application under Regulation 31A of SEBI LODR Regulations for reclassification of Raj Kumar into Public category. In view of this, it is alleged that no specific approval for such reclassification was obtained by KPPL from the stock exchanges viz. BSE and NSE in terms of Regulation 31A(2) of LODR Regulations. Therefore, It is alleged that the Noticee has violated Regulation 31A of SEBI LODR Regulations.

9. I note that the Noticee, in its letter dated May 28, 2019, requested for inspection of documents. The said request was forwarded to the concerned department of SEBI and inspection of the relied upon documents was completed on July 29, 2019. Thereafter, vide letter dated September 20, 2019, the Noticee was provided time till September 30, 2019 to submit its reply to the SCN. Thereafter, the Noticee, vide Email dated September 27, 2019, requested for extension to submit its reply, which was duly granted vide Email dated September 27, 2019. Further, vide Email dated October 15, 2019, the Noticee once again requested for extension of time to submit its reply. Thereafter, the Noticee was granted final opportunity to submit its reply on or before October 25, 2019. The Noticee, vide its letter dated October 24, 2019, made the following submissions:

i. *The Company was incorporated on 1st January, 1990. It is, inter alia, engaged in manufacture of refined petroleum products and specialty chemical. During the initial stage of the Company's operations and functioning, due to squeezed profit margins coupled with global recessionary trends, the Company faced huge financial losses and as a result, it was referred to the Board of Industrial and Financial Reconstruction ("BIFR"). The BIFR declared the Company as sick in September 2005 and ordered it's winding up in April 2006.*

ii. *In August 2007, one Dinesh Sharma, being the promoter of the Company named Shreyas Intermediates Limited ("SIL"), took over the Company, and that the Scheme was prepared for rehabilitation of the said Company, to the effect that the said Shreyas Intermediates Limited ("SIL"), and the* *said Dinesh Sharma HUF became the Promoters of the said Company, both entities of Dinesh Sharma.*

iii. *Accordingly, in April 2008, as per the Scheme for Rehabilitation of the Company, duly sanctioned by the BIFR, SIL acquired 35 Lakh shares (i.e. 51.72% of the Issued Capital of the Company) and Dinesh Sharma HUF acquired 30 Lakh shares (i.e. 44.33% of the Issued Capital of the Company) that is to say a total of 96.05% of the Issued Capital of the Company.*

iv. *Although the rehabilitation scheme was approved by the BIFR, the erstwhile promoters of the company not only did not cooperate for a smooth transition of the management but also created hurdles including non-payment of Income Tax dues which lead to levy of penalties by the Tax Authorities. The basic intent of the erstwhile management of the Company was to sabotage the scheme of Rehabilitation.*

v. *The shares of the company were also suspended from trading on BSE from September 2007 till February 2014 owing to defaults on the part of the erstwhile management of the Company. The matter was finally settled in the Year 2014 before the Court of Law in the legal proceedings which entailed between the New Management group of the Company namely Shreyas Intermediates Limited ("SIL") and Dinesh Sharma HUF and the erstwhile Management of the Company.*

vi. *Amidst such conditions, SEBI on 4th June, 2010, amended Regulation 19 and introduced Regulation 19A of Securities Contract Regulations Rules* *which mandated the Listed Companies to maintain a Minimum Public Shareholding of 25% and in case of shareholding less than same to enhance it to 25% within a period of three years thereof in the manner prescribed by SEBI.*

vii. *The methods initially prescribed by SEBI in the year 2010 for increasing the Public Shareholding were not feasible in the Company's case on account of non-availability of any trading platform due to suspension of trading of the Company's shares at BSE and the Order of the BIFR where the old promoter was also creating all sorts of hurdles. Also, since the new promoters could not have raised fresh capital and since the shares could not be sold on stock exchange because of suspension of trades as also the scheme of BIFR which was ongoing till Dec 2014, and thus the promoters were not able to sell their shares on BSE and thus reduce their shareholding.*

viii. *Subsequently, further additional methods were prescribed by SEBI vide its Circulars dated February 08, 2012 and August 29, 2012 for compliance with MPS norms. However, the methods prescribed by SEBI for increasing the Public Shareholding were also not feasible.*

ix. *Therefore, in the said backdrop, and amidst the embargo where trading of shares of the Company were suspended on the floor of the Exchange and also that where the Company was a Sick Unit which was still under BIFR, in and around November 09, 2012, Shreyas Intermediaries Ltd, being the promoter Group of the Company, transferred a total of 48.16 % of the*

Issued Capital of the Company (24.08% shares each) to Mr. Shreyas Sharma and Ms. Shruti Sharma who were coparceners of Dinesh Sharma HUF. On April 2013, Mr. Shreyas Sharma and Ms. Shruti Sharma retired as coparceners of Dinesh Sharma HUF and thus, ceased to be part of the promoter group from that date. In the manner, the company has complied with the MPS requirements well before due date of June 03, 2013.

x. *On 4th June, 2013, SEBI had passed the Interim Orders, in respect of the subject issues. The Interim order, inter alia, held that the Company is not in compliance with MPS norms. It would, however, be pertinent to state here that the process of being a MPS Compliant was initiated by the Company much before the passing of the said Interim Orders dated 4th June, 2013, that is to say around 9th November, 2012, when SIL transferred its Shares to the said Mr. Shreyas Sharma and Ms. Shruti Sharma, which eventually culminated on April 2013, when Mr. Shreyas Sharma and Ms. Shruti Sharma retired as coparceners of Dinesh Sharma HUF and thus, ceased to be part of the promoter group from that date.*

xi. *The company's representatives appeared for personal hearing on December 03, 2014 and explained the shareholding pattern of the company and also provided details of the transfer of shares to Mr. Shreyas Sharma and Ms. Shruti Sharma vide an email dated December 08, 2014. Since no further details were sought by SEBI, the company assumed that the explanation provided by it was satisfactory to SEBI.*

xii. *In February 2015, after having settled all matters related to the BIFR etc., and in order to raise the capital, the company issued 24 Lakh convertible share warrants at a premium of around Rs. 49/- after obtained necessary prior approvals from BSE on February 2, 2015. These warrants were issued to non-promoters.*

xiii. *The company attended the hearing before WTM on July 2, 2015 and thereafter, filed its written submissions on August 6, 2015. In the personal hearing and in the written submissions, the company reiterated that Shreyas Sharma and Shruti Sharma were not part of promoter group and therefore, the company had met the MPS norms. However, the submissions of the company were not accepted by SEBI and interim order was confirmed by Order dated January 11, 2016.*

xiv. *The Interim Order dated 4th June, 2013, was confirmed vide Order dated 11th January, 2016. The said order held and observed, amongst other, that since Mr. Shreyas Sharma and Ms. Shruti Sharma were Mr. Dinesh Sharma's children, they would be part of the HUF; and therefore considered their shareholding as promoter's shareholding and not public shareholding.*

xv. *The shares warrants were converted into equity shares in April 2016 and thus, the total authorized and paid up capital of the company increased to Rs.9,66,73,170; consequently, the shareholding of the promoters reduced to 36.20% resulting into increase of public shareholding to 63.80%. BSE* *on May 26 and 30, 2016 issued notices permitting listing of shares so allotted.*

xvi. *The aforesaid public shareholding of 63.80% included the shareholding of Mr. Shreyas Sharma and Ms. Shruti Sharma. Even if the same is excluded (assuming but not admitting that they are not public shareholders), the public shareholding of the company was 30.98% as on April 07, 2016.*

xvii. *Aggrieved by the said Confirmatory Orders, the company filed an appeal before the Hon'ble SAT. The facts relating to the issue of Convertible Share Warrants, their conversion and the sale of shares by Mr. Shreyas Sharma were brought to the notice of SAT and it was submitted before the SAT that the company had achieved and maintained MPS requirements. By its order dated June 14, 2017, SAT remanded the matter back to SEBI with a direction to the company to provide in detail, the mode and manner in which the MPS requirement had been achieved. The Company in compliance thereof submitted the details to SEBI vide their letters dated June 20 & 22, 2017.*

xviii. *From the shareholding pattern filed by Kesar Petro with BSE as on quarter ended June 2017, it was observed that, Kesar Petro (based on its declaration) has a public shareholding of 68.97%, i.e. more than 25% (after considering the shareholdings of Shreyas Sharma, Shruti Sharma & Raj Kumar under the public category) and promoter shareholding was shown as only 31.03%.*

xix. *Thereafter SEBI vide e-mail dated August 21, 2017 advised Kesar Petro to submit documents in support of their claim that Shreyas Sharma and Shruti Sharma retired as coparceners of Dinesh Sharma- HUF and thus ceased to be part of the promoter group from April 2013. Thereafter, Kesar Petro vide email dated August 22, 2017, submitted Partition Deed dated April 15, 2013, whereby Shreyas Sharma and Shruti Sharma retired from Dinesh Sharma- HUF. The company also submitted that Dinesh Sharma is the Karta of Dinesh Sharma- HUF from 1998 till date.*

xx. *Thus, upon series of representations and submissions of all material and relevant documents and information, SEBI, vide Order dated 5th September, 2017, was, amongst others, pleased to vacate the directions issued under the said Interim Order dated 4th June, 2013 and also the Confirmatory Orders dated 11th January, 2016.*

xxi. *The Company is thereafter in receipt of the present Notice, containing statements, contentions and allegations, in respect of alleged violations as stipulated in the said Notice. It would be pertinent to state that vide the interim order dated June 4,2013, SEBI had prohibited promoters/ promoter group form buying, selling or otherwise dealing in securities of their respective companies, directly or indirectly, in any manner whatsoever, except for the purpose of complying with MPS norms. The sale of shares by Mr. Shreyas Sharma during period April 2015 to January 2016, (assuming but not admitting that he was a Promoter) was the process, step and endeavor by the said Mr. Shreyas Sharma to make the Company* *a MPS Compliant. Moreover, there were no red flags raised by the BSE and neither any references or complaints were filed by the BSE to the SEBI which clearly and categorically establishes that the sale of the said Shares were executed and hence permitted in compliance and in furtherance of becoming the Company a MPS compliant, and hence the BSE approved and permitted the same. Therefore, the said sale was in substantial compliance with the requirements of the clause (c) of the amended Clause 40A of Listing Agreement. Thus, the company complied with MPS norms as on that date. In this regard, the company also submits that it is also pertinent to note that BSE would not have permitted Mr. Shreyas Sharma which was identified as one of the promoters in the interim order, to sell his shares except for the purposed of achieving MPS, which is what actually happened. Furthermore, the details of sale i.e. change in shareholding was disclosed by Mr. Shreyas Sharma to the BSE and the same were disclosed on BSE's website. As of June 30, 2017, the shareholding of public in the company is 68.97%; (32.82% of the shareholding of Mr. Shreyas Sharma and Ms. Shruti Sharma is included in promoter shareholding). This classification the Company has done to adhere to the SAT Order which the Company read as saying that Shreyas and Shruti to be classified as promoters. A small Company on which the cases are on going drains all the resources and changes the focus from manufacturers to fire fighters for compliances which they are trying their best to follow.*

xxii. *Insofar, the allegations pertaining Re- Classification of Raj Kumar from Promoter to Public Shareholder from Quarter ended March 2017 is concerned, it is submitted that he was shown under the promoter category till the quarter ended with December 2016 with 5.17% shareholding in the Company. The Company vide e-mail dated August 28, 2017 submitted that they ceased to consider Raj Kumar as a promoter since he does not fall under definition of a promoter and since the shares are under litigation. The Company vide e-mail dated August 29, 2017, to SEBI has further stated that it has disclosed (by way of note in the shareholding pattern filed with BSE), that Raj Kumar claims to hold 50, 00, 000 equity shares (amounting to 5.17% of the total shareholding), in respect of which the rights, title and interest are disputed, are categorized in the public shareholding with effect from quarter ending March 31, 2017. The Company has also stated that the matter is sub-judice. My client submits that the re-classification of the Shares of the said Promoter Raj Kumar as the Public Shareholder is the legal consequence of the impending litigation, and not a result of any positive step taken by the Company to increase the Public Shareholding. The Company craves leave to refer to and rely upon the entire papers and proceedings pertaining the said litigation between the Company and the said Rajkumar, as and when produced.*

xxiii. *Further, re-classifying the promote and the promoter group shareholding was in no way barred by SEBI Act, SCRA, SCRR, the Listing Agreement* *or any Circulars issued thereunder. Even SEBI in its discussion paper dated 30.12.2014 and board meeting dated 23.6.2015 has acknowledged that reclassification of Promoter and promoter group shareholding is a valid exercise.*

xxiv. *In addition, it is submitted that there are several other possible 'legitimate' means which may be adhered to by the Company in compliance of the requirement of minimum public shareholding but same are not method specified under Clause 40 A of the Listing Agreement read with SEBI Circulars dated 16.12.2010, 8.2.2012, and 29.8.2012. It can't be contended that being outside the method specified, the same would be violation of applicable provisions of law.*

xxv. *The Company had, during series of correspondences and personal hearing that ensued in the subject matter, apprised and kept updated SEBI about each and every development and the foundation of the reasons for such acts committed by the Company to make it a MPS Compliant. Basis these, vide Order dated 5th September, 2017, the Interim Order dated 4th June 2012 and the Confirmatory Order dated 11th January, 2016, passed by the SEBI were vacated.*

xxvi. *Without prejudice and in addition to the aforesaid contention, it is submitted that the Company or its Promoters have never taken any disproportionate gain or unfair advantage (by way of corporate benefits like dividend, bonus shares, split etc.) or has caused loss to any investor, in any manner whatsoever. Moreover, it is incumbent upon the Regulatory*

Authority like SEBI to protect the investors' interest. Such proceedings instituted by SEBI against 'Compliant' Company like the present Noticee would jeopardise and severely affect the investors' interest, rather than protecting it.

xxvii. *In view of the foregoing submissions, the Company would like to kindly request you not to hold any inquiry and impose any Penalty on the Noticee; and to drop the present Notice against the Noticee sympathetically.*

10. In the interest of natural justice, an opportunity of personal hearing was granted to the Noticee on October 09, 2019 which was postponed to October 17, 2019 and, later, on November 06, 2019 upon requests of the Noticee. Thereafter, Mr. Aditya Khanna, Advocate and Mr. Dinesh Sharma appeared as Authorized Representatives (**ARs**) on behalf of the Noticee on November 06, 2019 and reiterated the submissions made by the Noticee vide its letter dated October 24, 2019. The ARs were advised to submit certain documents on or before November 07, 2019. The Noticee, vide its Email dated November 07, 2019, submitted a copy of the order of Board of Industrial and Financial Reconstruction (**BIFR**) dated August 17, 2007.

CONSIDERATION OF ISSUES AND FINDINGS:

11. I have taken into consideration the facts and circumstances of the case and the material available on record, and the reply submitted by the Noticee. I note that the allegations are three fold and the same are as below:

Name of the Noticee	Alleged violation(s)	Provision(s) of Law
Kesar Petroproducts Limited	Delayed compliance of MPS requirements.	Clause 40A of the Listing Agreement read with Rule 19(2) (b) & 19A of SCR Rules further read with Regulation 38 of LODR Regulations further read with section 21 of SCR Act.
	Use of non-prescribed method to meet Minimum Public Shareholding norms	Rule 19(2)(b) and 19A of SCR Rules and Clause 40A of the Listing Agreement read with Regulation 38 of LODR Regulations further read with SEBI Circular CIR/CFD/CMD/14/2015 dated November 30, 2015 further read with SEBI Circular CIR/CFD/DIL/11/2012 dated August 29, 2012 further read with SEBI Circular CIR/CFD/DIL/1/2012 dated February 8, 2012 further read with SEBI Circular CIR/CFD/DIL/10/2010 dated December 16, 2010.
	Re-classification of Raj Kumar from Promoter to	Regulation 31A(2) of LODR Regulations.

	public shareholder without prior approval of BSE.	

In view of the above, the issues for consideration before me are:-

a. Whether the Noticee has delayed the compliance of MPS norms?

b. Whether the Noticee had used non-prescribed method to meet MPS norms?

c. Whether the Noticee has re-classified Raj Kumar from Promoter to public shareholder without prior-approval of BSE?

d. If yes, whether the Noticee is liable for penalty?

e. If yes, what should be the quantum of penalty that should be imposed on the Noticees?

12. Before moving forward, the relevant extracts of the provision of law, allegedly violated by the Noticees, are mentioned as under-

***Equity Listing Agreement*:**

40 A. Minimum level of public shareholding

(i) The company agrees to comply with the requirements specified in Rule 19(2) and Rule 19A of the Securities Contracts (Regulation) Rules, 1957.

Securities Contracts (Regulation) Rules, 1957

Continuous Listing Requirement.

19A. *(1) Every listed company other than public sector company shall maintain public shareholding of at least twenty five per cent.:*

Provided that any listed company which has public shareholding below twenty five per cent, on the commencement of the Securities

Contracts (Regulation) (Amendment) Rules, 2014, shall increase its public shareholding to at least twenty five per cent, within a period of four years from the date of such commencement, in the manner specified by the Securities and Exchange Board of India.

Explanation: For the purposes of this sub-rule, a company whose securities has been listed pursuant to an offer and allotment made to public in terms of clause (b) of sub-rule (2) of rule 19, shall maintain minimum twenty five per cent, public shareholding from the date on which the public shareholding in the company reaches the level of twenty five percent in terms of said sub-clause.

Requirements with respect to the listing of securities on a recognized stock exchange.

19(2) *Apart from complying with such other terms and conditions as may be laid down by a recognized stock exchange, an applicant company shall satisfy the stock exchange that :*

(b)*. The minimum offer and allotment to public in terms of an offer document shall be-*

(i) at least twenty five per cent of each class or kind of equity shares or debenture convertible into equity shares issued by the company, if the post issue capital of the company calculated at offer price is less than or equal to one thousand six hundred crore rupees;

(ii) at least such percentage of each class or kind of equity shares or debentures convertible into equity shares issued by the company equivalent to the value of four hundred crore rupees, if the post issue capital of the company calculated at offer price is more than one thousand six hundred crore rupees but less than or equal to four thousand crore rupees;

(iii) at least ten per cent of each class or kind of equity shares or debentures convertible into equity shares issued by the company, if the post issue capital of the company calculated at offer price is above four thousand crore rupees:

Provided that the company referred to in sub-clause (ii) or sub-clause (iii), shall increase its public shareholding to at least twenty five per cent within a period of three years from the date of listing of the securities, in the manner specified by the Securities and Exchange Board of India:

Provided further that this clause shall not apply to a company whose draft offer document is pending with the Securities and Exchange Board of India on or before the commencement of the Securities Contracts (Regulation) Third Amendment Rules, 2014, if it satisfies the conditions prescribed in clause (b) of sub-rule (2) of rule 19 of the Securities Contracts (Regulation) Rules, 1956 as existed prior to the date of such commencement.

SEBI Circular CIR/CFD/CMD/14/2015 dated November 30,2015

2._In order to achieve the minimum level of public shareholding specified in Rule 19(2)(b) and/or Rule 19A of the Securities Contracts (Regulation) Rules, 1957, the Listed Entity shall adopt any of the following methods :-_

i. *Issuance of shares to public through prospectus;*
ii. *Offer for sale of shares held by promoters to public through prospectus;*
iii. *Sale of shares held by promoters through the secondary market in terms of SEBI circular CIR/MRD/DP/05/2012 dated February 1, 2012;*
iv. *Institutional Placement Programme (IPP) in terms of Chapter VIIIA of SEBI (Issue of Capital and Disclosure Requirements) Regulations, 2009;*
v. *Rights Issue to public shareholders, with promoter/promoter group shareholders forgoing their entitlement to equity shares, that may arise from such issue:*
vi. *Bonus Issues to public shareholders, with promoter/promoter group shareholders forgoing their entitlement to equity shares, that may arise from such issue:*
vii. *Any other method as may be approved by SEBI on a case to case basis. For this purpose, the listed entities may approach SEBI with appropriate details. SEBI would endeavor to communicate its decision within 30 days from the date of receipt of the proposal or the date of receipt of additional information as sought from the company.*

LODR Regulations

Disclosure of Class of shareholders and Conditions for Reclassification.

31A. (2) *The stock exchange, specified in sub-regulation (1), shall allow modification or reclassification of the status of the shareholders, only upon receipt of a request from the concerned listed entity or the concerned shareholders along with all relevant evidence and on being satisfied with the compliance of conditions mentioned in this regulation.*[1]

Minimum Public Shareholding.

38. *The listed entity shall comply with the minimum public shareholding requirements specified in Rule 19(2) and Rule 19A of the Securities Contracts (Regulation) Rules, 1957 in the manner as specified by the Board from time to time:*

Provided that provisions of this regulation shall not apply to entities listed on institutional trading platform without making a public issue.

[1] As applicable at the time of alleged violations. It may be noted that the abovementioned provision of LODR Regulations has been amended subsequently by way of SEBI (Listing Obligations and Disclosure Requirements) (Sixth Amendment) Regulations, 2018, w.e.f. 16.11.2018.

SCRA

Conditions for listing.

21. *Where securities are listed on the application of any person in any recognized stock exchange, such person shall comply with the conditions of the listing agreement with that stock exchange.*

a. Whether the Noticee has delayed the compliance of MPS norms?

13. I note that the requirement of MPS to be 25% of total issued share capital was introduced for the first time in SCR Rules by way of Securities Contracts Regulations (Amendment) Rules, 2010. The same was implemented on June 04, 2010. I note that many listed companies were not compliant with the above rule as on the date of implementation of this rule. Therefore, a one-time period of 3 years for regularization was provided to all the companies listed prior to the said amendment.
14. Thereafter, SEBI issued three different circulars on December 16, 2010, February 08, 2012 and August 29, 2012, by way of which, prescribing certain methods to comply with the MPS requirements.
15. However, I note that, as on June 03, 2013, when the aforesaid time period for compliance expired, a total of 105 companies were still not compliant with MPS Norms. Therefore, WTM of SEBI, vide Interim Order dated June 04, 2013, passed certain directions against the said companies. I note that the Noticee is one of such companies.
16. I further note that, vide Order dated January 11, 2016, WTM observed that the Noticee had failed to comply with the MPS norms even as on the date.

Aggrieved by the said order, the Noticee filed an appeal against the order before Securities Appellate Tribunal (**SAT**). Hon'ble SAT, vide order dated June 14, 2017, directed the Noticee to file a representation before SEBI within a week and also directed SEBI to pass order within three months of the said representation.

17. Accordingly, WTM of SEBI passed a final order dated September 05, 2017 wherein he observed that the Noticee had complied with MPS requirements as on quarter ended March 2016. WTM further observed that, although the Noticee had complied with MPS requirement, the same had been done after a delay.

18. I note that the Noticee has mentioned that it had been declared a sick company by BIFR under Sick Industrial Companies (Special Provisions) Act, 1985 (**SICA Act**). Thereafter, the present management took over KPL by filing an scheme for rehabilitation of the Company and to the effect, Shreyas Intermediates Ltd. (**SIL**) and Dinesh Sharma HUF became the promoters of the Company.

19. In this regard, though not contended, I note that no direction regarding applicability or exemption from the provisions under SEBI Act or connected rules and regulations was granted by BIFR to the Noticee or the promoters. Further, in light of the fact that the proceedings before BIFR are complete, Section 22 of SICA Act, which requires suspension of legal proceedings while proceedings are pending under SICA Act, is also not applicable for the present proceedings.

20. Regarding compliance with MPS norms, I note that the Noticee has contended that Mr. Shreyas Sharma and Ms. Shruti Sharma, who were earlier part of

promoter group by virtue of them being part of Dinesh Sharma HUF, retired as coparceners of Dinesh Sharma HUF by virtue of partition deed dated April 15, 2013 and, thus, ceased to be part of the promoter group from that date. In the manner, the Noticee has contended that it had complied with the MPS requirements well before due date of June 03, 2013.

21. However, I note that Mr. Shreyas Sharma and Ms. Shruti Sharma are children of Mr. Dinesh Sharma, Managing Director of KPL. Further, Mr. Dinesh Sharma is also the Karta of Dinesh Sharma HUF which was considered as co-promoter by the Noticee as per the disclosures to BSE. In this regard, it is pertinent to note the definition of the term 'Promoter' as per SEBI (Issue of Capital and Disclosure Requirements) Regulations, 2009 (**ICDR Regulations**). Regulation 2(za)(i) of ICDR Regulations provides that the Promoter includes the person or persons who are in control of the issuer. In this regard, it is relevant to note the term control as defined under Regulation 2(1)(e) of SEBI (Substantial Acquisition of shares and Takeovers) Regulations, 2011 (**SAST Regulations**) as below:

    "control" includes the right to appoint majority of the directors or to control the management or policy decisions exercisable by a person or persons acting individually or in concert, directly or indirectly, including by virtue of their shareholding or management rights or shareholders agreements or voting agreements or in any other manner:

22. In this regard, I note that Mr. Dinesh Sharma has been the Managing Director of the Noticee and Karta of Dinesh Sharma HUF. Further, Dinesh Sharma HUF

is the promoter and largest shareholder of the Noticee. Therefore, in view of the above, Mr. Dinesh Sharma is in control of the Noticee.

23. I also note that, as per Regulation 2(1)(q)(v) of the SAST Regulations, ‘immediate relatives’ of a person are deemed to be persons acting in concert with other persons within the same category. Therefore, in light of the fact that Dinesh Sharma HUF (41.28%), Shruti Sharma (holding 24.08%) and Shreyas Sharma (21.57%) are the major shareholders in the Company, I hold that Dinesh Sharma, along with his persons acting in concert, is in control of the Noticee and therefore, is a promoter.

24. I also note that, as per Regulation 2(zb)(ii) of ICDR Regulations SEBI (Issue of Capital and Disclosure Requirements) Regulations, 2009, the immediate relative of a promoter including ‘child’ of the person is included in the definition of Promoter Group. Therefore, by virtue of this, I hold that Mr. Shreyas Sharma and Ms. Shruti Sharma are part of promoter group of the Noticee. In view of the above, the contention of the Noticee that it had complied with MPS requirements even before June 2013 owing to the retirement of Mr. Shreyas Sharma and Ms. Shruti Sharma from Dinesh Sharma HUF by way of partition deed dated April 15, 2013 is not acceptable.

25. Thereafter, I note from the material available on record that KPL issued 24 Lakh convertible share warrants at a premium of around Rs. 49/- in February 2015. In this regard, I note from the Balance Sheet of the Company as on March 31, 2015 forming part of the annual report of the financial year 2014-15, the Noticee has accounted for the monies received towards issuance of share warrants

under the heading “Money received against share warrants”. Further, as per the disclosure submitted by KPL to BSE, the said warrants were issued in the meeting of its Board of Directors dated February 07, 2015. These warrants were converted into equity shares in the months of March 2016 & April 2016. On account of the conversion of warrants, the public shareholding increased from 8.11 % to 28.00% in March 2016 to 30.98% in April 2016.

26. I further note that the Noticee has referred to certain order of the SAT (without mentioning the date of the order) as the reason for reclassification of Mr. Shreyas Sharma and Ms. Shruti Sharma as promoters for the June 2017 quarter. However, I find no such direction has been passed by the SAT as per records. Therefore, I find the argument is of no avail.

27. In light of the above findings, I hold that the Noticee had failed to comply with MPS requirement by June 03, 2013 and could only comply with MPS requirements as on quarter ended March 2016 and, therefore, it has delayed in its compliance with MPS requirements.

28. In view of the above, I hold that the Noticee has violated the provisions of Clause 40A of the Equity Listing Agreement read with Rule 19(2)(b) & 19A of SCR Rules read with Regulation 38 of LODR Regulations further read with Section 21 of SCR Act.

b. Whether the Noticee had used non-prescribed method to meet MPS norms?

29. I note that SEBI had issued three circulars in this regard viz. on December 16, 2010, February 08, 2012 and August 29, 2012 wherein SEBI has specified certain methods to comply with the MPS requirements. The said three circulars

were consolidated by way of Circular ref. No. CIR/CFD/CMD/14/2015 dated November 30, 2015. The said methods prescribed to comply with MPS requirement are as follows:

- Issuance of shares to public through prospectus
- Offer for sale of shares held by promoters to public through prospectus.
- Sale of shares held by promoters through Secondary market i.e. OFS through stock exchange
- Institutional Placement program
- Rights issue to public shareholders
- Bonus issue to public shareholders

30. The Noticee has given reasons behind non-feasibility of each of the above methods which mainly include:

    - Lack of investor interest in company due to suspension of business prospects and no prospects for growth since it was a sick unit.
    - Suspension of trading of the Company's shares at the Stock Exchange
    - Right issue and bonus issue would have benefitted the existing shareholders and not general public at large

31. I also note that, vide circulars dated August 29, 2012 and November 30, 2015, SEBI had specified that listed entities desirous of achieving the MPS requirement through other means may approach it (SEBI) with appropriate details that would be considered by SEBI based on merit.

32. I note that in February 2015, the Noticee issued 24 Lakh convertible share warrants at a face value of Rs. 10/- and a premium of Rs. 49/-. Thereafter, warrants were converted into equity shares during March 2016 & April 2016. On account of the conversion of the warrants, the public shareholding increased from 8.11 % to 28.00% in March 2016 and then to 30.98% in April 2016.

33. As stated above, Clause 40A of Listing Agreement read with Regulation 38 of LODR Regulations and SEBI circular No. CIR/CFD/CMD/14/2015 dated November 30, 2015 read with SEBI Circular CIR/CFD/DIL/11/2012 dated August 29, 2012, *inter alia*, state that for adoption of any method other than the methods prescribed in the said SEBI Regulations and Circulars, for complying with the requirement of MPS, the company is required to obtain prior approval of SEBI.

34. Under the facts and circumstances mentioned above, I find that the issue of warrants and their conversion into equity shares is not one of the prescribed methods for compliance with MPS requirements. Therefore, the Noticee was required to take prior approval from SEBI for such issue and conversion of warrants. However, the Noticee has failed to put any material on record to suggest that it had taken prior approval for the same.

35. I note that the Noticee has contended that none of the methods given under Clause 40A of LODR Regulations read with SEBI Circular dated November 30, 2015 was a feasible option for it. The Noticee has also given detailed reasoning behind the same and contended that employing a method other than the prescribed ones to achieve MPS is not a violation of applicable provision of law.

In this regard, I note that the reasons, without getting into the merits, cited by the Noticee for its inability to adopt any of the prescribed methods to achieve MPS may be acceptable but it is not the case of SEBI that Noticee had to use only the methods prescribed by it. The Noticee was free to use any other method also to comply with MPS requirements provided it had taken prior approval of SEBI. However, the Noticee had failed to approach SEBI before issuance of warrants which is one of the cause of action in the present proceedings. Therefore, I am unable to accept the contention of the Noticee.

36. In light of the above, I hold that the Noticee has violated the provisions of Rule 19(2)(b) and 19A of SCR Rules and Clause 40A of the Listing Agreement read with Regulation 38 of LODR Regulations read with SEBI Circular CIR/CFD/CMD/14/2015 dated November 30,2015 read with SEBI Circular CIR/CFD/DIL/11/2012 dated August 29,2012 read with SEBI Circular CIR/CFD/DIL/1/2012 dated February 8,2012 read with SEBI Circular CIR/CFD/DIL/10/2010 dated December 16,2010.

c. Whether the Noticee has re-classified Raj Kumar from Promoter to public shareholder without prior-approval of BSE?

37. It is observed from the shareholding pattern of the Noticee available on BSE website that one Mr. Raj Kumar was shown as part of promoter group of KPL till quarter ended December, 2016. Thereafter, he was reclassified or shown as a public shareholder for the quarter ended March 2017.

38. The Noticee has contended that reclassification of promoter and promoter group shareholding was not barred by SEBI Act, SCR Act, SCR Rules or the

Equity Listing Agreement or any circulars issued thereunder. Therefore, the same is a valid exercise. I note that a listed company is permitted to reclassify a promoter as a public shareholder as per law and that is not the allegation in the present proceedings. However, I note that in terms of Regulation 31A(2) of the LODR Regulations, as prevailing at the time of the alleged violation, specific approval has to be taken either by the company or by such shareholder from the exchange for the modification or reclassification of the status of the shareholders between promoter and public shareholder.

39. In this regard, I note that the Noticee has failed to submit anything on record to suggest that it had taken any approval of the concerned stock exchange i.e. BSE to reclassify Mr. Raj Kumar as a public shareholder. On the other hand, BSE, vide email dated August 31, 2017, has confirmed to SEBI that KPL had not made any application under Regulation 31A of LODR Regulations for reclassification of Raj Kumar from Promoter into Public shareholder category.

40. I further note that the Noticee, vide its email dated August 28, 2017, has contended that it had submitted to SEBI that Mr. Raj Kumar had claimed to hold 50,00,000 equity shares[2] (amounting to 5.17% of total shareholding of the Company) but the rights, title and interest in respect of those shares are under litigation. Further, the Noticee has ceased to consider Raj Kumar as promoter since he does not fall under the definition of promoter. In this regard, from

[2] Originally Raj Kumar was shown holding 5,00,000 equity shares of KPL as per the shareholding pattern of the Company. Later on, during the financial year 2015-16, the shares were split in the ratio of 1:10. Consequently the holding of Raj Kumar was shown as increased to 50,00,000 shares.

available records I note that there are some disputes between the Noticee and Mr. Raj Kumar as evidenced by documents such as complaints to EOW, FIR etc. The Noticee has also mentioned that the shareholding of Mr. Raj Kumar was under litigation. However, nothing has been brought on record before me to show if any direction has been issued by any competent court of law in this matter; in the absence of which the present proceedings have been decided on the basis of available records.

41. In view of the above, I hold the Noticee to have violated the provisions of Regulation 31A of LODR Regulations.

d. If yes, whether the Noticee is liable for penalty?

42. As established in the pre-paragraphs, the Noticee has violated the provisions of Clause 40A of the Listing Agreement read with Rule 19(2) (b) & 19A of SCR Rules read with Regulation 38 of LODR Regulations further read with section 21 of SCR Act; Rule 19(2)(b) and 19A of SCR Rules and Clause 40A of the Listing Agreement read with Regulation 38 of LODR Regulations read with SEBI Circulars CIR/CFD/CMD/14/2015 dated November 30,2015 read with SEBI Circular CIR/CFD/DIL/11/2012 dated August 29,2012 read with SEBI Circular CIR/CFD/DIL/1/2012 dated February 8,2012 read with SEBI Circular CIR/CFD/DIL/10/2010 dated December 16,2010 and Regulation 31A(2) of LODR Regulations.

43. Further, it is contended by the Noticee that no disproportionate gain or unfair advantage was taken by the Noticee or its promoters or no loss has caused to any manner whatsoever. In this regard, I take note of the observations made by

Hon’ble SAT in its order dated March 04, 2016 in the matter Vaman Madhav Apte vs. SEBI wherein Hon’ble SAT made the following observations:

“*16. Various arguments advanced on behalf of the appellants namely (one) that there was no intention to violate the provisions of law, (two) there were financial difficulties in running the company, (three) the violations did not have any impact on the price of the shares of the company, (four) there were no investor complaints, (five) there was no undue profits made by appellants and (six) the penalty imposed is disproportionate to the violations committed are totally unsustainable, because, once the violations are committed, then whether there was any intention to violate the provisions or not, whether there were financial difficulties or not, whether the violation had any impact on the share price or not, whether there was any investor compliant or not and whether, there was any undue profit or not, penalty imposable for violating Regulation 11(2) of the Takeover Regulations, 2011 would be not less than ₹25 crore.*”

44. In light of the above, the Noticee has failed to comply with the mandatory statutory obligation. In this context, reliance is placed upon the order of The Hon’ble Supreme Court in the matter of *Chairman, SEBI Vs Shriram Mutual Fund { [2006]5 SCC 361 }* – where the Hon’ble Supreme Court of India 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…..”*

45. Therefore, the Noticee is liable for penalty under Sections 23E & 23H of SCR Act and Section 15HB of SEBI Act. The texts of the said provisions of law are being reproduced below:

<u>SCR Act</u>

Penalty for failure to comply with provision of listing conditions or delisting conditions or grounds.

23E. *If a company or any person managing collective investment scheme or mutual fund, fails to comply with the listing conditions or delisting conditions or grounds or commits a breach thereof, it or he shall be liable to a penalty which shall not be less than five lakh rupees but which may extend to twenty-five crore rupees.*

<u>Penalty for contravention where no separate penalty has been provided.</u>

23H. *Whoever fails to comply with any provision of this Act, the rules or articles or bye- laws or the regulations of the recognised stock exchange or directions issued by the Securities and Exchange Board of India 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.*

<u>SEBI Act</u>

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.*

46. In this regard, the provisions of Section 15J of the SEBI Act and Rule 5 of the Adjudication Rules require that while adjudging the quantum of penalty, 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.

47. With regard to the above factors, it may be noted that the investigation report has not quantified profit earned or loss caused on account of the violations committed by the Noticees. Further, I also note that the above said violations was continuing violations and not repetitive in nature.

48. Further, in light of recent order of Hon'ble SAT in the matter of P G Electroplast vs SEBI, I also note that, vide Interim Order dated June 04, 2013, Hon'ble WTM of SEBI had passed certain directions against the Noticee and its promoter group entities viz. freezing of voting rights and corporate benefits with respect to excess of proportionate promoter group shareholding, prohibit promoter group entitles from dealing in securities of KPL, restraining promoters and directors from holding a new position as director in any listed company etc. The said directions were vacated vide SEBI Order dated September 05, 2017.

ORDER

49. After taking into consideration the facts and circumstances of the case, material/facts on record, the reply submitted by the Noticee and also the factors mentioned in the preceding paragraphs, I, in exercise of the powers conferred upon me under Section 15-I of the SEBI Act read with Rule 5 of the Adjudication Rules, hereby impose a following penalties on the Noticee for its violations of provisions of law mentioned in the pre-paragraphs:

S. No.	Penal Provisions	Penalty
1	Section 23E of SCR Act	Rs. 3,00,000 (Rupees Three Lakh only)
2	Section 23H of SCR Act	Rs. 3,50,000 (Rupees Three Lakh Fifty Thousand only)
3	Section 15HB of SEBI Act	Rs. 3,00,000 (Rupees Three Lakh only)

I am of the view that the said penalties are commensurate with the violations committed by the Noticee.

50. 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.

51. In the event of failure to pay the said amount of penalty within 45 days of the receipt of this Order, recovery proceedings may be initiated under Section 28A of the SEBI Act for realization of the said amount of penalty along with interest

thereon, *inter alia*, by attachment and sale of movable and immovable properties.

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

Place: Mumbai	**K SARAVANAN**
Date: January 30, 2020	**CHIEF GENERAL MANAGER AND**
	ADJUDICATING OFFICER