BEFORE THE ADJUDICATING OFFICER
SECURITIES AND EXCHANGE BOARD OF INDIA
[ADJUDICATION ORDER NO. Order/SM/DP/2022-23/22673]

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

In respect of:

Shri Ahokkumar Saburbhai Chavda
[PAN: BCZPC6863K]
Ef-602, Dhanjibhais Chawl, Near last bus-stop,
Meghaninagar, Ahmedabad Civil Hospital,
Ahmedabad – 380016

In the matter of
Purple Entertainment Limited

FACTS OF THE CASE

1. Securities and Exchange Board of India (hereinafter referred to as "**SEBI**") received a reference dated September 12, 2022, from BSE Limited (hereinafter referred to as "**BSE"**) regarding its investigation finding in the matter of Purple Entertainment Ltd. (hereinafter referred to as "**the company**") wherein BSE had observed certain violations of SEBI (Substantial Acquisition of Shares and Takeovers) Regulations, 2011 (hereinafter referred to as "**SAST Regulations**") by Ashokkumar Saburbhai Chavda (hereinafter referred to as "**Noticee")**.

APPOINTMENT OF ADJUDICATING OFFICER

2. Vide communique dated November 18, 2022, the undersigned was appointed as the Adjudicating Officer under Section 15I of Securities and Exchange Board of India Act, 1992 (hereinafter referred to as "**SEBI Act**") read with Rule 4(1) of SEBI (Procedure for Holding Inquiry and Imposing Penalties), 1995 (hereinafter referred to as "**Rule**") to enquire into and

adjudge under Section 15A(b) of SEBI Act, the violation of Regulations 29(1) and 29(2) read with Regulation 29(3) of SAST Regulations.

SHOW CAUSE NOTICE, REPLY AND HEARING

3. Based on the findings by SEBI, Show Cause Notice dated November 22, 2022 (hereinafter referred to as '**SCN**') was issued to the Noticee under Rule 4(1) of the Adjudication Rules to show cause as to why an inquiry should not be held and penalty be not imposed on him under section 15A(b) of SEBI Act for the alleged violation of the provisions of SAST Regulations. The SCN, *inter alia*, alleged the following:

    3.1. From BSE's letter dated September 12, 2022, it was observed that as on as on quarter ended June 30, 2022, Noticee was holding 2,24,197 shares amounting to 2.59% of the shareholding in the company. Noticee had acquired shares in the company between July 15, 2022 to August 01, 2022 in tranches in the following manner:

Sr. No.	Trade Date	Qty bought (No. shares/%)	Cumulative share-holding (No. of shares)	% cumulative shareholding
1	15/07/2022	27,000 (0.31%)	2,51,197	2.91%
2	20/07/2022	67,350 (0.77%)	3,18,547	3.68%
3	22/07/2022	90,000 (1.04%)	4,08,547	4.73%
4	**26/07/2022**	**1,11,965 (1.29%)**	**5,20,512**	**6.02%**
5	27/07/2022	1,06,812 (1.23%)	6,27,324	7.26%
6	**01/08/2022**	**1,25,930 (1.45%)**	**7,53,254**	**8.71%**

    3.2. It is observed from the aforesaid table that between July 15, 2022 to July 26, 2022, Noticee had acquired 2,96,315 shares amounting to 3.41% in the company. Pursuant to said acquisition, shareholding of the Noticee in the company increased from 2.59% to 6.02%. As per Regulation 29(1) read with Regulation 29(3) of the SAST

Regulations, Noticee was required to make a disclosure to the company and the stock exchange within two working days of such acquisition of shares.

3.3. It is further observed that Noticee made additional acquisitions of 2,32,742 shares between July 27, 2022 and August 01, 2022 accounting to 2.69% of the shareholding in the company. Subsequent to the said acquisition, shareholding of the Noticee in the company became 8.71%. Since, Noticee was holding more than 5% of shareholding in the company, in terms of Regulation 29(2) read with Regulation 29(3) of the SAST Regulations, Noticee was required to make disclosure with respect to such acquisition of additional 2% shareholding within two working days of such acquisition of shares to the company and the stock exchange.

3.4. It was, therefore, alleged that Noticee has violated Regulations 29(1) and 29(2) read with Regulation 29(3) of the SAST Regulations.

4. The SCN was served on the Noticee through Speed Post Acknowledgment Due (**SPAD**) and digitally signed email. However, the Noticee did not file any reply to the SCN.

5. Therefore, vide Notice dated December 12, 2022, Noticee was granted an opportunity of personal hearing on December 22, 2022 and was also reminded to file reply to the SCN. The Notice was served on the Noticee through SPAD and digitally signed email. However, Noticee failed to appear for the hearing and also did not file any reply.

6. Subsequently, vide Notice dated December 22, 2022, Noticee was granted a final opportunity of being heard on December 29, 2022. The Notice was served on the Noticee through SPAD and digitally signed email. However, Noticee did not appear for the final hearing as well.

7. In absence of any reply from the Noticee, I am constrained to proceed in the matter on the basis of the material available on record.

CONSIDERATION OF ISSUES AND EVIDENCE

8. I have carefully perused the charges levelled against the Noticee in the SCN and the material / documents available on record. In the instant matter, the following issues arise for consideration and determination: -

   I. Whether Noticee has violated Regulations 29(1) and 29(2) read with Regulation 29(3) of the SAST Regulations?

   II. Do the violations, if any, on the part of the Noticee attract monetary penalty under section 15A(b) of SEBI Act?

   III. If so, what would be the quantum of monetary penalty that can be imposed on the Noticee after taking into consideration the factors mentioned in section 15J of the SEBI Act?

9. Before proceeding further, I would like to refer to the relevant provisions of the SAST Regulations:

   29. Disclosure of acquisition and disposal.

   1) Any acquirer who acquires shares or voting rights in a target company which taken together with shares or voting rights, if any, held by him and by persons acting in concert with him in such target company, aggregating to five per cent or more of the shares of such target company, shall disclose their aggregate shareholding and voting rights in such target company in such form as may be specified.

   (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 on; 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 or the disposal 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.

I. Whether Noticee has violated Regulations 29(1) and 29(2) read with Regulation 29(3) of the SAST Regulations?

10. From the material available on record, it is noted that SCN and hearing notices sent via SPAD and digitally signed emails were duly served upon the Noticee. Notices were delivered at –Ef-602, Dhanjibhais Chawl, Near last bus- stop, Meghaninagar, Ahmedabad Civil Hospital, Ahmedabad - 380016 and through digitally signed email on chavdaashokbhai@yahoo.com. However, the Noticee neither submitted reply to the SCN nor appeared for the two hearings granted to him. In this regard, I refer to the judgment of Hon'ble Securities Appellate Tribunal (SAT) dated December 08, 2006 in the matter of Classic Credit Ltd. v SEBI (Appeal No. 68 of 2003) wherein, it observed that,

"*... the appellants did not file any reply to the second show-cause notice. This being so, it has to be presumed that the charges alleged against them in the show cause notice were admitted by them".*

11. I also observe that the Hon'ble SAT in the matter of Sanjay Kumar Tayal & Ors. v SEBI (Appeal 68 of 2013 dated February 11, 2014) had inter alia observed that,

"*... appellants have neither filed reply to show cause notices issued to them nor availed opportunity of personal hearing offered to them in the adjudication proceedings and, therefore, appellants are presumed to have admitted charges leveled against them in the show cause notices..."*

12. I note that the company vide its email dated September 19, 2022 had confirmed that it did not receive any disclosure from the Noticee for the aforementioned acquisitions. Further, website

of BSE has been perused and it is observed that the disclosures for the aforesaid transactions are not available on its website.

13. It is pertinent to mention that the disclosure requirements under the respective Regulations serve very important purposes. The stock exchange is informed so that the investing public will come to know of the position enabling them to stick on with or exit from the company. In the matter of Ashok Jain Vs SEBI (Appeal No 79 of 2014 dated June 09,2014), Hon'ble SAT has held that

"*…under SAST Regulations 1997 as also under SAST Regulations, 2011 disclosures are liable to be made within specified days irrespective of the scrip being traded on the Exchange or not. Similarly, disclosures have to be made irrespective of whether investors have suffered any loss or not on account of non-disclosure within the time stipulated under those regulations*."

14. Further, in the matter of Virendrakumar Jayantilal Patel Vs SEBI (Appeal No 299 of 2014 and Order dated October 14, 2014), Hon'ble SAT has held that :

"…obligation to make disclosures within the stipulated time is a mandatory obligation and penalty is imposed for not complying with the mandatory obligation. Similarly, argument that the failure to make disclosures within the stipulated time, was unintentional, technical or inadvertent and that no gain or unfair advantage has accrued to the appellant, is also without any merit, because, all these factors are mitigating factors and these factors do not obliterate the obligation to make the disclosures."

15. In this regard, I find it pertinent to refer to the judgment of Hon'ble SAT in the matter of Akriti Global Traders Ltd. v. Securities and Exchange Board of India (Appeal No. 78 of 2014 dated September 30, 2014) wherein it was held that

"*....firstly, penal liability arises as soon as provisions under the regulations are violated and that penal liability is neither dependent upon the intention of parties..."*

16. In view of the aforesaid, I find Noticee has violated Regulations 29(1) and 29(2) read with Regulation 29(3) of the SAST Regulations.

II. Do the violations, if any, on the part of the Noticee attract monetary penalty under sections 15A(b) of SEBI Act?

17. I note that the Hon'ble Supreme Court of India in the matter of SEBI v/s Shri Ram Mutual Fund [2006] 68 SCL 216(SC) 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.......... Hence, we are of the view that once the contravention is established, then the penalty has to follow and only the quantum of penalty is discretionary*."

18. I also note that in Appeal No. 66 of 2003–Milan Mahendra Securities Pvt. Ltd. Vs. SEBI–the Hon'ble Securities Appellate Tribunal (SAT) has observed that,

    "*the purpose of these disclosures is to bring about transparency in the transactions and assist the Regulator to effectively monitor the transactions in the market*".

19. In the context of disclosure related violations, I observe that Hon'ble SAT has consistently held that the obligation to make disclosure within the stipulated time is a mandatory obligation and penalty is imposed for non-compliance of the mandatory obligation.

20. In view of the foregoing, I am convinced that the Noticee is liable for monetary penalty under Section 15A(b) of SEBI Act for violation of the above mentioned SAST Regulations. The provisions of Section 15A(b) of the SEBI Act, 1992 is reproduced as under:

    15A. Penalty for failure to furnish information, return, etc.

    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, he shall be liable to a penalty of one lakh rupees for each day during which such failure continues or one crore rupees, whichever is less.

III. If so, what would be the monetary penalty that can be imposed taking into consideration the factors mentioned in Section 15J of SEBI Act, 1992?

21. While determining the quantum of penalty under Section 15A(b) of the SEBI Act, it is important to consider the factors stipulated in Section 15J of the SEBI Act, 1992 read with Rule 5(2) of the Adjudication Rules, 1995 which read as under:

Factors to be taken into account by the adjudicating officer

15J While adjudging quantum of penalty under section 15-I, the adjudicating officer shall have due regard to the following factors, namely

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

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

(c) the repetitive nature of the default.

22. The material available on record has not quantified the amount of disproportionate gain or unfair advantage, if any, made by the Noticee and the loss, if any, and suffered by the investors as a result of his failure. However, I note that securities market is based on free and open access to information, and that protection of the interests of the investors is the prime objective of SEBI. Disclosures in respect of the vital information of any company has been made mandatory for the protection of the investors so as to enable them to take suitable informed investment decisions. The objective behind such requirement is that the investing public shall not be deprived of any vital information in respect of their investments in the securities market. If any person who is to make such disclosures doesn't make it and are

depriving the investing public the statutory rights available to them. Thus, in the present matter the facts of the case clearly bring out the default made by the Noticee. Hence, I note that the Noticee has not made disclosure as brought out in the preceding paragraphs and thereby, has violated the relevant provisions of SAST Regulations, as mentioned above.

ORDER

23. Having considered all these facts and circumstances of the case, the material available on record, the factors mentioned in Section 15J of the SEBI Act 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, I hereby impose a penalty of Rs. 2,00,000 (Rupees Two Lakh) [Rs. 1,00,000 for the violation of Regulation 29(1) read with Regulation 29(3) of SAST Regulations and Rs. 1,00,000 for the violation of Regulation 29(2) read with Regulation 29(3) of SAST Regulations] under Section 15A(b) of SEBI Act, 1992 on the Noticee for the violations as specified in this order.

24. The said demand draft or forwarding details and confirmations of e-payments made (in the format as given in table below) should be forwarded to "The Division Chief, Enforcement Department (EFD1 –DRA 4), Securities and Exchange Board of India, SEBI Bhavan,Plot No. C –7, "G" Block, Bandra Kurla Complex, Bandra (E), Mumbai –400 051.

Case Name	
Name of the Payee	
Date of payment	
Amount Paid	
Transaction No.	
Bank Details	
In which payment is made for	Penalty

25. 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.

26. In terms of the provisions of Rule 6 of the Adjudication Rules, copy of this order are being sent to the Noticee, viz., Shri Ashok Kumar Saburbhai Chavda and also to the Securities and Exchange Board of India.

Date : January 03, 2023
Place : Mumbai

SAHIL MALIK
GENERAL MANAGER &
ADJUDICATING OFFICER