BEFORE THE ADJUDICATING OFFICER

SECURITIES AND EXCHANGE BOARD OF INDIA

ADJUDICATION ORDER NO. Order/AK/VV/2022-23/22738

UNDER SECTION 23 I OF SECURITIES CONTRACTS (REGULATION) ACT, 1956 READ WITH RULE 5 OF SECURITIES CONTRACT REGULATIONS (PROCEDURE FOR HOLDING INQUIRY AND IMPOSING PENALTIES) RULES, 2005

In respect of:

RAP MEDIA LIMITED

(PAN: AAACA5060H)

Arora House, 16 Golf Link,Union Park,
Khar West,Mumbai – 400 052.
Email : info@rapmalls.com

BACKGROUND OF THE CASE

1. Securities and Exchange Board of India (hereinafter referred to as "**SEBI**") had carried out thematic/ offsite monitoring of **RAP Media Limited** (hereinafter referred to as **"RML"/"the Company"/"Noticee"**), a company listed with BSE, for the period January 2021 to December 2021 (hereinafter referred to as the **"Inspection period"**). The thematic monitoring of RML was conducted to examine compliance with provision of SEBI (Listing Obligations and Disclosure Requirements)

Regulations, 2015 (hereinafter referred to as "**LODR Regulations**") during the Inspection period.

APPOINTMENT OF ADJUDICATING OFFICER

2. On being satisfied that there are sufficient grounds to inquire and adjudicate upon the alleged violations of provisions of the LODR Regulations by the Noticee, SEBI, in exercise of powers under section 23-I of Securities Contracts (Regulation) Act, 1956 (hereinafter referred to as '**SCRA'**) r/w Rule 3 of Securities Contract Regulations (Procedure for Holding Inquiry and Imposing Penalties) Rules, 2005 (hereinafter referred to as the "**Adjudication Rules**") r/w Section 19 of the SEBI Act, 1992 (hereinafter referred to as the "**SEBI Act**") appointed Ms. Geetha G, as Adjudicating Officer (AO), vide order dated May 10, 2022, to inquire into and adjudge under section 23 E of SCRA, the alleged violations by the Noticee. Pursuant to the transfer of Ms. Geetha G, SEBI appointed the undersigned as AO, vide order dated August 29, 2022.

SHOW CAUSE NOTICE, REPLY AND HEARING

3. Show Cause Notice (hereinafter referred to as "**SCN**") dated November 04, 2022 was served to the Noticee, vide Speed post with acknowledgement due and by email with Digital signature, as per Adjudication Rules to show cause as to why an inquiry should not be initiated and penalty not be imposed against the Noticee under Section 23E of SCRA for the alleged violations by the Noticee.

4. The Noticee, vide email dated November 18, 2022, sought 4 to 6 weeks' time to submit its reply to the SCN. The request of the Noticee was acceded to and vide email dated November 18, 2022, the Noticee was granted time till December 02,

2022 to submit its reply. The Noticee submitted its reply to the SCN, vide letter dated December 01, 2022.

5. In the interest of natural justice, vide Hearing Notice dated December 06, 2022, an opportunity of hearing was granted to the Noticee on December 15, 2022. The Noticee, vide email dated December 09, 2022 requested for a later date for hearing citing personal difficulties of officials of the Noticee and its Authorised Representative (hereinafter referred to as '**AR**'). The request of the Noticee was acceded to and vide email dated December 12, 2022, the Noticee was granted another opportunity of hearing on December 16, 2022. The ARs of the Noticee attended the hearing on December 16, 2022. The ARs of the Noticee reiterated the submissions made in its reply dated December 01, 2022 and requested for a lenient view in the matter. I note that proofs of documents with respect to submissions made by the Noticee were not provided and the ARs of the Noticee accepted to provide the same by December 21, 2022. The Noticee, vide email dated December 21, 2022, made additional submissions.

6. Brief of the findings of the thematic monitoring of RML and the alleged violations are as under;

6.1 Noticee has a website viz. www.rapmedialtd.co.in and as on March 31, 2022, the Noticee did not disseminate requisite information on the website and also details of the new website were not intimated to the exchange till the time exchange issued advisory letter to the Noticee, thereby allegedly violating Regulation 46(1), 46(2) (a), 46(2) (j) to 46(2) (s) and 46(2) (u) to 46(2) (z) of LODR Regulations.

6.2 Noticee did not issue notice of meetings of Board of Directors in any of the newspapers, though five Board meetings were held on 14th August, 2020, 5th

September, 2020, 7th October, 2020, 14th November, 2020 and 14th February, 2021, thereby allegedly violating Regulation 47 of LODR Regulations.

6.3 BSE had sought clarification on October 14, 2021 from Noticee with reference to significant movement in price in order to ensure that investors have latest relevant information about the Noticee and to inform the market so that the interest of the investors is safeguarded. The Noticee did not give any response on the same, thereby allegedly violating Regulation 30(10) of LODR Regulations.

CONSIDERATION OF ISSUES AND FINDINGS

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

I. Whether the Noticee has committed the violations as brought out in the SCN, as mentioned at para 6 above?

II. Whether the violations, if any, attract monetary penalty under Section 23E of the SCRA?

III. If so, what would be the monetary penalty that can be imposed upon the Noticee taking into consideration the factors stipulated in Section 23J of the SCRA r/w Rule 5(2) of the Adjudication Rules?

Issue No. I: Whether the Noticee has committed the violations as brought out in the SCN

8. Before moving forward, it is pertinent to refer to the relevant provisions which are alleged to have been violated. The said provisions are reproduced hereunder:

LODR Regulations

46.(1) The listed entity shall maintain a functional website containing the basic information about the listed entity.

(2) The listed entity shall disseminate the following information under a separate section on its website:

(a)details of its business;

(j)the email address for grievance redressal and other relevant details;

(k)contact information of the designated officials of the listed entity who are responsible for assisting and handling investor grievances;

(l)financial information including:

(i)notice of meeting of the board of directors where financial results shall be discussed;

(ii)financial results, on conclusion of the meeting of the board of directors where the financial results were approved;

(iii)complete copy of the annual report including balance sheet, profit and loss account, directors report, corporate governance report etc;

(m)shareholding pattern;

(n)details of agreements entered into with the media companies and/or their associates, etc;

(o)Schedule of analysts or institutional investors meet and presentations made by the listed entity to analysts or institutional investors. Explanation: For the purpose of this clause 'meet' shall mean group meetings or group conference calls conducted physically or through digital means;

a) Audio or video recordings and transcripts of post earnings/quarterly calls, by whatever name called, conducted physically or through digital means, simultaneously with submission to the recognized stock exchange(s), in the following manner:

(i)the presentation and the audio/video recordings shall be promptly made available on the website and in any case, before the next trading day or within twenty-four hours from the conclusion of such calls, whichever is earlier;

(ii)the transcripts of such calls shall be made available on the website within five working days of the conclusion of such calls:

Provided that—

a. The information under sub-clause (i) shall be hosted on the website of the listed entity for a minimum period of five years and thereafter as per the archival policy of the listed entity, as disclosed on its website.

b. The information under sub-clause (ii) shall be hosted on the website of the listed entity and preserved in accordance with clause (a) of regulation 9. The requirement for disclosure(s) of audio/video recordings and transcript shall be voluntary with effect from April 01, 2021 and mandatory with effect from April 01, 2022;

(p)new name and the old name of the listed entity for a continuous period of one year, from the date of the last name change;

(q)items in sub-regulation (1) of regulation 47.

(r) With effect from October 1, 2018, all credit ratings obtained by the entity for all its outstanding instruments, updated immediately as and when there is any revision in any of the ratings.

(s) separate audited financial statements of each subsidiary of the listed entity in respect of a relevant financial year, uploaded at least 21 days prior to the date of the annual general meeting which has been called to inter alia consider accounts of that financial year:

Provided that a listed entity, which has a subsidiary incorporated outside India—

(a)where such subsidiary is statutorily required to prepare consolidated financial statement under any law of the country of its incorporation, the requirement of this proviso shall be

met if consolidated financial statement of such subsidiary is placed on the website of the listed entity;

(b)where such subsidiary is not required to get its financial statement audited under any law of the country of its incorporation and which does not get such financial statement audited, the holding Indian listed entity may place such unaudited financial statement on its website and where such financial statement is in a language other than English, a translated copy of the financial statement in English shall also be placed on the website;

(u) disclosure of the policy for determination of materiality of events or information required under clause (ii), sub-regulation (4) of regulation 30 of these regulations;

(v) disclosure of contact details of key managerial personnel who are authorized for the purpose of determining materiality of an event or information and for the purpose of making disclosures to stock exchange(s) as required under sub-regulation (5) of regulation 30 of these regulations;

(w) disclosures under sub-regulation (8) of regulation 30 of these regulations;

(x) statements of deviation(s) or variation(s) as specified in regulation 32 of these regulations;

(y) dividend distribution policy by listed entities based on market capitalization as specified in sub-regulation (1) of regulation 43A;

(z) annual return as provided under section 92 of the Companies Act, 2013 and the rules made thereunder.

Advertisements in Newspapers.

47.(1) The listed entity shall publish the following information in the newspaper:

(a) notice of meeting of the board of directors where financial results shall be discussed

(2) The listed entity shall give a reference in the newspaper publication, in sub-regulation (1), to link of the website of listed entity and stock exchange(s), where further details are available.

(3) The listed entity shall publish the information specified in sub-regulation (1) in the newspaper simultaneously with the submission of the same to the stock exchange(s). Provided that financial results at clause (b) of sub-regulation (1), shall be published within 48 hours of conclusion of the meeting of board of directors at which the financial results were approved.

(4) The information at sub-regulation (1) shall be published in at least one English language national daily newspaper circulating in the whole or substantially the whole of India and in one daily newspaper published in the language of the region, where the registered office of the listed entity is situated: Provided that the requirements of this regulation shall not be applicable in case of listed entities which have listed their specified securities on SME Exchange.

<u>Disclosure of events or information.</u>

30. (10) "The listed entity shall provide specific and adequate reply to all queries raised by stock exchange(s) with respect to any events or information"

9. I note the following with regard to dissemination of requisite information on the website by the Noticee;

9.1 As per Regulation 46 of LODR Regulations, listed entity is required to maintain a functional website containing basic information about the listed entity and shall, *inter alia,* disseminate following information under a separate section on its website:

a. CG report,
b. Remuneration policy,
c. AGM Notices,
d. Code of conduct,

e. Whistle blower policy,
f. financial information -consolidated & standalone,
g. policy on dealing with related party transactions,
h. shareholding pattern,
i. Audio or video recordings and transcripts of post earnings/quarterly calls,
j. Credit ratings obtained, secretarial compliance report dividend distribution policy,
k. statements of deviation(s),
l. Materiality policy.

9.2 BSE, upon observing that the website of the Noticee was not functional, had issued a warning letter to the Noticee for non-compliance with provisions of Regulation 46 of LODR Regulations on February 23, 2022, in terms of SEBI circular no SEBI/HO/CFD/CMD/CIR/P/2020/12 dated January 22, 2020 BSE.

9.3 Noticee, vide its reply dated March 10, 2022, submitted to the exchange that the official website of the Noticee viz. www.rapmedia.co.in was attacked by a malware and therefore the website was discontinued and that a new website of the Noticee viz. www.rapmedialtd.co.in has been made active. The Noticee stated that the management of the Noticee, with the help of an outside consultant was taking necessary steps to update the newly launched website of the Noticee and was in the process of uploading necessary information and other relevant data.

9.4 SEBI observed that the Noticee has a website viz. www.rapmedialtd.co.in. However, as on March 31, 2022, the Noticee did not disseminate all information as required under applicable clauses of Regulation 46(2) of LODR Regulations except for following details:

- Annual report till the FY 2018-19
- Shareholding pattern till the FY 2018-19
- Quarterly results till March 2021

9.5 From the Audited financial statement for the year ended March 31, 2020 and March 31, 2021, it has been noted that paid up share capital of Noticee was less than Rs 10 crore and net worth of the Noticee is less than Rs 25 crore, in both financial years. Therefore, Regulation 24A of LODR Regulations pertaining to secretarial audit and secretarial compliance report was not applicable to the Noticee. However, board of the Noticee has appointed secretarial auditor to carry out secretarial audit under provisions of Section 204 of Companies Act, 2013. Secretarial auditor has given certain observation in the audit report. SEBI also observed, from the Secretarial audit report dated September 7, 2021 for the FY 2020-21, that the website of the Noticee was not showing full disclosures as required under LODR Regulation.

9.6 The website was not functional for a considerable period of time i.e. at least till March 10, 2022. Further, the new website created by the Noticee, was not intimated to the Exchange, until the exchange issued advisory letter to the Noticee on February 23, 2022.

9.7 In view of the above it was alleged that the Noticee has failed to comply with provision of Regulation 46(1), 46(2)(a), 46(2)(j) to 46(2)(s) and 46(2)(u) to 46(2)(z) of LODR Regulations.

10. I note the following with regard to non- issuance of notice of meetings of board of directors in the newspapers;

10.1 Requirement to publish, notice of meetings of board of directors where financial results are discussed, was applicable for the period 1st July, 2020 to 31st March, 2021. On the basis of annual report of the Noticee for the FY 2020-21, it was observed that during the period 1st July, 2020 to 31st March, 2021, five Board meetings were held on 14th August, 2020, 5th September, 2020, 7th October, 2020, 14th November, 2020 and 14th February, 2021. As per the intimation filed with exchange by the Noticee, in the meeting dated 14th November, 2020 financial result for the quarter and half year ended September 2020 was discussed. However, no publication was made for the same.

10.2 In view of the above it is alleged that the Noticee has violated Regulation 47 of LODR Regulations by not publishing the notice of meetings of board of directors.

11. BSE had sought clarification on October 14, 2021 from Noticee with reference to significant movement in price of the shares of the Noticee in order to ensure that investors have latest relevant information about the Noticee and to inform the market, so that the interest of the investors is safeguarded. The Noticee did not submit any response on the same, therefore, it is alleged that the Noticee has violated Regulation 30(10) of LODR Regulations.

12. Noticee, in its responses to the SCN, has submitted as under;

12.1 In respect of the applicable clauses the Company was updating the information, however, it may be noted that due to the malware on the website of the Company, the entire data was erased and hence most of the data was not visible. The Company had to build a new website completely and the entire data was collated bad to be uploaded. Due to financial crunch as well as lack of in house technical staff to handle the website related operations, *it took certain time to upload the entire data on the website of the Company and hence only for an intermittent period, the website of the Company, had some disclosures lost which was attributable to malware attack which is a completely technical issue*

12.2 *It is submitted that the Company's old website i.e. www.rapmedia.co.in was functional but it came under a malware attack due to which the backend data was lost. During these period the Company received a Notice dated February 23, 2022 from BSE Limited, about the non-maintenance of website. On 10 March 2022, the Company replied to the said notice wherein it was abundantly informed to BSE that website was under malware attack. Further, the Company also intimated BSE in the same mail that a new website www.rapmedialtd.co.in was made active and the management was taking steps to update all the required information on the website. The Company also informed the reasons for the new name of website under the said email. Thus, it can be seen that the Company had at the relevant time only informed the Exchange about Malware attack and it is not merely an afterthought during the present proceeding.*

12.3 *Further, the Company vide its email dated 16th March 2022, sent to BSE Limited, also updated the Exchange about the process of updation of the Company's website and informed that it would take approximately 10 to l5 days to update the same, particularly, in view of the earlier malware attacks and security testing required. Further, the Company also informed/undertook to update about any material information to the Exchange. The relevant para of the email is reproduced below for your ready reference:*

> *"Meanwhile the Company ensure that any material information, if any, arising during this period will be intimated to the Stock Exchange on immediate basis so that the same can be brought to the information of the shareholders. Secondly the landline numbers of the office, email id of the directors, mobile number etc. are also available to the shareholders for seeking any clarification and information."*

12.4 It can thus be observed that the website was down for a very short period and due to technical reasons, which were well disclosed to the Exchange. Further, Company took immediate steps to restore website on new domain as well as undertook to update any information to the Exchange, even during intervening period. It is humbly submitted that Company had thus made bona fide attempt to put up the website in short span of time and complied with the regulations in spirit.

12.5 We further submit that as early as on 24th February 2022, the Company officials took steps to book new domain and were asking the technical consultant to make the site live. A screenshot of the wats app chat with one Mr. Chetan Shinde, in respect of making the website Jive is annexed.

12.6 In respect of the Secretarial Auditors Report dated September 07, 2021, the said remarks mention that the website of the Company is not showing full disclosure as per LODR Regulations. The remarks firstly establish the fact that the Company had a functional website and only some disclosures were not disclosed. The disclosures which were "not applicable" to the Company were not displayed on the website and all other disclosures as mentioned in the table above were disclosed. Therefore, the website was functional and the inference that it was not functional for a long time is not correct in our respectful submission.

12.7 Despite of the difficulties faced, the Company had taken remedial steps in respect of the website, and has hosted its website at http://www.rapmedialtd.co.in. The Company has duly posted all the requirements as required on the website of the Company which can be verified.

12.8 The alleged non-compliances are required to be viewed in light of the following:

a) *Covid 19 was declared a worldwide pandemic in March 2020 and Government of lndia as well as state governments had imposed a strict lockdown w.e.f. March 2020, including fresh 1ockdowns in 2021.*

b) *Vide SEBI Circular No SEBI/HO/CFD/CMDl/ClRJP/2020/48 dated 26th March 2020 had exempted publication of advertisement in newspapers, as required under Regulation 47 for all events scheduled till 15th May 2020. The same was extended by SEBI vide its circular dated SEBJIHO/CFD/CMDI/CIR/2020/79 for all events upto 30th June 2020. Further the said requirement of publishing newspaper advertisement has itself been omitted by SEBI w.e.f. 5th May 2021.*

c) *While the Company held 3 meetings during the intervening period, the covid restrictions continued to be imposed by various state governments with partial reopening. Further, the Company lost its Company Secretary Mr. Ravindra Joshi due to Covid during the said period and it was very challenging for the Company to get immediate replacement to take care of the compliances during the period. In view of the same, the Company could not publish the newspaper notice. The omission to give this advertisement stemmed out of these genuine and unavoidable reasons.*

d) *Understanding the seriousness of the pandemic situation in the country, the Hon'ble Supreme Court also took suo moto cognizance of the situation arising out of the challenges faced by the country on account of Covid-19 Virus vide its order dated 23.03.2020 and extended the period of limitation in all such proceedings, irrespective of the limitation prescribed under the General laws or Specia1 Laws whether condonable or not to be extended w.e.f. 15th March 2020 till further orders. Further, the Hon'ble Supreme Court extended the timeline for all limitation period finally upto 28th February 2022.*

12.9 *We humbly submit that the alleged clarification was sought by BSE on October 14, 2021 through email. However, the Company did not receive any such email and hence it could not submit any reply at the relevant time without prejudice to the same, it is submitted that as a policy the Company does not involve itself in any stock price related matters and does not comment on the market price and the Company had nothing to comment on the alleged price movement. In view of the same, it is submitted that there was no occasion for the Company to revert on the email as the same was not received. Hence there is no non-compliance.*

12.10 *It is further submitted due to difficult market situation; the Company has not been able to generate any revenues since last 2 years. Further, the main source of revenue of the Company was rent for a property. However, during Covid, due to certain disputes, the rent was discontinued and the Company has no cash flow since last 2 and half years. The Company is facing hardship due to the same even today as the revenue has stopped due to disputes. Despite of the same, the Company has been compliant of various provisions of the Companies Act, 2013 as well as LODR Regulations.*

12.11 *You would note, from the above submissions, that the said noncompliance has not caused any loss to investors not there has been any gain to the Company. The Company has also taken remedial actions wherever required and is fully compliant.*

12.12 *In respect of the non-publication of the newspaper advertisement, the same was on account of Covid Period and sad loss of life of the Company Secretary during those times.*

12.13 *Further, in this regard, reliance is placed on judgement of Hon'ble Securities Appellate Tribunal in Re Kesar Petro products Limited vs BSE in Appeal No. 432/2022, dated August 10, 2022; on judgement of Hon'ble Securities Appellate Tribunal in Re Sterling*

Investments vs S.h-73I in Appeal No. 388/2004, 388A/2004 & 388B/2004 dated September 5, 2005 and on judgement of Hon'ble Supreme Court in Hindustan Steel Limited vs State of Orissa [AIR (1970) SC 523].

13. I have taken into consideration the facts of the case, the replies submitted by the Noticee and the material available on record. The issues that arise for consideration in this case is whether the Noticee has violated (i) Regulations 46(1) and applicable provisions of 46(2) of LODR Regulations for failure to maintain a functional website as stipulated; (ii) Regulation 47 of LODR Regulations for not making publication of the meeting of its Board of Directors and (iii) Regulation 30(10) of LODR Regulations by not responding to the queries raised by BSE through email.

With regard to the alleged violation of Regulations 46(1) and applicable provisions of 46(2) of LODR Regulations

14. With regard to the observation by SEBI on the alleged violation of Regulations 46(1) and applicable provisions of 46(2) of LODR Regulations by the Noticee**,** I note that the Noticee was having a website viz. www.rapmedia.co.in. The Noticee had intimated BSE, vide its letter dated March 10, 2022, that its website was under a malware attack and that a new website viz. www.rapmedialtd.co.in was made active and the management was taking steps to update all the required information on the website. Further, the Noticee, vide its email dated March 16, 2022, sent an updation to BSE Limited, about the process of updation of the Company's website and informed that it would take approximately 10 to l5 days to update the same, particularly, in view of the earlier malware attacks and security testing required. Also, on February 24, 2022, the Company officials took steps to book new domain and asked the technical consultant to make the site live.

15. I note from the records available and from the submissions made by the Noticee, that the intimation by the Noticee to BSE, vide its letter dated March 10, 2022, regarding the malware attack on the old website and on issues faced by it in maintaining a functional website were made post receiving an advisory letter from BSE dated February 23, 2022. On perusal of the said letter dated March 10, 2022 of the Noticee, I note that the Noticee in its submissions did not mention the date from when old website was withdrawn due to the cited malware attack. Further on the functionality of the old website as per the applicable clauses of 46(2)(a), 46(2)(j) to 46(2)(s) and 46(2)(u) to 46(2)(z) of LODR Regulations, I note that the Noticee in its reply to the SCN has made a general submission on the information disseminated on the old website, however the Noticee has not provided the relevant documentary evidence of the old website viz. www.rapmedia.co.in being functional with information being disseminated as required under said LODR Regulations. I further note from the observations made in the Secretarial audit report of RML dated September 7, 2021 for the FY 2020-21, that the website of the Noticee was not showing full disclosures made by the Noticee, as required under LODR Regulation. Also, the Noticee opted for services of a different provider in this regard and the takeover from the old service provider had delayed the updation of website for quite some time. Therefore, it is evident that the old website was not updated with full requisite disclosures during the year FY 2020-21. Further, I note that the Noticee has neither provided the date nor the relevant documentary proof from when the new website was fully functional and started disseminating the requisite information. I note that the Noticee has made submissions on the technical difficulties it faced in maintaining a functional website and has stated that the website was not functional only for a short span of time. However, I note that the website was not having the requisite disclosures for a considerable period of time both in the FY 20-21 and FY-21-22. Further, the Noticee has neither submitted the date nor the evidence to substantiate the submission of maintaining a functional website with requisite

disclosures made, even despite grant of time to submit the proof of documents. Therefore, it is established that the Noticee did not maintain its website, and applicable disclosures were not made, which violated Regulation 46(1), 46(2)(a), 46(2)(j) to 46(2)(s) and 46(2)(u) to 46(2)(z) of LODR Regulations.

With regard to the alleged violation of Regulations 47 of LODR Regulations

16. I note from the submissions of the Noticee that during the relevant period COVID-19 was at its peak in India. The Noticee staff was absent and Noticee Secretary CS Ravindra Joshi was down with serious illness caused by COVID which resulted in the Noticee not being able to arrange publication of Notice of meeting in any of the Newspapers.

17. I note that SEBI, vide its Circular No. SEBI/HO/CFD/CMD1/CIR/P/2020/48 dated 26th March, 2020, had exempted publication of advertisement in newspapers, as required under regulation 47 for all events scheduled till May 15, 2020. Thereafter, SEBI, vide its Circular No. SBI/HO/CFD/CMD1/CIR/2020/79, extended the aforesaid exemptions from publication of advertisement in newspapers for all events up to 30th June, 2020.

18. I note that the provisions pertaining to publication of newspaper notice has been omitted by SEBI (Listing Obligation and Disclosure Requirements) (Second Amendment) Regulation, 2021, with effect from 5th May, 2021. I note that requirement to publish notice of meeting of board of directors was applicable during the period counting from 1st July, 2020 to 31st March, 2021 and during the period 1st July, 2020 to 31st March, 2021, five Board meetings of the Noticee were held and in the Board meeting of Noticee on 14th November, 2020, financial results for the quarter and half year ended September 2020 were discussed by the Noticee.

The requirement to make a publication of Notice becomes more relevant in this context considering the interest of investors of the Noticee.

19. In view of the above, it is established that the Noticee violated Regulation 47 of LODR Regulations.

With regard to alleged violation of Regulations 30(10) of LODR Regulations

20. I note that BSE had sought clarification on October 14, 2021 from Noticee, with regard to significant movement in price in order to ensure that investors have latest relevant information about the company and to inform the market so that the interest of the investors is safeguarded.

21. I note that the Noticee did not submit the information since according to Noticee it did not receive any email from the official email ID of BSE. Noticee submitted that as a policy, it does not involve itself in any stock price related matters and does not comment on the market price and it had nothing to comment on the alleged price movement.

22. I note from BSE's website that, vide letter dated October 14, 2021, it had sought clarification by email from the Noticee with reference to significant movement in price of shares as an Additional Surveillance Measure (ASM) Framework and has also updated the same on the website on October 14, 2021 at 12:09:00 under the head corporate announcements. The exchange also submitted a copy of email sent to Noticee. In this regard, from the documents available on file, I note that SEBI had sought clarification, vide email dated April 06, 2022, on the action taken by the exchange in this matter and advised to submit a report on the price movement to SEBI. BSE, vide email dated April 21, 2022, had replied that, on seeking clarification

from the company, no reply was received. Further, it had stated that at the end of the day a market vide circular was issued and company's name was included in the list of companies whose reply is awaited.

23. I note that as per regulation 30(10) of LODR Regulations, it is the responsibility of companies to reply to all the queries raised by stock exchange. In this regard, I note that BSE, vide email dated March 21, 2022, had sought a response from the Noticee on the reason for non-submission of reply to clarification sought by BSE vide email dated October 14, 2021. I note that the Noticee in its reply, vide email dated March 23, 2022, had informed BSE that it did not receive the email dated October 14, 2021.

24. I note that proof of delivery of the email to the Noticee has not been provided by BSE. Therefore, it is not clear if the Noticee received the email sent by BSE. However, I see that BSE had updated the letter sent to the Noticee on the website on October 14, 2021 at 12:09:00 under the head corporate announcements. Further, at the end of the day, a market vide circular was issued by BSE and Noticee's name was included in the list of companies whose reply is awaited. BSE had communicated through the website and vide a circular that the Noticee has to reply to the query raised by the Exchange on the significant price movement in the price of the security. Even if I extend the benefit of doubt to the Noticee that the email was not received in the official email id of the Noticee from BSE, the Noticee was required to act on the information provided in the website and based on the circular issued.

25. In view of the above, violation of regulation 30(10) of LODR Regulations by the Noticee stands established.

ISSUE II: Whether the violations attract monetary penalty under Section 23E of the SCRA?

26. The aforesaid violations, if proved, make the Noticee liable for monetary penalty u/s 23E of SCRA, which is reproduced below for reference:

<u>Penalty Provision under SCRA</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.*

27. I note that the SAT order dated 03.05.2021 in Suzlon Energy Ltd. and Anr. Vs SEBI (Appeal No. 201 of 2018) has been challenged by SEBI before the Hon'ble Supreme Court in Civil Appeal no. 4741 of 2021. I note that the aforesaid stay application and the appeal is pending. I note that vide orders in the matter of M/s NDTV vs. SEBI (Appeal no. 358 of 2015) dated August 07, 2019, and Oasis Securities Ltd. & Ors. Vs. SEBI (Appeal no. 316 of 2018), dated March 17, 2020, the Hon'ble SAT has upheld the imposition of penalty under Section 23E of SCRA on the appellant companies therein for the violation of clauses of the listing agreement. The limited purpose of these proceedings is to determine if Noticee has violated provisions of securities laws and if so impose the penalty. However, the enforcement of this order shall be subject to the outcome of the aforesaid appeal before the Hon'ble Supreme Court of India.

ISSUE III: If so, what would be the monetary penalty that can be imposed upon the Noticee taking into consideration the factors stipulated in Section 23J of the SCRA r/w Rule 5(2) of the Adjudication Rules?

28. While determining the quantum of penalty, it is important to consider the factors stipulated in Section 23J of the SEBI Act which reads as under: -

Factors to be taken into account while adjudging quantum of penalty*.*

23J. While adjudging the quantum of penalty under section 12A or section 23-I, the Securities and Exchange Board of India 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.

29. The available records do not reveal specific loss suffered by the investors due to violations by the Noticee. I note from the replies submitted by the Noticee that it suffered losses due to Covid, the lack of staff to carry out compliance measures and the pandemic period as constraints in complying with LODR Regulations However, the reasons quoted by the Noticee cannot be considered, in view of the prolonged period of non-compliance of LODR Regulations on its part. In terms of provisions of

LODR Regulations, the Noticee is duty bound to take appropriate measures to ensure compliance with LODR Regulations.

30. Since the violation of Regulations 46(1) and applicable provisions of 46(2) of LODR Regulations, Regulation 47 of LODR Regulations and Regulation 30(10) of LODR Regulations is established, a commensurate penalty is required to be imposed. However, on account of various factors, including Covid-19 pandemic, I would like to take a lenient view with regard to the penalty to be imposed for the violations by the Noticee.

ORDER

31. Therefore, in exercise of powers conferred upon me under Section 23-I of the SCRA read with rule 5 of the Adjudication Rules, I hereby impose a penalty of Rs. 5,00,000/- (Rupees Five Lakhs only), upon the Noticee i.e., RAP Media Limited (PAN: AAACA5060H) under section 23E of the SCRA for violation of Regulation 46(1), 46(2)(a), 46(2)(j) to 46(2)(s) and 46(2)(u) to 46(2)(z) of LODR Regulations, Regulation 47 of LODR Regulations and Regulation 30(10) of LODR Regulations. I find that the said penalty is commensurate with the violations committed by the Noticee in this case.

32. The Noticee shall remit / pay the said amount of penalty within 45 days of receipt of this order either by way of Demand Draft in favour of “SEBI - Penalties Remittable to Government of India”, payable at Mumbai, OR 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

33. The Noticee shall forward said Demand Draft or the details / confirmation of penalty so paid to "The Division Chief (Enforcement Department-1 DRA-II), Securities and Exchange Board of India, SEBI Bhavan II, Plot No. C – 7, "G" Block, Bandra Kurla Complex, Bandra (E), Mumbai – 400 051." The Noticee shall also provide the following details while forwarding DD / payment information:

Case Name :	
Name of Payee :	
Date of Payment:	
Amount Paid :	
Transaction No. :	
Bank Details in which payment is made :	
Payment is made for: (like penalties/ disgorgement/ recovery/ settlement amount etc.)	Penalty

34. 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 u/s 23JB of the SCRA for realization of the said amount of penalty along with interest thereon, inter alia, by attachment and sale of movable and immovable properties.

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

Place: Mumbai **AMIT KAPOOR**

Date: January 09, 2023 **ADJUDICATING OFFICER**