BEFORE THE ADJUDICATING OFFICER

SECURITIES AND EXCHANGE BOARD OF INDIA

[ADJUDICATION ORDER NO.: Order/GR/RK/2020-21/11077]

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

In respect of:

Setubandhan Infrastructure Ltd (PAN: AABCP3573F)

In the matter of

Prakash Constrowell Ltd.

FACTS OF THE CASE IN BRIEF

1. Securities and Exchange Board of India (hereinafter referred to as '**SEBI**') had conducted an investigation into the trading activities of certain entities in the scrip of Prakash Constrowell Ltd. (hereinafter referred to as 'the **company**'). The focus of investigation was to ascertain whether trading in the scrip of the company by the suspected entities was based on Unpublished Price Sensitive Information ("**UPSI**") and thus in violation of provisions of Securities and Exchange Board of India Act, 1992 (hereinafter referred to as '**SEBI Act**') and SEBI (Prohibition of Insider Trading) Regulations 2015 (hereinafter referred to as '**PIT Regulations 2015'**), during the period February 09, 2016 (starting date

of UPSI period) to August 25, 2016 (end date of UPSI period), (hereinafter referred to as the '**investigation period**').

2. During the investigation, it was observed that Setubandhan Infrastructure Ltd. (erstwhile, Prakash Constrowell Limited), (hereinafter referred to as 'the **Noticee**') has made delayed disclosure, w.r.t trades of one of its erstwhile directors to the exchanges under PIT Regulations 2015. Hence, it was alleged that the Noticee had violated Regulation 7(2) (b) of PIT Regulations 2015.

APPOINTMENT OF ADJUDICATING OFFICER

3. The undersigned was appointed as the Adjudicating Officer ('**AO**') vide order dated January 07, 2021, under Section 19 read with Section 15-I of SEBI Act and under Rule 3 of SEBI (Procedure for Holding Inquiry and Imposing Penalties) Rules, 1995 (hereinafter, '**Adjudication Rules**') to enquire into and adjudge under Section 15A(b) the alleged violations of Regulation 7(2) (b) of PIT Regulations 2015 by the Noticee.

SHOW CAUSE NOTICE, REPLY AND PERSONAL HEARING

4. A Show Cause Notice dated February 01, 2021 (hereinafter, "**SCN**") was issued to the Noticee under Rule 4 of the Adjudication Rules, calling it to show cause as to why an inquiry should not be held and penalty be not imposed on it under Section 15A(b) of the SEBI Act for alleged violation specified in the said SCN. In response to this, the Noticee vide its email dated February 12, 2021 sought for some additional time to file its reply to the SCN.

5. Subsequently, vide email dated February 16, 2021, the Noticee was advised to submit its reply to the SCN latest by February 28, 2021. Further, an opportunity of personal hearing was also granted to the Noticee on March 04, 2021 vide the same email.

6. The Noicee failed to appear for the said hearing dated March 04, 2021, however, it filed its reply to the SCN vide its email dated February 27, 2021, which is summarized as below:

"As per observation of SEBI, company has made some delayed disclosure in respect of trading of shares by Mr. PrafullaBhat during the period September 09, 2016 to October 25, 2016. Please note that, Mr. PrafullaBhat was based in Mumbai and disclosures pertaining to trading made by him were disseminated immediately after company received them. The delay is caused on part of Mr. PrafullaBhat. And we are not in position to comment on same."

7. Taking into account the aforesaid facts, I am of the view that principle of natural justice has been followed in the matter by granting the Noticee ample opportunities for replying to the SCN and of being heard. Therefore, I deem it appropriate to decide the matter on the basis of facts/material available on record and replies submitted by the Noticee.

ISSUES FOR CONSIDERATION AND FINDINGS

8. I have carefully perused the documents available on record, and the issues that arise for consideration in the present case are:

   a. Whether the Noticee has violated the provisions of Regulation 7(2) (b) of PIT Regulations 2015?

b. Does the violation, if any, on the part of the Noticee attract monetary penalty under Section 15 A(b) of the SEBI Act?

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

9. Before moving forward, it is pertinent to refer to the relevant provisions of PIT Regulations 2015, which reads as under:

PIT Regulations, 2015

Regulation 7

(2) Continual Disclosures.

(a) *Every promoter, member of the promoter group, designated person and director of every company shall disclose to the company the number of such securities acquired or disposed of within two trading days of such transaction if the value of the securities traded, whether in one transaction or a series of transactions over any calendar quarter, aggregates to a traded value in excess of ten lakh rupees or such other value as may be specified;*

(b) *Every company shall notify the particulars of such trading to the stock exchange on which the securities are listed within two trading days of receipt of the disclosure or from becoming aware of such information.*

Explanation. —It is clarified for the avoidance of doubts that the disclosure of the incremental transactions after any disclosure under this sub-regulation, shall be made when the transactions effected after the prior disclosure cross the threshold specified in clause (a) of sub-regulation (2).

FINDINGS

10. The first issue for consideration is whether the Noticee has violated Regulation 7(2) (b) of PIT Regulations 2015.

11. During the investigation, the company was asked to provide copy of all disclosures received by it under PIT Regulations, 2015 and SAST Regulations, 2011 with respect to transactions in the scrip of the company pertaining to the period from 01.01.2016 to 31.12.2016. In this regard, the company vide its emails dated January 24, 2019 and November 19, 2018, has inter-alia provided the copies of disclosure received from promoters of the company under aforesaid regulations. Similarly, BSE and NSE vide their emails dated January 16, 2020 and January 17, 2020, had submitted all disclosures received under PIT Regulations, 2015 and SAST Regulations, 2011 with respect to transactions in the scrip of the company pertaining to the period from 01.01.2016 to 31.12.2016.

12. Based on the information received above, the disclosure requirements as applicable under PIT Regulations, 2015 were examined for Mr. Prafulla Bhat (erstwhile promoter of the company) for the period from January 01, 2016 to December 31, 2016. The details of the same are tabulated below:

Date	No.of shares held - pre acquisition / disposal	% of share holding held -pre acquisition / disposal	No. of shares acquired/ (disposed off)	No. of shares acquired/ (disposed off) as % of of paid up capital	Value of transaction	No.of shares held - post acquisition / disposal	% of share holding held -post acquisition / disposal	Date of disclosure to company	Date of disclosure by company to stock exchanges		No. of days of delay	
									BSE	NSE	By Prafulla Bhat	By the company
18/04/2016	0	0	30000	0.02	181500	30000	0.02	N.A.	N.A.	N.A.	N.A.	N.A.

Date	No.of shares held - pre acquisition / disposal	% of share holding held -pre acquisition / disposal	No. of shares acquired/ (disposed off)	No. of shares acquired/ (disposed off) as % of of paid up capital	Value of transaction	No.of shares held - post acquisition / disposal	% of share holding held -post acquisition / disposal	Date of disclosure to company	Date of disclosure by company to stock exchanges		No. of days of delay	
									BSE	NSE	By Prafulla Bhat	By the company
25/04/2016	30000	0.02	100000	0.08	610840.94	130000	0.1	N.A.	N.A.	N.A.	N.A.	N.A.
26/04/2016	130000	0.1	235619	0.19	1514350.65	365619	0.29	28/04/2016	02/05/2016	05/05/2016	N.A.	N.A.
29/04/2016	**365619**	**0.29**	**797884**	**0.63**	**5681435.2**	**1163503**	**0.93**	**Not disclosed**	**N.A.**	**N.A.**	**Non-disclosure**	**N.A.**
04/07/2016	1163503	0.93	-15499	-0.01	89468.05	1148004	0.91	N.A.	N.A.	N.A.	N.A.	N.A.
13/07/2016	**1148004**	**0.91**	**-200000**	**-0.16**	**1325000**	**948004**	**0.75**	**Not disclosed**	**N.A.**	**N.A.**	**Non-disclosure**	
25/08/2016	**948004**	**0.75**	**-1376**	**0**	**15961.6**	**946628**	**0.75**	**Not disclosed**	**N.A.**	**N.A.**	**Non-disclosure**	**N.A.**
26/08/2016	**946628**	**0.75**	**-114125**	**-0.09**	**1426562.5**	**832503**	**0.66**	**Not disclosed**	**N.A.**	**N.A.**	**Non-disclosure**	**N.A.**
14/09/2016	**832503**	**0.66**	**68327**	**0.05**	**1127395.5**	**900830**	**0.72**	**Not disclosed**	**N.A.**	**N.A.**	**Non-disclosure**	**N.A.**
15/09/2016	**900830**	**0.72**	**-68327**	**-0.05**	**1195722.5**	**832503**	**0.66**	**Not disclosed**	**N.A.**	**N.A.**	**Non-disclosure**	**N.A.**
16/09/2016	**832503**	**0.66**	**500000**	**0.4**	**9195315.32**	**1332503**	**1.06**	**Not disclosed**	**N.A.**	**N.A.**	**Non-disclosure**	**N.A.**
21/09/2016	**1332503**	**1.06**	**75115**	**0.06**	**1382116**	**1407618**	**1.12**	**Not disclosed**	**N.A.**	**N.A.**	**Non-disclosure**	**N.A.**
22/09/2016	**1407618**	**1.12**	**540411**	**0.43**	**9955439.3**	**1948029**	**1.55**	**Not disclosed**	**N.A.**	**N.A.**	**Non-disclosure**	**N.A.**
29/09/2016	**1948029**	**1.55**	**-7262**	**-0.01**	**112281.64**	**1940767**	**1.54**	**17/10/2016**	**05/11/2016**	**05/11/2016**	**8 days**	**12 days**
03/10/2016	**1940767**	**1.54**	**1000000**	**0.8**	**19050000**	**2940767**	**2.34**	**17/10/2016**	**05/11/2016**	**05/11/2016**	**6 days**	**12 days**
07/10/2016	**2940767**	**2.34**	**1000000**	**0.8**	**19483282.4**	**3940767**	**3.14**	**17/10/2016**	**05/11/2016**	**05/11/2016**	**2 days**	**12 days**
10/10/2016	**3940767**	**3.14**	**1350000**	**1.07**	**27053908.1**	**5290767**	**4.21**	**17/10/2016**	**05/11/2016**	**05/11/2016**	**1 day**	**12 days**
17/10/2016	**5290767**	**4.21**	**-21340**	**-0.02**	**410795**	**5269427**	**4.19**	**02/11/2016**	**05/11/2016**	**05/11/2016**	**9 days**	**1 day**
20/10/2016	**5269427**	**4.19**	**10000**	**0.01**	**194000**	**5279427**	**4.2**	**02/11/2016**	**05/11/2016**	**05/11/2016**	**6 days**	**1 day**
21/10/2016	**5279427**	**4.2**	**145500**	**0.12**	**2899849.55**	**5424927**	**4.32**	**02/11/2016**	**05/11/2016**	**05/11/2016**	**5 days**	**1 day**
24/10/2016	**5424927**	**4.32**	**92000**	**0.07**	**1839328.25**	**5516927**	**4.39**	**02/11/2016**	**05/11/2016**	**05/11/2016**	**4 days**	**1 day**
25/10/2016	**5516927**	**4.39**	**30000**	**0.02**	**594000**	**5546927**	**4.41**	**02/11/2016**	**05/11/2016**	**05/11/2016**	**3 days**	**1 day**
28/10/2016	5546927	4.41	150000	0.12	2940000	5696927	4.53	02/11/2016	05/11/2016	05/11/2016	N.A.	N.A.
02/11/2016	**5696927**	**4.53**	**63840**	**0.05**	**1191385.8**	**5760767**	**4.58**	**26/11/2016**	**28/11/2016**	**28/11/2016**	**15 days**	**N.A.**
03/11/2016	**5760767**	**4.58**	**-100000**	**-0.08**	**1700000**	**5660767**	**4.5**	**26/11/2016**	**28/11/2016**	**28/11/2016**	**14 days**	**N.A.**
04/11/2016	**5660767**	**4.5**	**-30000**	**-0.02**	**501000**	**5630767**	**4.48**	**26/11/2016**	**28/11/2016**	**28/11/2016**	**13 days**	**N.A.**
15/11/2016	**5630767**	**4.48**	**181665**	**0.14**	**1889316**	**5812432**	**4.62**	**26/11/2016**	**28/11/2016**	**28/11/2016**	**6 days**	**N.A.**

Date	No.of shares held - pre acquisition / disposal	% of share holding held -pre acquisition / disposal	No. of shares acquired/ (disposed off)	No. of shares acquired/ (disposed off) as % of of paid up capital	Value of transaction	No.of shares held - post acquisition / disposal	% of share holding held -post acquisition / disposal	Date of disclosure to company	Date of disclosure by company to stock exchanges		No. of days of delay	
									BSE	NSE	By Prafulla Bhat	By the company
25/11/2016	5812432	4.62	-2500000	-1.99	16125000	3312432	2.64	26/11/2016	28/11/2016	28/11/2016	N.A.	N.A.
28/11/2016	**3312432**	**2.64**	**-1021665**	**-0.81**	**6287038.95**	**2290767**	**1.82**	**Not disclosed**	**N.A.**	**N.A.**	**Non-disclosure**	**N.A.**
29/11/2016	**2290767**	**1.82**	**-403579**	**-0.32**	**2360937.15**	**1887188**	**1.5**	**Not disclosed**	**N.A.**	**N.A.**	**Non-disclosure**	**N.A.**
30/11/2016	**1887188**	**1.5**	**-470832**	**-0.37**	**2636659.2**	**1416356**	**1.13**	**Not disclosed**	**N.A.**	**N.A.**	**Non-disclosure**	**N.A.**
09/12/2016	**1416356**	**1.13**	**-100000**	**-0.08**	**425000**	**1316356**	**1.05**	**Not disclosed**	**N.A.**	**N.A.**	**Non-disclosure**	**N.A.**
16/12/2016	**1316356**	**1.05**	**-83853**	**-0.07**	**465424.15**	**1232503**	**0.98**	**Not disclosed**	**N.A.**	**N.A.**	**Non-disclosure**	**N.A.**

13. From the above table, it is observed that, for transactions carried out by Prafulla Bhatt on nine instances during the period September 09, 2016 to October 25, 2016, the company has made delayed disclosures to the stock exchange (BSE) under Regulation 7(2)(b) of PIT Regulations, 2015.

14. The Noticee in its reply has contended that disclosures pertaining to trading made by Mr. PrafullaBhat were disseminated immediately after company received them. However, from the above table, it is evident that there was a delay of 1 to 12 days in filing the said disclosures by the company during the period September 09, 2016 to October 25, 2016. I further note that the Noticee has not submitted any documentary evidence to substantiate its claim in this regard. Hence, I don't find any merit in this contention of the Noticee.

15. I further note that, it is trite law that the corporate insiders stand in a fiduciary relationship with the shareholders of the company concerned. The insiders invariably have access to the unpublished price sensitive information by virtue of their position in the corporate hierarchy or on account of their official duties. This access creates an information asymmetry between those having access to such information and the multitude of shareholders/investors who have no access to such information. The protection of investors in the securities market requires that there should not be any information asymmetry between these two classes of stakeholders. The PIT Regulations 2015 are aimed at addressing the information asymmetry. Hence, I note that timely disclosure of relevant information by listed companies is essential for maintaining transparency about the affairs of the Company which helps in eliminating information asymmetry. Moreover, correct and timely disclosures play an essential role in the proper functioning of the securities market and failure to do so results in depriving the investors from taking well informed investment decision.

16. In this context, I would like to rely on observation of Hon'ble SAT in the matter of *Coimbatore Flavors & Fragrances Ltd. vs SEBI* (*Appeal No. 209 of 2014 order dated August 11, 2014*) wherein it was held that "*Undoubtedly, the purpose of these disclosures is to bring about more transparency in the affairs of the companies. True and timely disclosures by a company or its promoters are very essential from two angles. Firstly; investors can take a more informed decision to invest or not to invest in a particular scrip secondly; the Regulator can properly monitor the transactions in the capital market to effectively regulate the same.*"

17. Based on the aforesaid findings, I conclude that the Noticee has violated the provisions of Regulation 7(2)(b) of PIT Regulations 2015.

18. I further note that Hon'ble Supreme Court of India, in the matter of Chairman, *SEBI vs. Shriram Mutual Fund* {*[2006] 5 SCC 361*} held that *"In our view, the penalty is attracted as soon as contravention of the statutory obligations as contemplated by the Act is established and, therefore, the intention of the parties committing such violation becomes immaterial. ………. 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".*

19. In view of the foregoing, I am convinced that the Noticee is thus liable for monetary penalty under Section 15A(b) of SEBI Act for violation of Regulation 7(2)(b) of PIT Regulations 2015. The provisions of Section 15A(b) of the SEBI Act, 1992 read as under:

Penalty for failure to furnish information, return, etc.

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

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

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

Factors to be taken into account by the adjudicating officer.

Section 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.*

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

21. 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 the Noticee's failure. However, I note that by failing to disclose (i) the statement of deviations in the use of issue proceeds for the quarters ended March 2012 and June 2012, and ii) the related party transactions in its Annual Report of 2011-12, the Noticee had earlier violated Clause 43A and 32 of the Listing Agreement read with Section 21 of Securities Contracts (Regulation) Act, 1956. This clearly shows that there was a repetition of violation by the Noticee. I further 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, then SEBI is duty bound to ensure that the investing public are not deprived of any 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 failed to make timely disclosers w.r.t trades of one of its erstwhile directors to the exchanges (BSE & NSE) and thereby has violated Regulation 7(2)(b) of PIT Regulations 2015.

ORDER

22. In view of the above, after considering all the facts and circumstances of the case and the factors mentioned in the provisions of Section 15-I of the SEBI Act, 1992 read with Rule 5 of Rules, I hereby impose a penalty of **Rs 1,00,000/-** (Rupees One lac only) on the Noticee, in terms of the provisions of Section 15A(b) of the Securities and Exchange Board of India Act, 1992. In the facts and circumstances of the case, I am of the view that the said penalty is commensurate with the default committed by the Noticee.

23. 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.

24. The said demand draft and its details or details of online payments made (in the format as given in table below) should be forwarded to "The Division Chief (Enforcement Department -DRA-5), the Securities and Exchange Board of India, SEBI Bhavan, Plot No. C4 –A, "G" Block, Bandra Kurla Complex, Bandra (E), Mumbai –400 051.

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	

25. In the event of failure to pay the said amount of penalty within 45 days of the receipt of this Order, consequential proceedings including, but not limited to, 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.

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

Date : March 23, 2021 **G Ramar**

Place : Mumbai **Adjudicating Officer**