BEFORE THE ADJUDICATING OFFICER

SECURITIES AND EXCHANGE BOARD OF INDIA

[ADJUDICATION ORDER Ref. No. ORDER/SBM/KL/2021-22/14767-14774]

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

In respect of

1. Julex Commercial Company Ltd. **(PAN: AABCJ1699Q)** 31, Netaji Subhas Road, 2nd Floor, Kolkata - 700001	**2. Duncans Industries Ltd** **(PAN: AAACD9302P)** 31, Netaji Subhas Road, 2nd Floor, Kolkata - 700001
3. Bargate Communication Pvt Ltd. **(PAN: AABCB6157B)** 31, Netaji Subhas Road, 2nd Floor, Kolkata - 700001	**4. Silent Valley Investments Ltd.** **(PAN: AAHCS4097H)** 31, Netaji Subhas Road, 2nd Floor, Kolkata - 700001
5. Star Paper Mills Ltd. **(PAN: AAECS0759B)** 31, Netaji Subhas Road, 2nd Floor, Kolkata - 700001	**6. Sewand Investments Pvt. Ltd.** **(PAN: AAECS6996E)** 31, Netaji Subhas Road, 2nd Floor, Kolkata - 700001
7. Albert Trading Co. Pvt. Ltd. **(PAN: AACCA1505H)** 31, Netaji Subhas Road, 2nd Floor, Kolkata - 700001	**8. Mr. Gouri Prasad Goenka** **(PAN: AECPG8809F)** 17D, Alipore road, Kolkatta 700027

In the matter of
ISG Traders Limited

FACTS OF THE CASE

1. Securities and Exchange Board of India (hereinafter referred to as '**SEBI'**) received a letter dated August 21, 2019 from the office of Registrar of Companies - West Bengal (hereinafter referred to as '**RoC'**), wherein, it was mentioned that RoC had conducted an inspection of the books of accounts and other relevant records of ISG Traders Limited (hereinafter referred to as '**ISG'/'Target company'**), a company which is

exclusively listed on the Calcutta Stock Exchange (hereinafter referred to as '**CSE'**). The letter of RoC inter alia mentioned about certain irregularities / non- compliances with the provisions of the listing agreement by ISG during the period January 2015 to February 2021 (hereafter referred to as the '**examination period'/ 'relevant period'**). Subsequently, SEBI undertook an examination in the matter. Pursuant to the examination conducted by SEBI, it was observed that the promoters of ISG had failed to make the necessary disclosures to the stock exchange i.e. CSE and to the Target Company i.e. ISG, in terms of the provisions of Regulations 30 (1), 30 (2) r/w Regulation 30 (3) of the SEBI (Substantial Acquisition of Shares and Takeovers) Regulations, 2011 (hereinafter referred to as '**SAST Regulations**') w.r.t their shareholding and voting rights in ISG during the aforementioned examination period. In view of the above reasons, adjudication proceedings were initiated against the promoters of ISG under the provisions of section 15 A(b) of the Securities and Exchange Board of India Act, 1992 (hereinafter referred to as '**SEBI Act**'.

2. As per the examination report of SEBI and the information obtained from CSE, the list of the promoters / promoter group of ISG along with their shareholding pattern in ISG during the examination period is given as under:

Table-1

Sl. No.	Name of promoter	No. of shares in ISG	Shareholding % in ISG
1	Julex Commercial Company Ltd. **(Noticee no 1)**	85,52,628	37.40%
2	Duncan Industries Ltd (**Noticee no 2**)	41,28,094	18.05%
3	Bargate Communication Pvt Ltd. (**Noticee no 3)**	29,07,927	12.72%
4	Silent Valley Investments Ltd. (**Noticee no 4**)	21,14,183	9.24%
5	Star Paper Mills Ltd. (**Noticee no 5**)	17,45,786	7.63%
6	Sewand Investments Pvt. Ltd. (**Noticee no 6)**	16,94,761	7.41%
7	Albert Trading Co. Pvt. Ltd. (**Noticee no 7**)	1,20,368	0.53%
8	Mr. Gouri Prasad Goenka (**Noticee no 8**)	111	0.00%
9	Mrs. Indu Goenka	1	0.00%

In this context, it is noted that one the aforementioned promoters of ISG viz. Mrs. Indu Goenka (sl no 9 of Table 1) had passed away on April 01, 2014. In this regard, a separate adjudication order was passed on October 29, 2021 abating the adjudication proceedings against Late Mrs. Indu Goenka. In view of the same and in respect of the aforementioned alleged violations committed by the promoters of ISG i.e. failure to make the necessary disclosures in terms of Regulations 30 (1) and 30 (2) r/w Regulation 30 (3) of the SAST Regulations during the examination period, adjudication proceedings were initiated against the promoters of ISG i.e persons/entities mentioned at Sl Nos. 1 to 8 in Table 1 above. In the context of the present proceedings, the promoters mentioned in Table-1 above (Noticee nos 1 to 8) are hereinafter collectively referred to as (‘**Noticees’**).

APPOINTMENT OF ADJUDICATING OFFICER

3. The undersigned has been appointed as the Adjudicating Officer (‘**AO**’) in the matter vide communique dated March 03, 2021 under the provisions of section 19 of the SEBI Act read with section 15-I of the SEBI Act and rule 3 of SEBI (Procedure for Holding Inquiry and Imposing Penalties) Rules, 1995 (hereinafter referred to as ‘**Adjudication Rules’**), to inquire into and adjudge under the provisions of section 15 A(b) of the SEBI Act, the aforementioned alleged violation of the provisions of law by the Noticees.

SHOW CAUSE NOTICE, REPLY AND PERSONAL HEARING

4. A show cause notice (‘**SCN**’) ref no. SEBI/EAD1/SBM/KL/10334/2021 dated May 14, 2021 was issued to the Noticees in terms of Rule 4 (1) of the Adjudication Rules read with Section 15-I of the SEBI Act to show cause as to why an inquiry should not be held against the Noticees and why penalty be not imposed on them in terms of the provisions of section 15A(b) of the SEBI Act for the aforementioned alleged violation of the provisions of law by the Noticees. The SCN, *inter-alia,* alleged the following :-
    a. *SEBI appointed the undersigned as the Adjudicating Officer, vide communique dated March 03, 2021, under Section 15-I of SEBI 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 ‘Adjudication Rules’), to inquire into and adjudge under the provisions of Section 15A(b) of the SEBI Act for the violations committed by ISG Traders Limited. It is alleged that the promoter entities of ISG viz. Noticee no.2 to no.10 (given in table below) have violated the provisions of Regulation 30 (1) and 30 (2) read with 30 (3) of SEBI (Substantial Acquisition of Shares and Takeovers) Regulations, 2011, (hereinafter referred to as ‘SAST Regulations’). In the context of the present proceedings, Noticee no.s 1 to 10 are hereinafter collectively referred to as ‘Noticees’. It is observed that ISG is exclusively listed on Calcutta Stock Exchange (CSE).*

Table-1

Name	*Connection with Company*
ISG Traders Ltd	*Company*
Mr. Gouri Prasad Goenka	*Promoter Entities*
Mrs. Indu Goenka	
Julex Commercial Company Ltd.	
Duncan Industries Ltd	
Bargate Communication Pvt Ltd.	
Silent Valley Investments Ltd.	
Star Paper Mills Ltd.	
Seward Investments Pvt. Ltd.	
Albert Trading Co. Pvt. Ltd.	

b. *SEBI received a letter dated August 21, 2019 from the office of Registrar of Companies (West Bengal) (**'**RoC**'**), wherein it is mentioned that RoC had conducted an inspection of books of accounts and other relevant records of Noticee no. 1. Further, RoC informed SEBI to take appropriate action on Noticee no.1 in respect of the findings mentioned therein.*

c. *In this regard, an examination was conducted by SEBI to ascertain if the Company has violated the provisions of LODR Regulations, arising out of the reference made in the aforementioned letter from RoC, for the period between January 2015 to February 2021 (hereinafter referred to as 'Examination period'). The following were observed during the course of examination:*

Analysis of other non-compliances of the Company indicated by CSE

Analysis in respect of non-compliances under SAST Regulations.

d. *CSE vide its email dated September 14, 2020, submitted to SEBI that there are non-compliances with Regulation 30(1), 30(2) and 30(3) of SEBI (SAST) Regulations, 2011 by the Company in respect of annual disclosure of shareholding and voting rights.*

e. *In terms of Regulation 30(1) r/w 30(3) of SAST Regulations 2011, every person, who together with persons acting in concert with him, holds 25% or more shares or voting rights in a target company, are required to disclose their aggregate shareholding and voting rights as of 31st day of March, to the Stock Exchanges where the shares of target company are listed and to the company within 7 days from the end of the respective financial years. Further, in terms of Reg. 30(2) of SAST Regulations, 2011, the promoters are required to disclose their aggregate shareholding and voting rights to* *the Stock Exchanges and to the company within 7 days from the end of the respective financial years.*

f. *Based on the submissions of CSE vide its email September 14, 2020 and January 20, 2021, as mentioned above, it is alleged that the promoter entities of Noticees no.1/Company viz. Noticee no.2 to 10 failed to file disclosures to the Stock exchange and to the company in respect of shareholding in the Company. Therefore, it is alleged that the promoter entities of Noticee no.1/Company viz. Noticees no.2 to no.8 (as given in table -1) have violated the provisions of Regulation 30 (1) and 30 (2) r/w 30 (3) of SAST Regulations.*

5. Vide letter dated June 30, 2021, Noticee no. 5 viz. Star Paper Mills Limited made its submissions to the SCN separately. Further, vide letter dated September 30, 2021, the target company viz. ISG Traders Ltd made submissions on behalf of the remaining promoters/Noticees (excluding Noticee no. 5 i.e. Star Paper Mills Limited). The major submissions made by the Noticees vide their aforementioned letters are *inter-alia* summarized as under:

<u>Reply dated June 30, 2021 by Noticee no.5/Star Paper Mills Limited</u>

a. *ln case ISG Traders Ltd have categorized us under 'Promoter/persons acting in concert with him' in their reports/filings, in that case, the major shareholder under the 'Promoter' category I.e M/s Julex Commercial Co. Limited holding 37.40/" shares in the company has been making the required disclosure to be made by the 'Promoter and persons acting in concert with him 'to the Calcutta Stock Exchange under Regulation 30(1) and 30(2) read with Regulation 30(3) of SEBI (SAST) Regulations,2011 at the end of every financial year. Therefore, there is no requirement to make the same disclosure repetitively by each of the company categorized under the -'Promoter and persons acting in concert with him'.*

b. *In view of above, there is no non-compliance by Star Paper Mills Limited in respect of disclosure under Regulation 30(1) and 30(2) read with Regulation 30(3) of SEBI (SAST) Regulations, 2011 as the same has already been disclosed to the exchange as explained above and the Notice served on us as 'Noticee No.-8' may kindly be withdrawn under intimation.*

<u>Reply dated July 31, 2021 by ISG on behalf of the Noticees (excluding Noticee no.5)</u>

a. *We would like to mention that the Company is listed in Calcutta Stock Exchange only, The Exchange is non-functional, and no trading in the shares is taking place. Further in case of ISG Traders Limited, the Promoters are holding 93% of total Equity Capital and* *the shares of the Company are rarely traded. Please note that the shares were last traded in the year 1997. In the given circumstances the non-compliances dealing with updation of Website etc., are merely technical in nature. We agree that such compliances also had to be ensured but practically these are not having significant effect on Public Shareholding per se [there being no such significant non-promoter holding and also shares are quoted only on Calcutta Stock Exchange without any trading.*

b. *In the meantime, the Company is taking steps to clear the outstanding for Listing Fees of the Exchange.*

c. *We hope we have been able to clarify the queries raised to your satisfaction. It is our humble submission that the issues raised vide the Show-Cause Notices, should be understood keeping in view the background explained here - in - above and matters raised should not be pursued further as it is evident that the non-adherence to certain Guidelines in the given situation practically has no significance to the Public Shareholding, causing any loss or disadvantage to them*

d. *In view of the above, we request your good-self to drop the matter since necessary compliances, even if not so relevant, have since been ensured and also not to levy any Penalty on the Company as well as against the Promoters for the same. This will cause undue hardship.*

6. In terms of the Adjudication Rules and in the interest of natural justice, the Noticees were provided with an opportunity of personal hearing in the matter on July 02, 2021 and on October 27, 2021, respectively, through the online Cisco webex platform. On behalf of Noticee no. 5, Mr. Ravi Prakash Mishra and Ms. Nikita Vijay appeared as the Authorized Representatives (hereinafter referred to as '**ARs**') on the stipulated date of hearing i.e July 2, 2021. During the course of hearing, the ARs reiterated the submissions made by Noticee no. 5 in its letter dated June 30, 2021. On behalf of the remaining Noticees i.e Noticee nos. 1, 2, 3, 4, & 6 to 8, one Mr. Rajesh Khandelwal appeared as the Authorized Representative (hereinafter referred to as '**AR**') on the stipulated date of hearing i.e on October 27, 2021. During the course of hearing, the AR reiterated the submissions made by the Noticees vide their letter dated September 30, 2021. Further, the Noticees made additional submissions and *inter alia* stated the following:

<u>*Submissions made by Noticee no.5 vide letter dated August 10, 2021*</u>

a. *It is pertinent to mention at this juncture that it was firmly established by the Hon'ble SAT in Gopalkrishnan Raman vs. SEBI, order dated 20.11.2015 (appeal no. 281 of*

2014), that the intention of Regulation 30 (2) is not to obligate every promoter in the promoter group to make the yearly disclosures, rather, the judgement clearly states that the expression 'promoter' includes Promoter Group and the obligation to make annual disclosure is due on the 'promoter/promoter group' as a whole, and not on each individual promoter in the promoter group – a decision which is directly relevant to the present case.

b. *In the case at hand, the required annual disclosure under Regulation 30 (2) r/w 30 (2) for the FY ended on March 31, 2021 was made by the majority shareholder in the promoter group i.e, M/s Julex Commercial Co. Ltd. on behalf of promoter group entities, including Noticee. Therefore, no case of non-disclosure by Star Paper Mills Ltd (Noticee No. 8) in respect of the above-said disclosure requirements is made out — as due disclosure has been made under the SEBI SAST (Takeover) Regulations, 2011 by the Promoter/ Promoter Group of ISG Traders Ltd (of which Noticee 8 is also a part) in accordance with the settled law.*

c. *It is re-emphasized that in the disclosure made by M/s Julex Commercial Co. Ltd dated 23.04.2021, details of all the constituting entities of the Promoter Group are mentioned — this fact is on record and undisputed.*

d. *In view of the aforesaid facts and the submissions already made by us, we request your good-self to consider the matter in light of the facts, and be kind enough to dispose-off the resent adjudication proceedings without any penal action or regulatory intervention. For this act of kindness, we shall ever be grateful*

<u>Submissions made by Noticees nos 1,2,3,4 and 6 to 8. Vide letter dated November 08, 2021</u>

a. *We further state as per Regulation 31 of LODR, that the disclosure of promoter holdings has been duly submitted by us to Calcutta Stock Exchange Association Ltd., for the quarter ended 30.09.2021*

b. *We are existing since 26.11.1943 and the last time our shares were traded was in the year 1997. We have always been law abiding and with great respect for the law of the land. The promoter holding in our company is 93% which implies that there are hardly any non-promoters invested in our company. The non-compliances are more of technical irregularities due to various circumstances including pandemic which has incapacitated us to a great extent. There has been no adverse effect on the investors qua our company due to such technical glitches. Nevertheless, we are committed to be fully compliant for which we are making earnest and vehement efforts. We request your consideration on these to enable us get back in good stead.*

7. Further, during the course of the proceedings, it was also mentioned by the AR, Mr. Rajesh Khandelwal vide email dated October 27, 2021 that Duncans Industries Limited i.e Noticee no. 2 is under Corporate Insolvency Resolution Process ('CIRP') and a Resolution Professional has been appointed in the matter. In this regard, I note that a public announcement was made by the Resolution Professional on March 08, 2020 under Regulation 6 of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 wherein it was *inter-alia* mentioned that National Company Law Tribunal ('NCLT') had ordered commencement of a corporate insolvency resolution process (CIRP) of Noticee no. 2 i.e Duncans Industries Limited (CIN: L28113WB1994PLC063452) vide its order dated March 05, 2020.

CONSIDERATION OF ISSUES AND FINDINGS

8. I have carefully perused the allegations leveled against the Noticees in the SCN, the reply of the Noticees and also the documents/evidence available on record.
The issues that arise for consideration in the present matter are as follows:-
    I. Whether the Noticees have violated the provisions of Regulations 30 (1) and 30 (2) r/w Regulation 30 (3) of the SAST Regulations?
    II. If yes, whether the violation would attract monetary penalty on the Noticees under the provisions of section 15A (b) of the SEBI Act?
    III. If yes, what should be the quantum of monetary penalty to be imposed upon the Noticees?

9. Before moving forward, the relevant provisions of the SAST Regulations, allegedly violated by the Noticees are mentioned as under:

Regulations 30 (1) and 30 (2) r/w Regulation 30 (3) of SAST Regulations

CONTINUAL DISCLOSURES

30(1) Every person, who together with persons acting in concert with him, holds shares or voting rights entitling him to exercise twenty-five per cent or more of the voting rights in a target company, shall disclose their aggregate shareholding and voting rights as of the thirty-first day of March, in such target company in such form as may be specified.

(2) The promoter of every target company shall together with persons acting in concert with him, disclose their aggregate shareholding and voting rights as of the thirty-first day of March, in such 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 seven working days from the end of each financial year to, —

(a) every stock exchange where the shares of the target company are listed; and

(b) the target company at its registered office

ISSUE No. I: - Whether the Noticees have violated the provisions of Regulations 30 (1) and 30 (2) r/w Regulation 30 (3) of the SAST Regulations?

ISSUE No. II: - If yes, whether the violation committed by the Noticees would attract monetary penalty under the provisions of section 15A (b) of the SEBI Act?

10. In terms of Regulations 30 (1) and 30 (2) r/w Regulation 30 (3) of the SAST Regulations, any person who together with the persons acting in concert with him holds shares entitling him/them to exercise 25% or more of the voting rights in a target company shall disclose their aggregate shareholding and voting rights in the target company as of 31st March, to the target company and also to the concerned stock exchanges where the shares of the target company are listed, within seven (7) working days from the end of each financial year.
11. From the shareholding details filed by Noticee no.1 i.e Julex Commercial Company Ltd on behalf of all the Noticees to CSE on April 23, 2021, a copy of which was also submitted by the Target Company to SEBI during the course of the instant proceeding, it is observed that the persons/entities, as mentioned in Table 1 above, have been mentioned as the promoters/ promoter group of ISG and this aspect has also not been disputed by the Noticees during the course of the present proceedings. Since the Noticees were the promoters/persons coming under the promoter group of ISG, they were also the ‘persons deemed to be acting in concert’ (‘PACs’) within the meaning of regulation 2 (2) (iv) of the SAST Regulations. From the findings /observations made in the examination report and also upon the perusal of the documents submitted by CSE vide its emails dated October 14, 2020 & January 20, 2021, it is noted that the total share capital of ISG during the examination period i.e. from January 2015 to February 2021 was Rs. 16,86,17,780/-, which is represented by 2,28,68,987 equity shares. The details of the individual shareholding of the Noticees in the target company i.e the shareholding of the promoters/promoter group in ISG during the examination period is given in the table below:

Table-2

Sl. No.	Name of the promoter	No. of shares in ISG	Shareholding % in ISG	Total no. of shares of ISG during the examination period
1	Julex Commercial Company Ltd.	85,52,628	37.40%	2,28,68, 987
2	Duncan Industries Ltd	41,28,094	18.05%	
3	Bargate Communication Pvt Ltd.	29,07,927	12.72%	
4	Silent Valley Investments Ltd.	21,14,183	9.24%	
5	Star Paper Mills Ltd.	17,45,786	7.63%	
6	Sewand Investments Pvt. Ltd.	16,94,761	7.41%	
7	Albert Trading Co. Pvt. Ltd.	1,20,368	0.53%	
8	Mr. Gouri Prasad Goenka	111	0.00%	
9	Mrs. Indu Goenka	1	0.00%	
	Total	2,12,63,859	**92.98%**	

12. From the above table, I observe that the collective shareholding of the Noticees (as PACs) in ISG during the examination period was 92.98% and therefore, in terms of Regulations 30 (1) and 30 (2) r/w Regulation 30 (3) of the SAST Regulations, the Noticees were obligated to make the necessary disclosures in respect of their aggregate shareholding and voting rights in the target company as of the thirty-first day of March, to the stock exchange i.e. to CSE and to the target company i.e ISG within seven working days from the end of each financial year. However, it is on record that Noticees have failed to make the necessary disclosures to CSE and to ISG during the relevant period. I also note that the Calcutta Stock Exchange (CSE) vide its emails dated September 14, 2020 and January 20, 2021 have also confirmed the fact that the aforementioned disclosures required under Regulations 30 (1) and 30 (2) r/w Regulation 30 (3) of the SAST Regulations were not made by the Noticees to CSE during the relevant period. Further, the Noticees have also admitted to the fact that they have not made the required disclosures either to CSE or to the target company during the relevant period in terms of Regulations 30 (1) & (2) r/w Regulation 30 (3) of the SAST Regulations.
13. The Noticees have contended that they have made the relevant disclosures to the stock exchange under the provisions of Regulation 31 of SEBI (Listing Obligations and Disclosure Requirements), Regulations, 2015 (hereinafter referred to as **'LODR Regulations'**) for the quarter ended September 2021. The Noticees further contended

that they have been complying with the requirements of the LODR Regulations since the quarter ended March 2021. In this regard, it is noted that the aforesaid disclosures submitted by the Noticees under LODR Regulations were pertaining to the time period September 2021 (i.e quarter ended September 2021), whereas, the violations of SAST Regulations, as alleged in the SCN issued to the Noticees and observed during the examination period were for the period from January 2015 to February 2021. In any case, it is noted that the purpose and scope of the disclosure obligations mandated under the provisions of Regulation 31 of LODR Regulations is totally different from the disclosure obligations prescribed under Regulations 30 (1) & (2) r/w Regulation 30 (3) of the SAST Regulations. The disclosure obligation mandated under Regulation 31 of LODR Regulations obligates every listed entity/company to submit a statement showing holding of securities and shareholding pattern separately for each class of securities to the stock exchange where it is listed whereas, the disclosure obligations cast under Regulations 30 (1) & (2) r/w Regulation 30 (3) of the SAST Regulations obligates every promoter/member belonging to the promoter group of the listed company or persons acting together in concert (holding more than 25% of shareholding), to submit the necessary disclosures in respect of their shareholding to the concerned stock exchange and to the target company within 7 working days from the end of each financial year. Thus, it is evident that the purpose and scope of the disclosure obligation cast under the aforementioned two Regulations are totally different and therefore, the contention of the Noticees that they have not violated the provisions of Regulations 30 (1), 30(2) r/w 30 (3) of SAST Regulations as they have made the relevant disclosures under Regulation 31 of LODR Regulations is baseless and without any merit.

14. In the context of the disclosure obligations required to be made under Regulations 30 (1) and 30 (2) of SAST Regulations, it is pertinent to draw reference to the judgment of Hon’ble SAT in the matter of *Gopalkrishnan Raman vs. SEBI, which was* decided on November 20, 2015 wherein it was held by Hon’ble SAT that :

“..To sum up, the obligation to make yearly disclosure under regulation 8(2) and regulation 30(2) of the Takeover Regulations framed by SEBI in the year 1997 & 2011 respectively is on the promoter/ promoter group. If the promoters of a listed company are individual promoters, then the obligation is on the individual promoters and in case ***there is a ‘promoter group’ then the promoter group is required to make yearly***

***disclosure**.*

***If the promoter group fails to disclose the shares or voting rights held by the promoters in the promoter group as also their PAC's within the time stipulated under the Takeover Regulations, then, penalty is imposable on the promoter group and the said penalty would be recoverable jointly and severally from the promoters in the promoter group who held shares or voting rights in the Target Company with their PAC's.**..."*

15. From the above observations, it is amply clear that the Noticees (who were also PACs) have failed to make the necessary disclosures mandated under Regulations 30 (1) & 30 (2) r/w Regulation 30 (3) of the SAST Regulations during the relevant examination period. In view of the same, I hold that the Noticees have violated the provisions of Regulations 30 (1) & (2) r/w regulation 30 (3) of the SAST Regulations.

16. The contentions of the Noticees that the violations are technical and procedural in nature, the non-compliances have practically no significant effect on public shareholding per- se and there was no harm or adverse effect on the investors due to such irregularities cannot be accepted. It is pertinent to mention that the disclosure requirements under the respective regulations serve very important purposes. In this context, reliance is placed on the judgment of Hon'ble SAT in the matter of Mega Resource Limited vs. SEBI (appeal no. 438 of 2015) decided on September 07, 2017 wherein Hon'ble SAT has held the following:

"..The appellant contends that no prejudice was ever caused to the other shareholders of the company or anyone else as there had been no trade of shares of the Company at the Calcutta Stock Exchange since January 01, 1999.

...In this connection it is pertinent to note that on Appellant's own showing, the Company was listed on the Calcutta Stock Exchange on February 12, 2001, when the appellant acquired the said shares. Since the Company was listed on the Calcutta Stock Exchange on February 12, 2001, the appellant was obliged to comply with the mandatory provisions of the Regulations.

…The Appellant having failed to comply with the statutory provisions of the Regulations, becomes liable to pay the penalty."

17. Therefore, in the facts and circumstances of this case, I am of the view that such

defaults on the part of the Noticees attract the liability to pay penalty as prescribed under Section 15 A (b) of the SEBI Act, which provides as follows : -

SEBI Act

PENALTIES AND ADJUDICATION

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, -*

(a)..

(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 be not 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.

ISSUE No. 3: If yes, what should be the quantum of monetary penalty?

18. For the purpose of adjudication of the penalty, it is relevant to mention that under section 15I of the SEBI Act imposition of penalty is linked to the subjective satisfaction of the Adjudicating Officer. The guidelines in this regard are provided by the legislature in section 15J of the SEBI Act. As per the explanation appended to section 15J, vide Part VIII of Chapter VI of the Finance Act, 2017, which was brought after the Judgment of the Hon'ble Supreme Court in the case of Roofit Industries, while adjudging the quantum of penalty, the adjudicating officer has discretion and such discretion should be exercised having due regard to the factors specified in section 15J of the SEBI Act, which reads as under:-

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 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."

19. Having regard to the factors listed in section 15J, it is noted from the material available on record, any quantifiable gain or unfair advantage accrued to the Noticees or the extent of loss suffered by the investors as a result of the default by the Noticees in this case cannot be computed. At the same time, I cannot lose sight of the fact that timely disclosures to the company /stock exchange as required under the SAST Regulations, are of significant importance from the point of view of the investors and the regulators. I find that Noticees have failed to make the relevant disclosures for six financial years during the examination period. Thus, the default on the part of the Noticees is repetitive in nature.

20. Further, in view of the fact that CIRP has been initiated against Noticee no. 2 i.e Duncans Industries Limited and a moratorium is in force in terms of Section 14 of the Insolvency and Bankruptcy Code, 2016 (IBC), details of which have been mentioned in the preceding paragraph of this order (para 7), it is pertinent to draw reference to the judgment of Hon'ble SAT in the matter of Dewan Housing Finance Corporation Limited (DHFL) vs. SEBI (Appeal no. 206 of 2020), wherein it was held by Hon'ble SAT that where moratorium is declared against a company under Section 14 of IBC, SEBI will have no jurisdiction to institute any proceedings. The said order passed by the Hon'ble SAT in the DHFL matter has been challenged by SEBI before the Hon'ble Supreme Court (CA 3963/2020) and the same is pending. The limited purpose of the instant proceedings is to determine if the Noticee no. 2 along with other Noticees have violated any of the provisions of the securities laws and if so, to assess and determine the penalty in order to enable SEBI to crystallise its claim. The penalty imposed after consummation of these proceedings will be given effect to, depending on the outcome of the aforesaid appeal before the Hon'ble Supreme Court in the DHFL matter. Further, subject to the outcome of the aforesaid appeal before the Hon'ble Supreme Court in the DHFL matter, the monetary penalty imposed (or consequent demand notice or recovery, etc.) will stand crystalized and will enable lodging of claim before the liquidator in the eventuality of failing of resolution plan and consequent initiation of liquidation proceedings.

ORDER

21. Considering all the facts and circumstances of the case and exercising the powers conferred upon me under section 15 I of the SEBI Act read with rule 5 of the

Adjudication Rules, I hereby impose monetary penalty on the Noticees under section 15A(b) of the SEBI Act as given the table below for their violation of the provisions of Regulations 30 (1) & (2) r/w Regulation 30 (3) of the SAST Regulations. In my view, the said penalty is commensurate with the violation committed by the Noticees in the instant matter.

Table-3

Noticee no.	Name of the Noticee	Violations	Provisions under which penalty is imposed	Penalty
Noticee no.1	Julex Commercial Company Ltd.	Regulations 30 (1) & (2) r/w Regulation 30 (3) of the SAST Regulations	Section 15A(b) of the SEBI Act.	Rs. 3,00,000/- (Rupees Three Lakh only) to be paid jointly and severally by the Noticees.
Noticee no.2	Duncan Industries Ltd***			
Noticee no.3	Bargate Communication Pvt Ltd.			
Noticee no.4	Silent Valley Investments Ltd.			
Noticee no.5	Star Paper Mills Ltd.			
Noticee no.6	Sewand Investments Pvt. Ltd.			
Noticee no.7	Albert Trading Co. Pvt. Ltd.			
Noticee no.8	Mr. Gouri Prasad Goenka			

****the said penalty shall stand payable by Noticee no.2 as per observations mentioned in the para 20 of this order.*

22. Noticees shall remit / pay the said total amount of penalty within 45 days of the receipt of this order either by way of Demand Draft in favour of "SEBI- *Penalties Remittable to Government of India*", payable at Mumbai, or by following the path at SEBI website www.sebi.gov.in, ENFORCEMENT > Orders > Orders of AO > PAY NOW; OR by using the web link https://siportal.sebi.gov.in/intermediary/AOPaymentGateway.html. In case of any difficulties in payment of penalties, the Noticees may contact the support at portalhelp@sebi.gov.in.

23. The said confirmation of e-payment made in the format as given in table below should be sent to "The Division Chief, EFD1-DRA-IV, Securities and Exchange Board of India, SEBI Bhavan, Plot no. C- 7, "G" Block, Bandra Kurla Complex, Bandra (E), Mumbai - 400 051" and also to e-mail id:- tad@sebi.gov.in

1. Case Name:	

2. Name of payee:	
3. Date of payment:	
4. Amount paid:	
5. Transaction no.:	
6. Bank details in which payment is made:	
7. Payment is made for: (like penalties/ disgorgement/recovery/ settlement amount and legal charges along with order details)	

24. In terms of the provisions of Rule 6 of the Adjudication Rules, copies of this order are sent to the Noticees and also to the Securities and Exchange Board of India.

Date: January 24, 2022 **Suresh B Menon**

Place: Mumbai **ADJUDICATING OFFICER**