BEFORE THE ADJUDICATING OFFICER
SECURITIES AND EXCHANGE BOARD OF INDIA
ADJUDICATION ORDER NO. Order/GG/VP/2022-23/17226

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

In respect of:
Ashok Kumar Raghurambhai Thakkar HUF
PAN No. AARPT7698E

In the matter of Art Nirman Limited

A. FACTS OF THE CASE

1. Securities and Exchange Board of India (hereinafter referred to as **'SEBI'**) had received an application dated 31.03.2020 from Mr. Ashokkumar Raghuram Thakkar, Mrs. Dharmisthaben Ashokkumar Thakkar, Mr. Piyushkumar Chandrakantbhai Thakkar, Mr. Raghurambhai Varsambhai Thakkar (Acquirers) through Hem Securities Limited, the Manager to the open offer under Regulation 11(1) of SEBI (Substantial Acquisition of Shares and Takeovers) Regulations, 2011 (hereinafter referred to as **'SAST Regulations'**) seeking exemption from the open offer obligation arising out of the conversion of the convertible warrants in Target Company viz, Art Nirman Limited. The said application was rejected vide Order Ref. No. WTM/GM/CFD-DCR-1/43/2020–21 dated 23.10.2020.

2. Pursuant to the aforesaid order dated 23.10.2020, an offer document (letter of offer) was filed by Acquirers through Hem Securities Limited, on 31.12.2020 which was received by SEBI on 18.01.2021. The offer was to acquire 64,88,560 equity shares of face value INR 10/- (Rupees ten) each, representing 26% of the issued, subscribed and paid-up equity share of the target company at a price of INR 22/- (Rupees Twenty-two only) per equity share aggregating to Rs. 14,27,48,320 (Rupees Fourteen Crores Twenty-Seven Lakhs Forty-Eight Thousand Three

Hundred and Twenty only), payable in cash pursuant to SAST Regulations, 2011 and subsequent amendments thereof.

3. During the examination of the open offer document SEBI observed that, Ashok Kumar Raghurambhai Thakkar HUF (hereinafter referred to as **"Noticee"**) had violated Regulation 30(2) read with Regulation 30(3) of SAST Regulations.

B. APPOINTMENT OF ADJUDICATING OFFICER

4. Pursuant to the examination in the matter, SEBI initiated adjudication proceedings and appointed me, as the Adjudicating Officer under section 15-I of the Securities and Exchange Board of India Act, 1992 (hereinafter referred to as the **'SEBI Act'**) read with rule 3 of the SEBI (Procedure for Holding Inquiry and Imposing Penalties) Rules, 1995 (hereinafter referred to as the "**Adjudication Rules**") *vide* order dated 10.12.2021, to inquire into and adjudge under section 15A(b) of the SEBI Act, with respect to the allegation against the Noticee.

C. SHOW CAUSE NOTICE AND REPLY

5. A notice dated 02.06.2022 was issued to the Noticee under rule 4(1) of the SEBI Adjudication Rules to show cause as to why an inquiry should not be initiated against Noticee and why penalty should not be imposed against the Noticee under section 15A(b) of the SEBI Act as alleged therein for the violations brought out against the Noticee. The Notice issued is hereinafter referred to as Show Cause Notice or SCN.

6. The Noticee vide reply dated 15.06.2022 made its submissions in respect of the allegation in the SCN. The relevant portion of the reply is reproduced as under:

   i. *With respect to Para No. 1, the Noticee submits that the contention in the para under reply are a matter of fact and do not warrant any comment. However, the Noticee denies violating any of the provisions/ regulations mentioned therein.*
   ii. *With respect to Para No. 2, the Noticee submits that the contents in the paragraph under reply are a matter of record. However, the Noticee submits that the Adjudicating Officer has been wrongly appointed to inquire and to adjudicate upon the violations alleged in para 1 of the SCN. The Noticee reiterates that there has been no violation of regulation under the SAST Regulation as alleged in para 1 of the SCN.*
   iii. *With respect to Para No. 3 and 4, the contents therein are a matter of fact and does not warrant any further comment. However, since the Noticee did not apply to the convertible*

warrants nor was it considered as Person Acting in Concert in the Offer Document, the facts in the paragraphs under reply are inapplicable to the Noticee.

iv. *With reference to para 5, the Noticee submits that it was required to make a disclosure under regulation 30(2) of the SAST Regulation on or before 07.04.2020 (and not 15.04.2020 as incorrectly mentioned in the Table No. 5 of the SCN). However, the Noticee made the said disclosure on 21.05.2020. Thus, there is a delay of a mere 43 days in compliance of the same. The Noticee clarifies that the delay is of 43 days and not 45 days as incorrectly computed in the SCN.*

v. *The Noticee submits that a nationwide lockdown to contain the spread of COVID-19 Pandemic in the country was imposed from 24.03.2020. Subsequently, guidelines were also issued by the Ministry of Home Affairs vide Order no. 40-3/2020-D dated 24.03.2020. These guidelines inter alia provided closure of all business, offices, industrial establishments, etc. The above containment measures remained in force for 21 days w.e.f. 25.03.2020 and thereafter was extended from time to time.*

vi. *Due to the lockdown and the sharp rise in chain of transmission of the COVID virus, the Karta of the Noticee could not do the necessary filing. The Karta of Noticee was taking utmost precaution of not going to office and interacting with anyone as he is a person with comorbidities. Since the Company's office was shut and further since assistance of Company's company secretary was required to do the necessary filing and no staff was available during the lockdown phase, the Noticee made the necessary filing at the first given opportunity.*

vii. *The Noticee submits that when the lockdown was relaxed, and workforce was available, it then executed the relevant disclosure under regulation 30 of the SAST Regulation, which its peon collected from it and handed over to the Company Secretary for onwards filings. Hence, the necessary filing was done on 21.05.2020.*

viii. *Government of India dated 24.03.2020 imposing lockdown in the country along with the guidelines issued by the Ministry of Home Affairs.*

ix. *In view of the difficulties faced by the public due to the surgent Covid-19 Pandemic, SEBI also issued a circular no. SEBI/HO/CFD/ CMD/CIR/P/2020/48 dated 26.03.2020 so as to relax the compliance requirements of the Listing Regulations, 2015 and the SoP circular.*

x. *Therefore there was an inadvertent delay of a mere 43 days owing to the pandemic. The Noticee thus denies that there has been any willful default of regulation 30(2) read with* Regulation 30(3) of the SAST Regulations. Delay in complying with the said regulation was for reasons beyond the Noticee's control.

D. ISSUES

7. I have perused the submissions put forth by the Noticee regarding alleged violation of SAST Regulations 2011.

8. The issues that arise for consideration is whether Noticee had violated provisions of Regulation 30(2) read with Regulation 30(3) of SAST Regulations? If yes, whether Noticee is liable for monetary penalty under section 15A(b) of the SEBI Act?

9. I note that the Noticee has not disputed the delay in making disclosure under Regulation 30(2) read with Regulation 30(3) of SAST Regulations, 2011. Noticee has highlighted the difficulties caused by Covid-19 pandemic. According to the Noticee the due date of compliance under Regulation 30(2) of SAST Regulations was 07.04.2020 and the same was disclosed on 21.05.2020. The delay in annual disclosure is also admitted. However, with respect to annual disclosures, the Noticee has contended that the delay was on account of Covid 19 and Lockdown which followed the pandemic. I find that the ground pleaded is genuine and reasonable and since the delay is of 45 days only, I am inclined to view the violation with lenience and drop the charges against the Noticee.

E. Conclusion

10. Considering the facts and circumstances of the case as stated above, I am of the view that no monetary penalty is warranted in respect of the allegations levelled in the instant matter. The Show Cause Notice dated 02.06.2022 issued against the Noticee is accordingly disposed of.

11. In terms of Rule 6 of the Adjudication Rules, copies of this order are sent to the Noticee and also to SEBI.

Date: **June 23, 2022**
Place: **Mumbai**

GEETHA G.
ADJUDICATING OFFICER