

**BEFORE THE ADJUDICATING OFFICER
SECURITIES AND EXCHANGE BOARD OF INDIA
ADJUDICATION ORDER NO. ID-7/GBL/RIL/AO/DRK/BM/EAD-3/337/3-2013**

UNDER SECTION 15-I OF SECURITIES AND EXCHANGE BOARD OF INDIA ACT, 1992 READ WITH RULE 5(1) OF SECURITIES AND EXCHANGE BOARD OF INDIA (PROCEDURE FOR HOLDING INQUIRY AND IMPOSING PENALTIES BY ADJUDICATING OFFICER) RULES, 1995

Against

Raj Investments Limited
C/o Arias, Fabrega & Fabrega Trust Co.
BVI Limited, Wirkhama Cay Road
Town Tortola, British Virgin Islands

In the matter of Global Boards Limited

Facts in brief

1. Securities and Exchange Board of India (hereinafter referred to as SEBI) conducted an investigation into the trading in the shares of Global Boards Limited (presently known as Metroglobal Limited and hereinafter referred to as GBL). The investigation revealed that Raj Investments Limited (hereinafter referred to as the noticee), which was a promoter of GBL, failed to make certain disclosures under the Securities and Exchange Board of India (Prohibition of Insider Trading) Regulations, 1992 (hereinafter referred to as the PIT Regulations) and the Securities and Exchange Board of India (Substantial Acquisition of Shares and Takeovers) Regulations, 1997 (hereinafter referred to as the Takeover Regulations).

Appointment of Adjudicating Officer

2. SEBI appointed the Adjudicating Officer in exercise of powers conferred 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 Securities and Exchange Board of India (Procedure for Holding Inquiry and Imposing Penalties by Adjudicating Officer) Rules, 1995 (hereinafter referred to as the Adjudication Rules), to inquire into and adjudge under Sections 15A (b) of SEBI Act, the alleged violation of Regulation 13 (3) of the PIT Regulations and Regulation 8 (2) of the Takeover Regulations, committed by the noticee by not disclosing the change in its shareholding in GBL.

Show Cause Notice, Reply and Hearing

3. A show cause notice (hereinafter referred to as the SCN) dated October 30, 2009 was issued under Rule 4 (1) of the Adjudication Rules, advising the noticee to show cause as to why an inquiry should not be held against it and penalty should not be imposed under Section 15A (b) of the SEBI Act for the aforesaid violations. The SCN alleged that the noticee failed to disclose the reduction in its shareholding in GBL from 2,30,59,317 shares constituting 30.87% as on quarter ended March 2005 to 1,41,92,187 shares constituting 19% as on quarter ended September 2005 and thereby violated Regulation 13 (3) of the PIT Regulations and Regulation 8 (2) of the Takeover Regulations. The SCN was sent by Registered Post to the noticee at the address mentioned above and also at an alternate address namely 4F, Wing Hing House, 36, Wyndham Street, Central, Hong Kong. The SCN sent at the address in Hong Kong came back undelivered with an observation "moved". However, no reply is received from the noticee.
4. Thereafter, a hearing notice dated July 27, 2010 was issued to the noticee at the address of GBL, advising the noticee to appear for a personal hearing before the Adjudicating Officer on August 05, 2010 at SEBI Bhavan, Mumbai. As the noticee did not appear for personal hearing and did not respond to the said hearing notice, another notice dated September 14, 2010 was issued to the noticee at the address of GBL advising the noticee to appear for the personal hearing on September 28, 2010 at SEBI Bhavan, Mumbai and the proof of service is available on record. However, the noticee failed to appear for the personal hearing without providing any reason. Subsequent to my appointment as the Adjudicating Officer, another hearing notice dated May 09, 2012 was issued to the noticee advising the noticee to appear for a personal hearing on May 24, 2012 at SEBI Bhavan, Mumbai, which came back undelivered. Thereafter, another hearing notice dated August 27, 2012 advising the noticee to appear for a personal hearing on September 10, 2012 at SEBI Bhavan, Mumbai was forwarded to GBL with a request to serve the same on the noticee, wherein copies of the SCN and the previous hearing notices issued to the noticee were enclosed. GBL had informed that the address of the noticee as per the records of the Share Transfer Agent of GBL is the same as mentioned above (British Virgin Islands) and also informed that the hearing notice was forwarded by it by

Registered Post to the noticee at the address in British Virgin Islands and submitted the proof of despatch. However, the noticee neither appeared for the personal hearing nor responded to the said hearing notices.

5. The SCN and the hearing notice dated August 27, 2012 were issued by Registered Post at the address as available with the Share Transfer Agent of GBL and the same had not been returned by the postal authorities. A notice sent by registered post is deemed to be delivered to the addressee in the ordinary course of post as per Section 27 of the General Clauses Act, which is reproduced as under:

Section 27 of the General Clauses Act.

Meaning of service by post -

Where any (Central Act) or Regulation made after the commencement of this Act authorizes or requires any document to be served by post, where the expression "serve" or either of the expressions "give" or "send" or any other expression is used, then, unless a different intention appears, the service shall be deemed to be effected by properly addressing pre-paying and posting by registered post, a letter containing the document, and unless the contrary is proved, to have been effected at the time at which the letter would be delivered in the ordinary course of post.

6. In view of the discussions above, the SCN and the hearing notice dated August 27, 2012 issued to the noticee at the address in British Virgin Islands are deemed to have been served on the noticee. Further, the hearing notice dated September 14, 2010 issued at the address of GBL was also acknowledged. However, the noticee neither filed any reply to the SCN nor appeared for the personal hearings granted to it. Therefore, I observe that in the circumstances as mentioned above, it would be appropriate to proceed against the noticee exparte.

CONSIDERATION OF EVIDENCE AND FINDING

7. I have considered the facts and circumstances of the case and the material made available on record. The allegation against the noticee is that it had violated Regulation 13 (3) of the PIT Regulations and Regulation 8 (2) of the Takeover Regulations by failing to make the mandatory disclosures in respect of change of its shareholding in GBL and thereby became liable to a penalty under Section 15A (b) of SEBI Act.
8. The investigation conducted by SEBI in the scrip of GBL revealed that the noticee had reduced its shareholding from 2,30,59,317 shares

constituting 30.87% as on quarter ended March 2005 to 1,41,92,187 shares constituting 19% as on quarter ended September 2005 i.e a reduction of 11.87%. The reduction in shareholding of the noticee is also confirmed from the disclosures made by GBL, available in the website of Bombay Stock Exchange Limited.

9. In this regard, the noticee was required to disclose the reduction in its shareholding/ voting rights in GBL to GBL within 4 working days in terms of Regulation 13(3) of the PIT Regulations. Similarly, the noticee being promoter of GBL was required to disclose the number and percentage of shares or voting rights held by it to GBL within 21 days from the financial year ending March 31, as well as the record date of the company for the purpose of declaration of dividend, in terms of Regulation 8(2) of the Takeovers Regulations. However, there was failure on part of the noticee to make the mandatory disclosures as required under Regulation 13(3) of the PIT Regulations and Regulation 8(2) of the Takeovers Regulations. The said provisions are reproduced as below:

Regulation 13(3) of IT Regulations:

“13 (3) Any person who holds more than 5% shares for voting rights in any listed company shall disclose to the company [in Form C] the number of shares or voting rights held and change in shareholding or voting rights, even if such change results in shareholding falling below 5%, if there had been change in such holding from the last disclosure made under sub-regulation (1) or under this sub-regulation; and such change exceeds 2% of total shareholding to voting rights in the company.”

Regulations 8(2) of the Takeovers Regulations:

“ 8 (2) A promoter or every person having control over a company shall, within 21 days from the financial year ending March 31, as well as the record date of the company for the purposes of declaration of dividend, disclose the number and percentage of shares or voting rights held by him and by persons acting in concert with him, in that company to the company.”

10. Considering the facts and circumstances of the case and the material made available on record and in the absence of any reply from the noticee establishing the contrary, it is concluded that the noticee has violated Regulation 13(3) of the PIT Regulations and Regulation 8(2) of the Takeovers Regulations. Violation of the above provisions attracts penalty under Section 15A (b) of the SEBI Act which is reproduced as under:

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

If any person, who is required under this Act or any rules or regulations made thereunder,-

(b) to file any return or furnish any information, books or other documents within the time specified therefor in the regulations, fails to file return or furnish the same within the time specified therefor in the regulations, he shall be liable to a penalty of one lakh rupees for each day during which such failure continues or one crore rupees, whichever is less.

11. Disclosure requirements are incorporated in securities laws with an objective of bringing out transparency in securities market. The Hon'ble Securities Appellate Tribunal in *Milan Mahindra Securities Private Limited vs SEBI* (Order dated November 15, 2006 Appeal No. 66 of 2003) observed that " *the purpose of these disclosures is to bring about transparency in the transactions and assist the Regulator to effectively monitor the transactions in the market. We cannot therefore subscribe to the view that the violation was technical in nature.*" Therefore, I observe that the failure of the noticee in making the mandatory disclosures is detrimental to the objective of ensuring transparency in the transactions in securities market as envisaged in the PIT Regulations and the Takeover Regulations and hence required to be dealt with accordingly.

12. Section 15J of the SEBI Act lays down the following factors to be considered while adjudging the quantum of penalty.

(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.

13. I have considered the guiding principles laid down under Section 15J of the SEBI Act to determine the quantum of penalty. The amount of disproportionate gain or unfair advantage made by the noticee and the amount of loss caused to the investors as a result of a default of this nature are difficult to quantify.

14. In view of the findings hereinabove and on taking into account the circumstances of the case, I find that a monetary penalty of Rupees Two Lakhs for violation of Regulation 13 (3) of the PIT Regulations and

Rupees Two Lakhs for violation of Regulation 8 (2) of the Takeover Regulations would commensurate with the violations.

Order

15. In exercise of the powers conferred upon me under section 15-I of the SEBI Act, 1992 read with Rule 5 of the Securities and Exchange Board of India (Procedure for Holding Inquiry and Imposing Penalties by Adjudicating Officer) Rules, 1995, I hereby impose a consolidated monetary penalty of ₹ 4,00,000/- (Rupees Four Lakhs only) on the noticee, namely Raj Investments Limited, for violation of Regulation 13 (3) of the PIT Regulations and Regulation 8 (2) of the Takeover Regulations read with Section 15A (b) of the SEBI Act, 1992.
16. The noticee shall pay the said amount of penalty by way of Demand Draft in favour of "SEBI- Penalties Remittable to Government of India", payable at Mumbai within 45 days of receipt of this order. The said demand draft shall be forwarded to the Division Chief, Investigation Department- ID7, Securities and Exchange Board of India, SEBI Bhavan, Plot No. C4-A, "G" Block, Bandra Kurla Complex, Bandra (East), Mumbai-400051, India.
17. In terms of Rule 6 of the Adjudication Rules, copies of this order are being sent to Raj Investments Limited and also to the Securities and Exchange Board of India.

Place: Mumbai
Date: January 18, 2013

D. RAVIKUMAR
CHIEF GENERAL MANAGER &
ADJUDICATING OFFICER