

**BEFORE THE ADJUDICATING OFFICER  
SECURITIES AND EXCHANGE BOARD OF INDIA  
ADJUDICATION ORDER NO. EAD-7/BJD/NJMR/2018-19/1732**

**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 BY ADJUDICATING OFFICER) RULES, 1995**

In respect of  
**Krupa Agencies Private Ltd.,  
(Presently known as Padmavati Properties & Trust Private Ltd.,)  
PAN: AADCP0335P  
234/3A, AJC Bose Road  
FMC Fortune, Unit A-4, 3<sup>rd</sup> Floor  
Kolkata – 700020.**

In the matter of Polar Pharma India Ltd.,

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**BACKGROUND**

1. Securities and Exchange Board of India (hereinafter referred to as '**SEBI**') conducted an investigation in the scrip of Polar Pharma India Ltd., (hereinafter referred to as "**PPIL**" / "**Company**") to ascertain any price or volume manipulation by certain entities in violation of SEBI Act, 1992 and SEBI (Prohibition of Fraudulent and Unfair Trade Practices Relating to Securities Market) Regulations, 2003 during the period July 4, 2005 to September 13, 2005 (hereinafter referred to as "**investigation period**").
2. During the investigation, it was inter-alia observed by SEBI that one of the major shareholders of PPIL i.e., Krupa Agencies Private Ltd., (*presently known as Padmavati Properties & Trust Private Ltd.,*) {hereinafter referred to as the "**Noticee**"} which was holding 12,03,480 shares as on May 1, 2005 (*equivalent to 10.05% share capital of PPIL*), had made delayed disclosures under Regulation 13 (3) of SEBI (Prohibition of Insider Trading) Regulations, 1992, pursuant to change in shareholding of 2% total shareholding. Therefore, it was alleged that the Noticee had violated the provisions of Regulation 13 (3) of SEBI

(PIT) Regulations, 1992 read with Regulation 12 (2) of SEBI (PIT) Regulations, 2015.

### **APPOINTMENT OF ADJUDICATING OFFICER**

3. Pursuant to investigation, SEBI initiated Adjudication Proceedings against the Noticee and appointed Shri Nagendraa Parakh as the Adjudicating Officer vide Order dated February 6, 2017 under Section 19 of SEBI Act read with Sub-section (1) of Section 15-I of the SEBI Act, 1992 and Rule 3 of SEBI (Procedure for Holding Inquiry and Imposing Penalties by Adjudicating Officer) Rules, 1995 (hereinafter referred to as “**Adjudicating Rules**”) to inquire into and adjudge under Section 15A(b) of SEBI Act for the alleged violation of the provisions of SEBI (PIT) Regulations by the Noticee. Pursuant to internal restructuring, the undersigned has been appointed as Adjudicating Officer vide Order dated June 27, 2017.

### **SHOW CAUSE NOTICE, REPLY AND HEARING**

4. A Show Cause Notice (hereinafter referred to as “SCN”) bearing ref. no. EAD/BJD/NJMR/15209/2018 dated May 23, 2018 was served upon the Noticee, under Rule 4 of SEBI Adjudicating Rules to show cause as to why an inquiry be not held against it in terms of Rule 4 of the Adjudicating Rules and penalty be not imposed under section 15 A (b) of SEBI Act, 1992 for the violation alleged to have been committed by it. I note from the India Post records that the SCN was delivered to the Noticee on May 28, 2018. As per the SCN, the reply, if any, should have been submitted by the Noticee within 14 days from the date of receipt of the SCN.
5. However, I note that there was no reply received from the Noticee. Therefore, vide Notice dated June 28, 2018, in terms of Rule 4 (4) of Adjudicating Rules, an opportunity of personal hearing was granted to the entity on July 16, 2018. I note that the Notice of hearing was delivered to the Noticee on July 20, 2018. The Noticee vide letter dated June 22, 2018 authorized Argus Partners

(hereinafter referred to as “**Authorized Representative / AR**”) to submit reply and appear for personal hearing on its behalf. The AR vide letter dated June 22, 2018 (received on June 28, 2018) submitted that the facts and circumstances referred to in the SCN pertains to events dating back to more than 12 years and therefore sought additional time to understand the implications of the allegations and to retry the underlying data. Vide the aforesaid letter, the AR sought inspection of documents and copies of all the documents on the basis of which SCN was issued. In response to the notice of hearing dated June 28, 2018, the AR vide letter dated July 6, 2018 reiterated its submissions made by it vide its letter dated June 22, 2018. The Noticee, vide email dated July 11, 2018 was informed to carryout inspection of documents by July 20, 2018 and to submit its reply to the charges alleged in the SCN, by July 31, 2018.

6. I note that the Noticee had carried out inspection of documents on November 19, 2018. Since there was no reply filed by the Noticee, vide email dated November 27, 2018 the Notice was given an opportunity to file its reply by December 5, 2018. The Noticee vide its letter dated November 29, 2018 submitted its reply, which is summarized hereunder:

*(a) The allegations made in the SCN pertains to the period between July 4, 2005 and September 13, 2005, whereas the SCN was issued for the first time in the year 2018 i.e., after more than 12 years from the period when the violation is alleged to have occurred. Such a long delay in initiation of the proceedings in itself poses grave difficulties and extreme hardship in conduct of defence of the Noticee. The Noticee places reliance on the Order of Hon'ble SAT dated March 31, 2008 in the matter of Libord Finance Ltd., Vs SEBI.*

*(b) It is submitted that the Noticee had made relevant disclosure to the company. Further, it must be noted that as per the statement dated March 7, 2011 made under oath by Mr. O P Agrawal, Director of the Noticee, the Company had itself arranged for some of the buyers for the off-market sales, which clearly shows that the Company was well aware of the change in the shareholding of the Noticee. PPIL was well aware of the change in the shareholding of the Noticee, given that the same was required to be disclosed under quarterly shareholding pattern in accordance with Clause 35 of the erstwhile Listing Agreement to be sent to the Stock Exchanges.*

- (c) *In accordance with Regulation 13 (3) of SEBI (PIT) Regulations, 1992, the Company was specifically informed by the Noticee regarding the change in its shareholding. However, since the records pertain to a period dating back to more than 12 years, the Noticee neither possesses a copy of the disclosure made to the Company nor under any statutory obligation to retain the same.*
- (d) *In terms of Regulation 13 (6) of the SEBI (PIT) Regulations, 1992, PPIL is under obligation to disclose to all Stock Exchanges on which the Company is listed, the information so received. However, in the instant case, it is noted that the Company had not made any such disclosure and therefore PPIL has violated the provisions of Regulation 13 (6) of SEBI (PIT) Regulations, 1992. Since, PPIL has not been charged with violating the provisions of SEBI (PIT) Regulations, no action ought to be taken against the Noticee.*
- (e) *In terms of Section 15 I (2) and Rule 4 (6) of Adjudicating Rules, it is requested that the Company be summoned to produce the relevant information pertaining to disclosure made by the Noticee to the Company with regard to change in its shareholding.*
- (f) *It is submitted that there is no pecuniary advantage that has occurred to the Noticee due to the alleged non-disclosure.*
- (g) *Without prejudice to the submissions made by the Noticee and without accepting any of the allegations contained in the SCN, for the sake of argument, even if it was to be admitted that the Noticee had failed to make the requisite disclosure under Regulation of 13 (3) of SEBI (PIT) Regulations, 1992, it is submitted that the provisions as contained in the Section 15J of the SEBI Act, may be considered.*
- (h) *The Noticee would like to place reliance on the Adjudication Orders dated December 20, 2017, February 2, 2018 and May 14, 2018 passed by Ld., Adjudicating Officer in similar matters, wherein an amount of ₹ 1,00,000/- penalty was only levied by the Adjudicating Officers.*
- (i) *The alleged delay in disclosure of change in shareholding was 4 months and 1 month only with respect to the transactions carried out on July 7, 2005 and October 21, 2005 respectively, wherein the change in shareholding exceeded 2% of the share capital of the Company.*
- (j) *The Noticee had held the shares for such a long time clearly shows that it had no fraudulent or illegal intention behind the sale transaction during the aforesaid period.*
- (k) *Given the fact that SEBI had imposed nominal penalty in cases where non-disclosure was established, it is requested to consider the facts in the present matter, where there was a delay in disclosures, and discharge the*

*Noticee from liabilities of any sort given that the Noticee had made relevant disclosures to the Company.*

7. In terms of Rule 4 (4) of Adjudicating Rules, an opportunity of personal was granted to the Noticee on December 10, 2018, which was communicated vide email dated December 3, 2018. The AR vide letter dated December 7, 2018 submitted that, without admitting any allegations, in order to avoid expending persistent time and associated costs on this very old matter, the Noticee is in the process of applying for settlement of the proceedings under the SEBI (Settlement of Administrative and Civil Proceedings) Regulations, 2014 and will be approaching SEBI for the same shortly. The AR vide the aforesaid letter requested to postpone continuance of Adjudication proceedings until the settlement proceedings are disposed of and to keep the proceedings in the aforesaid matter abeyance.
8. I note that it has been more than one week since the Noticee submitted that it will file an application for settlement of the current proceedings, yet the Noticee failed to file the same, which has been confirmed by the Settlement Division of SEBI. In this connection, it is pertinent to note that pursuant to serving the SCN on the Noticee on May 28, 2018, the Noticee was required to furnish its reply within 14 days from the date of receipt of the SCN i.e., by June 11, 2018. However, no reply was filed by the Noticee within the stipulated period. Hence, vide letter dated June 28, 2018, the Noticee was given an opportunity to avail personal hearing on July 16, 2018. In reply, the Noticee vide letters dated June 22, 2018 and July 6, 2018 sought inspection of documents, which was duly acceded to. Vide email dated July 11, 2018, the Noticee was informed to carry out inspection of documents by July 20, 2018 and to furnish its reply thereafter by July 31, 2018. I note that the Noticee failed to carry out inspection of documents and also failed to furnish its reply within the stipulated timeframe. Therefore, the Noticee was once again given an opportunity to carry out inspection of documents, which was undertaken by the Noticee on November 19, 2018. Pursuant to inspection of documents, the Noticee filed its reply vide letter dated November 29, 2018.

9. From the sequence of events, I note that the Noticee filed its reply to the charges alleged in the SCN, after 6 months from the date of receipt of SCN. The Noticee carried out inspection of documents after 4 months from the date of conveying the decision. I note that there has been considerable delay on the part of the Noticee to respond to the charges alleged in the SCN and to carry out inspection of documents. The Noticee pursuant to filing of reply, conveyed its intention to file an application for settlement, which has not been done so far. Therefore, I am of the view that sufficient time has been provided to the Noticee to furnish its reply, to carry out inspection of documents, avail an opportunity of personal hearing and to file consent application, yet the Noticee delayed in complying with the same at all times and till date no application for settlement has been filed by the Noticee. Therefore, I am inclined to proceed further in the matter without loss of time and resources, based on the reply filed by the Noticee to the charges alleged in the SCN and the documents made available to me.

## **CONSIDERATION OF ISSUES**

10. I have taken into consideration the facts and material available on record. I observe that the allegation levelled against the Noticee is that it has made delayed disclosures under the relevant provisions of SEBI (PIT) Regulations, 1992.

After perusal of the material available on record, I have the following issues for consideration, viz.,

- a. Whether the Noticee has violated the provisions of Regulation 13 (3) of SEBI (PIT) Regulations, 1992 read with Regulation 12 (2) of SEBI (PIT) Regulations, 2015?*
- b. Does the violation, if any, attract monetary penalty under Section 15A (b), of SEBI Act.?*

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

**ISSUE-1: Whether the Noticees have violated the relevant provisions of Regulation 13 (3) of SEBI (PIT) Regulations, 1992 read with Regulation 12 (2) of SEBI (PIT) Regulations, 2015?**

11. Before moving forward, it is pertinent to refer to the relevant provisions of SEBI (PIT) Regulations 1992 & 2015, alleged to have been violated by the Noticee, which reads as under:

**Regulation 13 (3) of SEBI (PIT) Regulations, 1992**

*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 has been change in such holdings from the last disclosure made under sub-regulation (1) or under this sub-regulation; and such change exceeds 2% of total shareholding or voting rights in the company.*

**Regulation 12 (2) of SEBI (PIT) Regulations, 2015**

*(1) The Securities and Exchange Board of India (Prohibition of Insider Trading) Regulations, 1992 are hereby repealed.*

*(2) Notwithstanding such repeal,—*

*(a) the previous operation of the repealed regulations or anything duly done or suffered thereunder, any right, privilege, obligation or liability acquired, accrued or incurred under the repealed regulations, any penalty, forfeiture or punishment incurred in respect of any offence committed against the repealed regulations, or any investigation, legal proceeding or remedy in respect of any such right, privilege, obligation, liability, penalty, forfeiture or punishment as aforesaid, shall remain unaffected as if the repealed regulations had never been repealed; and*

*(b) anything done or any action taken or purported to have been done or taken including any adjudication, enquiry or investigation commenced or show-cause notice issued under the repealed regulations prior to such repeal, shall be deemed to have been done or taken under the corresponding provisions of these regulations;*

12. I note that the Noticee was one of the major shareholders of PPIL holding 12,03,480 shares as on May 1, 2005, which was equivalent to 10.05% share

capital of PPIL. The change in shareholding of the Noticee during the period May 2, 2005 to October 21, 2005 is furnished hereunder.

| Date  | No of shares held - pre Acquisition/disposal | % of share capital held - pre Acquisition/disposal | No of shares Acquired / (disposed off) | No of shares Acquired/(disposed off) as a % of paid up capital | Value of transaction (Rs. lacs) | Cumulative since last disclosure (no or shares or value in lakhs or % change) | No of shares held - post Acquisition/disposal | % of share capital held - post Acquisition/disposal | Mode (*)   | Disclosure by Acquirer under 13(3) or 13(4) of PIT | Disclosure by Company under 13(6) PIT | Date by which disclosure reqd. |
|---|--|--|--|--|---------------------------------|---|---|---|------------|--|---------------------------------------|--------------------------------|
| <b>Krupa Agencies Pvt., Ltd.,</b>   |  |  |  |  |                                 |   |   |   |            |  |                                       |                                |
| 2.5.2005  | 1,203,480                                    | 10.05  | -17,000                                | -0.14  | 3.5                             | 0.14  | 1,186,480                                     | 9.67  | O-M        | 19.11.2005   | 22.11.2005                            |                                |
| 13.6.2005   | 1,186,480                                    | 9.67   | -25,000                                | -0.21  | 5.0                             | 0.35  | 1,161,480                                     | 9.47  | O-M        | 19.11.2005   | 22.11.2005                            |                                |
| 14.6.2005   | 1,161,480                                    | 9.47   | -25,750                                | -0.22  | 5.0                             | 0.57  | 1,135,730                                     | 9.26  | O-M        | 19.11.2005   | 22.11.2005                            |                                |
| 14.6.2005   | 1,135,730                                    | 9.26   | -25,750                                | -0.22  | 5.0                             | 0.79  | 1,109,980                                     | 9.05  | O-M        | 19.11.2005   | 22.11.2005                            |                                |
| 16.6.2005   | 1,109,980                                    | 9.05   | -20,250                                | -0.17  | 4.6                             | 0.96  | 1,089,730                                     | 8.88  | O-M        | 19.11.2005   | 22.11.2005                            |                                |
| 16.6.2005   | 1,089,730                                    | 8.88   | -15,000                                | -0.13  | 3.0                             | 1.09  | 1,074,730                                     | 8.76  | O-M        | 19.11.2005   | 22.11.2005                            |                                |
| 17.6.2005   | 1,074,730                                    | 8.76   | -15,250                                | -0.13  | 3.0                             | 1.22  | 1,059,480                                     | 8.63  | O-M        | 19.11.2005   | 22.11.2005                            |                                |
| <b>7.7.2005</b>   | <b>1,059,480</b>                             | <b>8.63</b>  | <b>-96,500</b>                         | <b>-0.81</b>   | <b>23.9</b>                     | <b>2.03</b>   | <b>962,980</b>                                | <b>7.85</b>   | <b>O-M</b> | <b>19.11.2005</b>                                  | <b>22.11.2005</b>                     | <b>13.07.2005</b>              |
| 15.7.2005   | 962,980                                      | 7.85   | -23,500                                | -0.20  | 7.4                             | 0.2   | 939,480                                       | 7.66  | O-M        | 19.11.2005   | 22.11.2005                            |                                |
| 21.7.2005   | 939,480                                      | 7.66   | -7,500                                 | -0.06  | 2.49                            | 0.26  | 931,980                                       | 7.6   | O-M        | 21.11.2005   | 23.11.2005                            |                                |
| 6.8.2005  | 931,980                                      | 7.60   | -13,250                                | -0.11  | 4.97                            | 0.37  | 918,730                                       | 7.49  | O-M        | 21.11.2005   | 23.11.2005                            |                                |
| 30.8.2005   | 918,730                                      | 7.49   | -500                                   | 0.00   | .27                             | 0.37  | 918,230                                       | 7.48  | M          | 21.11.2005   | 23.11.2005                            |                                |
| 31.8.2005   | 918,230                                      | 7.48   | -1,000                                 | -0.01  | 0.53                            | 0.38  | 917,230                                       | 7.47  | M          | 21.11.2005   | 23.11.2005                            |                                |
| 1.9.2005  | 917,230                                      | 7.47   | -1,300                                 | -0.01  | 0.71                            | 0.39  | 915,930                                       | 7.46  | M          | 21.11.2005   | 23.11.2005                            |                                |
| 2.9.2005  | 915,930                                      | 7.46   | -680                                   | -0.01  | 0.37                            | 0.4   | 915,250                                       | 7.46  | M          | 21.11.2005   | 23.11.2005                            |                                |
| 5.9.2005  | 915,250                                      | 7.46   | -135,000                               | -1.10  | 75.99                           | 1.5   | 780,250                                       | 6.36  | M          | 21.11.2005   | 23.11.2005                            |                                |
| 6.9.2005  | 780,250                                      | 6.36   | -25,000                                | -0.20  | 14.67                           | 1.7   | 755,250                                       | 6.15  | M          | 21.11.2005   | 23.11.2005                            |                                |
| 9.9.2005  | 755,250                                      | 6.15   | -20,000                                | -0.16  | 12.00                           | 1.86  | 735,250                                       | 5.98  | M          | 21.11.2005   | 23.11.2005                            |                                |
| <b>21.10.2005</b>   | <b>735,250</b>                               | <b>5.98</b>  | <b>-224,050</b>                        | <b>-1.83</b>   | <b>10.02</b>                    | <b>3.69</b>   | <b>511,200</b>                                | <b>4.17</b>   | <b>M</b>   | <b>21.11.2005</b>                                  | <b>23.11.2005</b>                     | <b>27.10.2005</b>              |
| <i>M-On market : O-M off market The transaction for which disclosures were required are bold and highlighted above.</i> |  |  |  |  |                                 |   |   |   |            |  |                                       |                                |

13.I note from the above table that on July 7, 2005 and October 21, 2005, the shareholding of the Noticee changed by 2.03% and 3.69%, pursuant to sale of 96,500 shares and 2,24,050 shares respectively, which triggered the disclosure requirement under Regulation 13 (3) of SEBI (PIT) Regulations. As per Regulation 13 (3) of SEBI (PIT) Regulations, 1992, the Noticee, who is holding more than 5% of shareholding of PPIL, upon change in more than 2% of total shareholding was required to inform the change in shareholding to the



Company within two days from the date of sale of shares. However, I note that the Noticee pursuant to sale of 96,500 shares on July 7, 2005 had disclosed to the Company of the change in its shareholding on November 11, 2005 i.e., with a delay of approximately four months. In respect of sale of 2,24,050 shares on October 21, 2005, the Noticee had made disclosures to the Company on November 21, 2005 i.e., with a delay of one month. The Noticee contended that it had made the requisite disclosures to the Company in accordance with the provisions of Regulation 13 (3) of SEBI (PIT) Regulations, 1992. I note that the Noticee has failed to justify its contention with any documentary proof. Therefore, in the absence of any documentary proof, I am inclined to hold that the Noticee had made delayed disclosures to the Company pursuant to change in shareholding of more than 2% of shareholding.

14. The Noticee in its submissions had contended that the SCN was issued after 12 years of the transactions, which has caused violation of principles of natural justice. In this connection, I deem it appropriate to refer to the observations made by Hon'ble SAT in the matter of Vaman Madhav Apte & Ors. Vs. SEBI vide Order dated March 04, 2016, which reads as follows

*“Argument of the appellants that the proceedings initiated against the appellants suffer from gross delay and laches and, therefore, the impugned order is liable to be quashed and set aside is without any merit, because firstly, neither the SEBI Act nor the regulations framed thereunder prescribe any time limit for initiating proceedings against the persons who have violated the securities laws. Secondly, neither the SEBI Act nor the regulations framed thereunder provide that if there is delay in initiating proceedings, no action can be taken against the person who has committed violations of the securities laws.”*

15. In view of the aforesaid observations of the Hon'ble SAT, I am not inclined to take a different view and hold that the principles of natural justice have been duly complied with in the instant proceedings and no prejudice has been caused to the Noticee.

16. The Noticee claimed that the change in its shareholding had reflected in the quarterly shareholding filed by the Company at the end of the respective quarters during the period under investigation. I note that shareholding pattern broadly indicates the changes in shareholding pattern and does not specify the details of changes and nature of changes in shareholding i.e. either market sale or off market sale of the promoters / directors / major shareholders. The sale of shares by the Noticee in excess of more than 2% of share capital in the market and off-market, which was not available in public domain within the timeframe specified under SEBI (PIT) Regulations. SEBI (PIT) Regulations specifically provides for the manner and timing of disclosure to be made by promoters, substantial shareholders and person who have control over the company. Such specific disclosures are timely disseminated by stock exchanges for public information. Therefore, I am of the view that disclosure of shareholding pattern cannot be a substitute to the mandatory specific requirements under SEBI (PIT) Regulations which are timely required to be disclosure and available to public within 2 days from the date of acquisition or sale. Further, I note that shareholding patterns filed every quarter are available in public domain only at the end of each quarter as against disclosures under SEBI (PIT) Regulations which are event based. Therefore, I am not inclined to accept the submission of the Noticee that it's change in shareholding of more than 2% was already available in public domain, through the quarterly submissions filed by the company. The disclosure mandated under SEBI (PIT) Regulations facilitates such transparency and promptness in making available all relevant information regarding dealing of promoters, substantial shareholders, to enable investors to take informed decisions.

17. The submission of the Noticee that the delay on its part in disclosing change in more than 2% of shareholding has neither caused any loss to any investor nor has any pecuniary advantage occurred to the Noticee. In this regard, I would like to draw reference to the Hon'ble SAT's observation in the matter of Komal Nahata Vs. SEBI (Order dated January 27, 2014), which reads as under:

*“Argument that no investor has suffered on account of non-disclosure and that the AO has not considered the mitigating factors set out under*

*Section 15-J of the SEBI Act, 1992 is without any merit because firstly penalty for non-compliance of SAST Regulations, 1997 and PIT Regulations, 1992 is not dependent upon the investors actually suffering on account of such non-disclosure”.*

In view of the above, I find no merit in the contention of the Noticee that delay in disclosure had not caused any loss to investors.

18. In view of the foregoing I conclude that the Noticee by making delayed disclosures of its change in shareholding of more than 2% of share capital, had violated the provisions of Regulation 13 (3) of SEBI (PIT) Regulations, 1992 read with Regulation 12 (2) of SEBI (PIT) Regulations, 2015.

**ISSUE – 2: Does the violation, if any, attract monetary penalty under Section 15A(b) of SEBI Act.?**

19. It is a well-known fact and practice that as per the requirements of SEBI (PIT) Regulations, there is a requirement of timely disclosure of change in shareholding beyond certain threshold by Promoter / Director / Major Shareholder. It is obligatory on the part of the Promoter / Director / Major Shareholding to make timely disclosures to the Company. By not making the requisite disclosures under SEBI (PIT) Regulations within the timeframe, the Noticee has failed to comply with the statutory requirements of Law. The timely disclosure is mandated under these Regulations for the benefit of the investors at large. There can be no dispute that compliance with the provisions of the Regulations is mandatory and it is the duty of SEBI to enforce compliance of these Regulations. Timeliness is the essence of disclosure and delayed disclosure would serve no purpose at all.

20. As the violation of the statutory obligation under the provisions respective Regulations of SEBI (PIT) Regulations has been established against the Noticee, the Noticee is liable for monetary penalty under Section 15 A (b) of SEBI Act, the provisions of which reproduced hereunder.

**Penalty for failure to furnish information, return, etc.**

**Section 15A of SEBI Act**– *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*

**ISSUE – 3 -        If so, what would be the monetary penalty that can be imposed taking into consideration the factors mentioned in Section 15J of SEBI Act?**

21. While determining the quantum of monetary penalty under Section 15 A (b) of SEBI Act, I have considered the factors stipulated in Section 15-J of SEBI Act, which reads as under:

*Section 15J - Factors to be taken into account by the Adjudicating Officer*

*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.*

22. The material made available on record has not quantified the amount of disproportionate gain or unfair advantage made by the Noticee and the loss suffered by the investors as a result of the Noticee's default. There is also no material made available on record to assess the amount of loss caused to investors or the amount of disproportionate gain or unfair advantage made by the Noticee as a result of default. However, it is important to note that timely disclosure of information, as prescribed under the statute, is an important

regulatory tool intended to serve a public purpose. Timely disclosures are also an essential part of the proper functioning of the securities market and failure to do so prevents investors from taking a well-informed investment decision.

23. Therefore, I am not inclined to view the lapse on the part of the Noticee leniently and consider it necessary to impose monetary penalty which would act as deterrent to the Noticee in future.

### ORDER

24. Having considered all the facts and circumstances of the case, I, in exercise of the powers conferred upon me under Section 15I of the SEBI Act read with Rule 5 of the Adjudicating Rules, hereby impose a penalty ₹ 2,00,000/- (Rupees Two Lakhs only) on the Noticee i.e., Krupa Agencies Private Ltd., (*presently known as Padmavati Properties & Trust Private Ltd.*) under Section 15 A (b) of SEBI Act for violation of the provisions of Regulation 13 (3) of SEBI (PIT) Regulations, 1992 read with Regulation 12 (2) of SEBI (PIT) Regulations, 2015.

25. The said penalty imposed on the Noticee, as mentioned above, shall commensurate with the violation committed and acts as a deterrent factor for the Noticee and others in protecting the interest of investors.

26. 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 e-payment facility into Bank Account the details of which are given below:

Account No. for remittance of penalties levied by Adjudicating Officer

|                    |  |
|--------------------|--|
| Bank Name          | State Bank of India                                |
| Branch             | Bandra-Kurla Complex                               |
| RTGS Code          | SBIN0004380  |
| Beneficiary Name   | SEBI – Penalties Remittable To Government of India |
| Beneficiary A/c No | 31465271959  |

27. The Noticee shall forward said Demand Draft or the details / confirmation of penalty so paid through e-payment to the Deputy General Manager, Enforcement Department-1, DRA-4, SEBI, in the format as given in table below

|   |         |
|---|---------|
| 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 and legal charges along with order details) | Penalty |

28. In terms of Rule 6 of the Adjudicating Rules, copies of this Order are sent to the Noticee i.e., Krupa Agencies Private Ltd., (*presently known as Padmavati Properties & Trust Private Ltd.,*) and also to SEBI.

**Date: 18 December 2018**

**Place: Mumbai**

**B J DILIP**

**Adjudicating Officer**