

BEFORE THE ADJUDICATING OFFICER
SECURITIES AND EXCHANGE BOARD OF INDIA

[ADJUDICATION ORDER NO. EAD-5/SVKM/AO/58-62/2017-18]

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 THE MATTER OF SUNGOLD CAPITAL LIMITED.

In respect of

| Sr. No. | Name of entity | PAN | Address | Order No. |
|---------|---------------------------|------------|--|--------------------------|
| 1 | Smt. Shilpa Amit Kotia | AHEPK2567R | 2/B, State Bank Staff Colony, Near Navrang School, Naranpura, Ahmedabad – 380013 | EAD-5/SVKM/AO/58/2017-18 |
| 2 | Shri Dhaval Ramesh Kotia | ADUPK0459Q | | EAD-5/SVKM/AO/59/2017-18 |
| 3 | Smt. Shwetha Dhaval Kotia | AHEPK2566Q | | EAD-5/SVKM/AO/60/2017-18 |
| 4 | Smt. Seema Rajiv Kotia | ABHPK6019M | A/73, Avani Complex, Near Naranpura Bus Stop, Naranpura, Ahmedabad – 380013 | EAD-5/SVKM/AO/61/2017-18 |
| 5 | Shri Ravi Rajiv Kotia | AUEPK3142K | | EAD-5/SVKM/AO/62/2017-18 |

BACKGROUND

- Securities and Exchange Board of India (*hereinafter referred to as “SEBI”*) conducted investigation into the irregular trading of certain entities in the scrip of Sungold Capital Limited (*hereinafter referred to as “The Company/Scrip”*). It was observed that, during the quarter ended June 2009, Smt. Shilpa Amit Kotia, Shri Dhaval Ramesh Kotia, Smt. Shwetha Dhaval Kotia, Smt. Seema Rajiv Kotia and Shri Ravi Rajiv Kotia (*hereinafter referred to individually as ‘Noticee no. 1 to 5’ and collectively as “Noticees”*) being deemed to be Person Acting Concert (PAC) holding more than 15% share Capital of

Sungold Capital Limited. It was alleged that the noticees being deemed to be PACs, had failed to make timely disclosures pertaining to change in their shareholding more than 2% of share Capital of Sungold Capital Limited during the period April to June 2009 to the Company as well to the Stock Exchanges under Regulation 7 (1A) read with Regulation 7 (2) of SEBI (Substantial Acquisition of Shares and Takeovers) Regulations, 1997 (*hereinafter referred to as 'SAST Regulations'*)

APPOINTMENT OF ADJUDICATING OFFICER

2. The undersigned was appointed as Adjudicating Officer (**AO**) vide Proceedings dated June 30, 2015 to inquire into and adjudge under Section 15A (b) of SEBI Act, 1992, the aforesaid alleged violations by the noticees.

SHOW CAUSE NOTICE, REPLY AND PERSONAL HEARING

3. Show Cause Notice dated September 30, 2015 (*hereinafter referred to as "SCN"*) was issued to the noticees in terms of Rule 4 of SEBI (Procedure for holding inquiry and imposing penalties by Adjudicating Officer) Rules, 1995 (*hereinafter referred to as 'SEBI Adjudication Rules'*) read with Section 15I of SEBI Act, 1992, to show cause as to why an inquiry should not be initiated and penalty be not imposed under Section 15A (b) of SEBI Act, 1992, for contravention of the provisions of Regulation 7 (1A) read with Regulation 7 (2) of SEBI (SAST) Regulations, 1997 by noticees.
4. No replies to SCN were submitted by the noticees. Noticees were granted opportunity of personal hearing. Shri Amit Rameshchandra Kotia, Authorized Representative, who is also relative of the noticees appeared on behalf of the noticees on February 17, 2016 and made the following submissions:-
 - That the economic conditions of the family after 2001 earthquake in Gujarat were worsened, they could not recover from the same.

- As regards allegations against the Noticees for the violations under Regulation 7 (1A) of SEBI (SAST) Regulations, 1997 that they failed to inform the stock exchange about the change in their shareholding from 22.39% as on March 2008 to 13.42 % as on September 2009, it was submitted that the sale was necessitated for the family financial requirements. They could not inform stock exchange due to ignorance and as they were preoccupied with financial problems.
5. Vide letter dated April 26, 2017, noticees were given another opportunity of making additional written submissions, if any. Vide separate letters dated 10.05.2017 noticees filed response to the said letter dated April 26, 2017. But no new additional submissions on merits were made by the noticees.

ISSUES FOR CONSIDERATION & FINDINGS

6. I have carefully examined the written submissions made by the noticees, the facts and circumstances of the case and the material available on record. The issues that arise for consideration in the present case are:
- 1) Whether the noticees have violated provisions of Regulation 7 (1A) read with Regulation 7 (2) of SEBI (SAST) Regulations, 1997?
 - 2) Whether the noticees are liable for monetary penalty under Section 15A (b) of SEBI Act, 1992?
 - 3) If yes, then what should be the quantum of monetary penalty?
7. The allegation levelled against the noticees is that they had failed to make the necessary disclosures in respect of their trading in the scrip of Sungold Capital Limited, as required under Regulation 7 (1A) read with Regulation 7 (2) of SEBI (SAST) Regulations, 1997.
8. It is pertinent to refer to the relevant provisions of SEBI (SAST) Regulations, 1997, which reads as under:-

Regulation 7 (1A) & (2) of SEBI (SAST) Regulations, 1997

Regulation 7 (1A):-

Any acquirer who has acquired shares or voting rights of a company under sub-regulation (1) of regulation 11, or under second proviso to sub-regulation (2) of regulation 11 shall disclose purchase or sale aggregating two per cent or more of the share capital of the target company to the target company, and the stock exchanges where shares of the target company are listed within two days of such purchase or sale along with the aggregate shareholding after such acquisition or sale.

Regulation 7 (2):-

The disclosures mentioned in sub-regulations (1) 3[and (1A)] shall be made within two days] of,—

- (a) the receipt of intimation of allotment of shares; or*
- (b) the acquisition of shares or voting rights, as the case may be.*

9. On perusal of the material available on record and having regard to the submissions made by the noticees, I record my findings hereunder.

ISSUE 1: Whether the noticees have violated provisions of Regulation 7 (1A) read with Regulation 7 (2) of SEBI (SAST) Regulations, 1997?

10. Shri Rajiv R Kotia is the Promoter, Chairman & Managing Director (CMD) of Sungold Capital Limited. As per the KYCs of Demat Account opening forms Ravi Rajiv Kotia is son of Rajiv R Kotia, Seema Rajiv Kotia is wife of Rajiv R Kotia, Dhaval Ramesh Kotia is brother of Rajiv R Kotia, Shweta Dhaval Kotia, wife of Dhaval Ramesh Kotia, is sister-in-law of Rajiv R Kotia and Shilpa Amit Kotia, wife of Amit Ramesh Kotia, is sister-in-law of Rajiv R Kotia and the same is not disputed by the noticees.
11. As per Regulation 2 (1) (b) of SAST Regulations, 1997 “acquirer” means any person who, directly or indirectly, acquires or agrees to acquire shares or voting rights in the target company, or acquires or agrees to acquire control over the target company, either by himself or with any person acting in concert with the acquirer;

12. Further, as per Regulation 2 (1) (e) (2) (iii) of SEBI (SAST) Regulations, 1997, deemed to be ‘person acting in concert’ comprises Directors of Company and their associates i.e. any relative of that person within the meaning of Section 6 of the Companies Act, 1956 (Schedule IA). In terms of aforesaid Section 6 of the Companies Act, 1956 relative includes Wife, Son, Brother (including step-brother), Brother’s wife and therefore the noticees are deemed to be ‘Person Acting in Concert’ in terms of the aforesaid Regulation 2 (1) (e) (2) (iii) of SEBI (SAST) Regulations, 1997.
13. In the present case Rajiv R Kotia is Promoter & CMD of Sungold Capital Limited and all the noticees belong to the ‘Kotia’ family and close relatives of Promoter & CMD as aforesaid and therefore deemed to be PACs as indicated above. They were holding more than 15% share capital of the Company for various quarters. Following is the quarterly shareholding of the noticees, as per Shareholding pattern available on BSE website.

| Names | Jun-2008 | Sep-2008 | Dec-2008 | Mar-2009 | Jun-2009 | Sep-2009 |
|---------------------------------------|--------------|--------------|--------------|--------------|--------------|--------------|
| Promoter Holding (A) | | | | | | |
| Ravi Rajiv Kotia | 16.53 | 16.53 | 16.53 | 17.84 | 17.84 | 16.20 |
| Promote Group/ PAC Holding (B) | | | | | | |
| Shilpa Amit Kotia | 4.74 | 4.74 | 4.74 | 4.74 | 4.04 | 4.04 |
| Dhaval Ramesh Kotia | 4.6 | 4.6 | 4.6 | 4.6 | 4.5 | 4.34 |
| Shweta Dhaval Kotia | 4.4 | 4.4 | 4.4 | 4.4 | 1.63 | 1.63 |
| Ravi Rajiv Kotia | 4.58 | 4.58 | 4.58 | 4.58 | 1.47 | 1.47 |
| Seema Rajiv Kotia | 4.07 | 4.07 | 4.07 | 4.23 | 1.94 | 1.94 |
| TOTAL (B) | 22.39 | 22.39 | 22.39 | 22.55 | 13.58 | 13.42 |
| GRAND TOTAL (A+B) | 38.92 | 38.92 | 38.92 | 40.39 | 31.42 | 29.62 |

14. It is observed from the above table that the shareholding of the noticees who were deemed to be PACs was 22.55% as on quarter ended March 2009. For the quarter ending June 2009, the shareholding of the noticees reduced to 13.58% on account of the off-loading of shares done. While off-loading the shares the shareholding of the noticees changed more than 2% of share Capital, on 13.04.2009, 15.04.2009, 17.04.2009, 22.04.2009, 24.04.2009, 29.04.2009, 06.05.2009, 08.06.2009 and 29.06.2009. The day wise sale/acquisition done by the noticees and subsequent change in the shareholding is given hereunder and the same is also not disputed by the noticees.

| Name of PAC | Date of Purchase/sale | Market (M)/ Off-Market (OM) | Name of Counterparty | No. of shares | Change as percentage of total share capital | Cumulative change from April 2009 |
|---------------|-----------------------|-----------------------------|-------------------------------------|----------------|---|-----------------------------------|
| SHWETA | 06/04/2009 | M | Various counterparties | -500 | 0.01 | 0.01 |
| DHAVAL | 06/04/2009 | M | Various counter parties | -500 | 0.01 | 0.02 |
| RAVI | 08/04/2009 | M | Various counterparties | -5000 | 0.08 | 0.10 |
| SHWETA | 09/04/2009 | M | Various counterparties | -10500 | 0.17 | 0.27 |
| RAVI | 09/04/2009 | M | Various counterparties | -26000 | 0.42 | 0.69 |
| DHAVAL | 09/04/2009 | M | Various counter parties | -10500 | 0.17 | 0.87 |
| RAVI | 11/04/2009 | OM | RAHUL SHAH | -30000 | 0.49 | 1.36 |
| SHWETA | 13/04/2009 | OM | PATEL HIREN NATVARLAL | -30,000 | 0.49 | 1.85 |
| SHWETA | 13/04/2009 | OM | MUKESH KANJIHIRJI BHANUSHALI | -30,000 | 0.49 | 2.34 |
| SHILPA | 13/04/2009 | OM | SIMABEN SHAILESHBHAI OTIYA | -10000 | 0.16 | 2.50 |
| SHILPA | 13/04/2009 | OM | DARSHAN VASANTILAL UMRANIA | -9500 | 0.16 | 2.66 |
| SHILPA | 13/04/2009 | OM | HITESH AMRUTBHAI DESAI | -8000 | 0.13 | 2.79 |
| SHILPA | 13/04/2009 | OM | KRUNAL GUNVANTBHAI VAIDYA | -7000 | 0.11 | 2.90 |
| SHILPA | 13/04/2009 | OM | OZA PALLAVI DHIREN | -15000 | 0.25 | 3.15 |
| RAVI | 13/04/2009 | M | Various counterparties | -15000 | 0.25 | 3.39 |
| DHAVAL | 13/04/2009 | M | Various counter parties | -15000 | 0.25 | 3.64 |
| SHWETA | 15/04/2009 | OM | MUKESH KANJIHIRJI BHANUSHALI | -70,000 | 1.14 | 4.78 |
| SHWETA | 15/04/2009 | M | Various counterparties | -10000 | 0.16 | 4.94 |
| RAVI | 15/04/2009 | M | Various counterparties | -20000 | 0.33 | 5.27 |
| DHAVAL | 15/04/2009 | M | Various counter parties | -17500 | 0.29 | 5.56 |
| SHWETA | 16/04/2009 | M | Various counterparties | -25000 | 0.41 | 5.96 |
| DHAVAL | 16/04/2009 | M | Various counter parties | -20000 | 0.33 | 6.29 |
| SHWETA | 17/04/2009 | M | Various counterparties | -14000 | 0.23 | 6.52 |
| SHILPA | 17/04/2009 | OM | SHANTABEN CHIMANLAL PATEL | -5000 | 0.08 | 6.60 |
| SHILPA | 17/04/2009 | OM | SATISHKUMAR GANDALAL PATEL | -5000 | 0.08 | 6.68 |
| SHILPA | 17/04/2009 | OM | DARSHANA B PATEL | -5000 | 0.08 | 6.76 |
| SHILPA | 17/04/2009 | OM | RAJENDRA NARANBHAI PATEL | -5000 | 0.08 | 6.85 |
| SHILPA | 17/04/2009 | OM | PATEL BHAVESH CHIMANLAL | -5000 | 0.08 | 6.93 |
| SHILPA | 17/04/2009 | OM | PARESH INDRAVADAN PATEL | -5000 | 0.08 | 7.01 |
| SHILPA | 17/04/2009 | OM | JITENDRA PATEL | -5000 | 0.08 | 7.09 |
| SHILPA | 20/04/2009 | OM | SHANTABEN CHIMANLAL PATEL | -5000 | 0.08 | 7.17 |
| SHILPA | 20/04/2009 | OM | PATEL BHAVESH CHIMANLAL | -5000 | 0.08 | 7.25 |
| SHILPA | 20/04/2009 | OM | JITENDRA PATEL | -5000 | 0.08 | 7.34 |
| SHILPA | 20/04/2009 | OM | JITENDRA JAIKISAN BOHRA | -10000 | 0.16 | 7.50 |
| SHILPA | 20/04/2009 | OM | SATISHKUMAR GANDALAL PATEL | -5000 | 0.08 | 7.58 |
| SHILPA | 20/04/2009 | OM | DARSHANA B PATEL | -5000 | 0.08 | 7.66 |
| SHILPA | 20/04/2009 | OM | PARESH INDRAVADAN PATEL | -5000 | 0.08 | 7.74 |
| SHILPA | 20/04/2009 | OM | RAJENDRA NARANBHAI PATEL | -5000 | 0.08 | 7.83 |
| SHILPA | 21/04/2009 | OM | PAYAL DEEPAKBHAI PATEL | -10000 | 0.16 | 7.99 |
| SHILPA | 21/04/2009 | OM | VISHAL HARISING PARMAR | -10000 | 0.16 | 8.15 |
| SHILPA | 21/04/2009 | OM | JITENDRA JAIKISAN BOHRA | -10000 | 0.16 | 8.32 |
| SHILPA | 21/04/2009 | OM | DEEPAK CHHOTUBHAI PATEL | -10000 | 0.16 | 8.48 |
| SHWETA | 22/04/2009 | OM | MUKESH KANJIHIRJI BHANUSHALI | -25,000 | 0.41 | 8.89 |
| SHILPA | 22/04/2009 | OM | CHIMANLAL NARAYANDAS PATEL | -6000 | 0.10 | 8.99 |
| SHILPA | 22/04/2009 | OM | DIPTI ANAND PATEL | -6000 | 0.10 | 9.08 |
| SHILPA | 22/04/2009 | OM | RAJPUT HAMIRJI UMEDJI | -6000 | 0.10 | 9.18 |
| SHILPA | 22/04/2009 | OM | RAJPUT BALDEVJI CHANDANJI | -6000 | 0.10 | 9.28 |
| SHILPA | 22/04/2009 | OM | MANOJKUMAR RAMESHBHAI PATEL | -6000 | 0.10 | 9.38 |
| SHILPA | 22/04/2009 | OM | ATUL GUNVANTRAY BHATT | -10000 | 0.16 | 9.54 |
| SHILPA | 22/04/2009 | OM | JANKI DILIPKUMAR VAGHELA | -5000 | 0.08 | 9.62 |
| SHILPA | 22/04/2009 | OM | DILIP G VAGHELA | -5000 | 0.08 | 9.71 |
| DHAVAL | 22/04/2009 | M | Various counter parties | -20000 | 0.33 | 10.03 |
| SHWETA | 24/04/2009 | OM | PATEL VOMOBEN GANESHBHAI | -8,000 | 0.13 | 10.16 |
| SHWETA | 24/04/2009 | OM | PATEL GORDHAN MADHAVLAL | -8,000 | 0.13 | 10.29 |
| SHWETA | 24/04/2009 | OM | PATEL GANESHBHAI ISHVARLAL | -8,000 | 0.13 | 10.42 |
| SHILPA | 24/04/2009 | OM | ASHABEN GANESHBHAI PATEL | -8000 | 0.13 | 10.55 |
| SHILPA | 24/04/2009 | OM | PATEL SHARDA GORDHANBHAI | -8000 | 0.13 | 10.69 |
| SHILPA | 24/04/2009 | OM | VIMALKUMAR SOMABHAI SHAH | -5000 | 0.08 | 10.77 |
| SHILPA | 24/04/2009 | OM | TEJENDRA POPATLAL PATEL | -5000 | 0.08 | 10.85 |
| SHILPA | 24/04/2009 | OM | RUCHI RAJENDRABHAI PATEL | -10000 | 0.16 | 11.01 |
| SHILPA | 24/04/2009 | OM | KAJAL TEJAS PATEL | -10000 | 0.16 | 11.18 |
| SHILPA | 24/04/2009 | OM | ASHISH POPATLAL PATEL | -5000 | 0.08 | 11.26 |
| SHWETA | 27/04/2009 | OM | PATEL PRAFULKUMAR RAMANLAL | -8,000 | 0.13 | 11.39 |

| Name of PAC | Date of Purchase/sale | Market (M)/ Off-Market (OM) | Name of Counterparty | No. of shares | Change as percentage of total share capital | Cumulative change from April 2009 |
|--------------|-----------------------|-----------------------------|------------------------------------|----------------|---|-----------------------------------|
| SHWETA | 27/04/2009 | OM | PATEL AMBALAL MADHAVLAL | -8,000 | 0.13 | 11.52 |
| SHWETA | 27/04/2009 | OM | PATEL KANUBHAI MOHANLAL | -8,000 | 0.13 | 11.65 |
| SHWETA | 27/04/2009 | OM | SAURABH PRAVINKUMAR SHAH | -4,000 | 0.07 | 11.71 |
| SHILPA | 27/04/2009 | OM | RUCHI RAJENDRABHAI PATEL | -2000 | 0.03 | 11.75 |
| SHWETA | 28/04/2009 | OM | SUJAL ASHOKBHAI SHELAT | -500 | 0.01 | 11.76 |
| SHILPA | 28/04/2009 | OM | MINAXI RAJESHBHAI PATEL | -5000 | 0.08 | 11.84 |
| SHILPA | 28/04/2009 | OM | MALAY R JAMINDAR | -10000 | 0.16 | 12.00 |
| SHILPA | 28/04/2009 | OM | KAILASHBEN SURESHBHAI PATEL | -5000 | 0.08 | 12.08 |
| SHILPA | 28/04/2009 | OM | SUJAL ASHOKBHAI SHELAT | -3500 | 0.06 | 12.14 |
| SEEMA | 29/04/2009 | OM | Rahul Shah | -40,000 | 0.65 | 12.79 |
| SEEMA | 29/04/2009 | OM | Mukesh Kanjhirji Bhanushali | -40,000 | 0.65 | 13.45 |
| RAVI | 29/04/2009 | OM | JITENDRA JAIKISAN BOHRA | -10000 | 0.16 | 13.61 |
| DHAVAL | 29/04/2009 | M | Various counter parties | -15000 | 0.25 | 13.86 |
| RAVI | 04/05/2009 | OM | PATEL CHANDRIKABEN RAMANLAL | -8000 | 0.13 | 13.99 |
| RAVI | 04/05/2009 | OM | PATEL RAJANIKANT NARSINHBHAI | -8000 | 0.13 | 14.12 |
| RAVI | 04/05/2009 | OM | SATHAVARA GIRISHKUMAR BABULAL | -8000 | 0.13 | 14.25 |
| RAVI | 04/05/2009 | OM | PATEL MINABEN RAJANIKANT | -8000 | 0.13 | 14.38 |
| RAVI | 04/05/2009 | OM | MANISHABEN GIRISHKUMAR SATHAVA | -8000 | 0.13 | 14.51 |
| RAVI | 05/05/2009 | OM | PATEL JIVIBEN AMBALAL | -8000 | 0.13 | 14.64 |
| RAVI | 05/05/2009 | OM | PATEL NARMADABEN KANUBHAI | -8000 | 0.13 | 14.77 |
| RAVI | 06/05/2009 | OM | JIGNESH JITUBHAI SHAH | -10000 | 0.16 | 14.93 |
| RAVI | 06/05/2009 | OM | NIKHIL GORDHANDAS SHAH | -10000 | 0.16 | 15.10 |
| RAVI | 06/05/2009 | OM | RESHMA ATUL SHAH | -10000 | 0.16 | 15.26 |
| RAVI | 06/05/2009 | OM | KOKILABEN INDRAVADAN SHAH | -10000 | 0.16 | 15.42 |
| RAVI | 06/05/2009 | OM | DARSHANA VIPUL SHAH | -10000 | 0.16 | 15.59 |
| RAVI | 06/05/2009 | OM | DIGANT ASHOKKUMAR OZA | -10000 | 0.16 | 15.75 |
| RAVI | 07/05/2009 | OM | VIJAYBHAI JAGDISHBHAI TRIVEDI | -10000 | 0.16 | 15.91 |
| DHAVAL | 11/05/2009 | M | Various counter parties | -15000 | 0.25 | 16.16 |
| RAVI | 12/05/2009 | OM | PATEL SHARDA GORDHANBHAI | -8000 | 0.13 | 16.29 |
| RAVI | 12/05/2009 | OM | ASHABEN GANESHBHAI PATEL | -8000 | 0.13 | 16.42 |
| RAVI | 12/05/2009 | OM | PATEL GORDHAN MADHAVLAL | -8000 | 0.13 | 16.55 |
| RAVI | 12/05/2009 | OM | PATEL GANESHBHAI ISHVARLAL | -8000 | 0.13 | 16.68 |
| RAVI | 12/05/2009 | OM | PATEL VOMIBEN GANESHBHAI | -8000 | 0.13 | 16.81 |
| SHILPA | 03/06/2009 | OM | BIPIN PRAVIN PATTANI | -10000 | 0.16 | 16.98 |
| SEEMA | 08/06/2009 | OM | Nimish Kanubhai Jhaveri | -50,000 | 0.82 | 17.79 |
| SHWETA | 29/06/2009 | OM -physical shares | KIRAN SHAH | 50000 | 0.82 | 18.61 |
| SHWETA | 29/06/2009 | OM -physical shares | ARUNA DINESH SHAH | 50000 | 0.82 | 19.43 |
| SHILPA | 29/06/2009 | OM -physical shares | NIMA SHARMA | 50000 | 0.82 | 20.25 |
| SHILPA | 29/06/2009 | OM -physical shares | CHIRAG M SHETH | 50000 | 0.82 | 21.07 |
| SHILPA | 29/06/2009 | OM -physical shares | HITENDRA RANCHODLAL SHAH | 18800 | 0.31 | 21.38 |
| SHILPA | 29/06/2009 | OM -physical shares | NATU UKABHAI THAKORE | 50000 | 0.82 | 22.20 |
| SHILPA | 29/06/2009 | OM -physical shares | DEVIKA ASHISH PATEL | 8500 | 0.14 | 22.34 |
| SHILPA | 29/06/2009 | OM -physical shares | UMA M RAO | 40000 | 0.65 | 22.99 |
| SHILPA | 29/06/2009 | OM -physical shares | HIRALAL D PARIKH | 30000 | 0.49 | 23.48 |
| RAVI | 29/06/2009 | OM -physical shares | RINA GOPALBHAI SHAH | 40000 | 0.65 | 24.13 |
| RAVI | 29/06/2009 | OM -physical shares | RAJESH SHAH | 50000 | 0.82 | 24.95 |
| DHAVAL | 29/06/2009 | OM -physical shares | RAJENDRA GENDALAL MODI | 2500 | 0.04 | 24.99 |
| DHAVAL | 29/06/2009 | OM -physical shares | JIGISHA SHAH | 50000 | 0.82 | 25.81 |
| DHAVAL | 29/06/2009 | OM -physical shares | DINESH SHAH | 50000 | 0.82 | 26.63 |
| DHAVAL | 29/06/2009 | OM -physical shares | RAGUNATH C GUPTA | 2600 | 0.04 | 26.67 |
| DHAVAL | 29/06/2009 | OM -physical shares | SURAJ R GUPTA | 2600 | 0.04 | 26.71 |

15. As per the provisions of regulation 7(1A) read with regulation 7(2) of SAST Regulations, any acquirer who has acquired shares or voting rights of a Company under sub-regulation (1) of regulation 11, or under second proviso to sub-regulation 2 of regulation 11 **shall have to disclose the said purchase or sale aggregating two percent or more of the share capital, to the target company and to the stock exchange within two days** of such purchase or sale along with the aggregate shareholding after such acquisition or sale. It is observed that the noticees have not made any such disclosures.
16. In the personal hearing on February 17, 2016 the authorized representative of the noticees submitted that due to ignorance, noticees failed to inform the stock exchange about the change in their shareholding from 22.39% as on March 2008 to 13.42% as on September 2009, in terms of Regulation 7 (1A) read with Regulation 7 (2) of SEBI (SAST) Regulations, 1997. Further, BSE, vide e-mail dated January 08, 2015 has also confirmed that no disclosures were received by the BSE under the SAST Regulations in the scrip of Sangold Capital Limited during the period April to June 2009. A copy of the said e-mail of BSE was also furnished to the noticees, who did not dispute the same.
17. In view of the forgoing, I find that the noticees being deemed to be PACs, holding more than 15% shares of Sungold Capital Limited traded in the scrip during April to June 2009, resulting in change of shareholding by more than 2% which is required to be disclosed to the Company as well to the Stock Exchanges where the shares of the Company are listed in terms of the Regulation 7 (1A) read with 7 (2) of SAST Regulations, 1997. The noticees failed to disclose the same to both the Company and the Stock Exchanges in terms of the said Regulations and liable for a monetary penalty under Section 15A (b) of SEBI Act, 1992, which reads as under:

Penalty for failure to furnish information, return, etc.

Section 15A

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

(b) To file any return or furnish any information, books or other documents within the time specified therefore in the regulations, fails to file return or furnish the same within the time specified therefore 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. ”

18. In this context, I observe that Hon’ble SAT has consistently held that the obligation to make disclosure within the stipulated time is a mandatory obligation and penalty is imposed for non-compliance with the mandatory obligation. The Hon’ble SAT in its Order dated September 30, 2014, in the matter of *Akriti Global Traders Ltd. Vs SEBI* observed that-

“Obligation to make disclosures under the provisions contained in SAST Regulations, 2011 as also under PIT Regulations, 1992 would arise as soon as there is acquisition of shares by a person in excess of the limits prescribed under the respective regulations and it is immaterial as to how the shares are acquired. Therefore, irrespective of the fact as to whether the shares were purchased from open market or shares were received on account of amalgamation or by way of bonus shares, if, as a result of such acquisition/ receipt, percentage of shares held by that person exceeds the limits prescribed under the respective regulations, then, it is mandatory to make disclosures under those regulations. ”

19. In this regard, the provisions of Section 15 J of the SEBI Act, 1992, require that *“While adjudging the 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."

20. 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.*"
21. I am of the view that the details of the shareholding of the persons acquiring substantial stake and the timely disclosures thereof, are of significant importance from the point of view of the investors. Such information received by them in a time bound manner would facilitate them immensely in taking informed investment decision. The noticees are deemed to be PACs and belong to the promoter group of Kotia family. They failed regarding the timely disclosures of change in their shareholding 2% or more as per SAST Regulations. This happened on nine occasions, when the change of shareholding of the noticees being deemed to be PACs was more than 2% of the Share Capital, attracting the disclosures requirement under Regulation 7 (1A) of SAST Regulations. These changes occurred due to trading carried out by the noticees on 13.04.2009, 15.04.2009 17.04.2009, 22.04.2009, 24.04.2009, 29.04.2009 06.05.2009, 08.06.2009 and 29.06.2009 for off-loading the shares as detailed in the table at para 14 above. Hence, the default is repetitive in nature.

ORDER

22. After taking into consideration the facts and circumstances of the case, the submissions made by the noticees, the nature and gravity of the charges established I, in exercise of the powers conferred under Section 15I of the SEBI Act, 1992 read with Rule 5 of the Adjudication Rules, hereby impose, a penalty of ₹ 10,00,000/- (Rupees Ten Lakhs Only) payable jointly and severally by the noticees namely Smt. Shilpa Amit Kotia, Shri Dhaval

Ramesh Kotia, Smt. Shwetha Dhaval Kotia, Smt. Seema Rajiv Kotia and Shri Ravi Rajiv Kotia, under Section 15A (b) of the SEBI Act, 1992, for the violation of Regulation 7 (1A) read with Regulation 7 (2) of SEBI (Substantial Acquisition of Shares and Takeovers) Regulations, 1997.

23. The amount of penalty shall be paid either by way of demand draft in favor of “SEBI - Penalties Remittable to Government of India”, payable at Mumbai, or by e-payment in the account of “SEBI - Penalties Remittable to Government of India”, A/c No. 31465271959, State Bank of India, Bandra Kurla Complex Branch, RTGS Code SBIN0004380 within 45 days of receipt of this order. The said demand draft or forwarding details and confirmations of e-payments made (in the format as given in table below) should be forwarded to “The Division Chief Enforcement Department, Securities and Exchange Board of India, SEBI Bhavan, Plot No. C – 4A, “G” Block, Bandra Kurla Complex, Bandra (E), Mumbai – 400 051.”

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|--|--|
| 1. Case Name : | |
| 2. Name of Payee : | |
| 3. Date of Payment: | |
| 4. Amount Paid : | |
| 5. Transaction No. : | |
| 6. Bank Details in which payments is made : | |
| 7. Payment is made for : (like penalties/ disgorgement/ recovery/ settlement amount and legal charges along with order details) | |

24. In terms of Rule 6 of the SEBI Adjudication Rules, 1995, copies of this order are sent to the noticees and also to the Securities and Exchange Board of India.

Date : June 30, 2017
Place : Mumbai

S. V. Krishnamohan
Chief General Manager &
Adjudicating Officer