

**BEFORE THE ADJUDICATING OFFICER
SECURITIES AND EXCHANGE BOARD OF INDIA
[ADJUDICATION ORDER NO.SP/AO/01/2018]**

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

Shri Obul Reddy Puppala (PAN: AFKPR4332K)

In the matter of

**Covidh Technologies Limited
(Formerly – Aptus Industries Limited)**

FACTS OF THE CASE

1. Securities and Exchange Board of India (hereinafter referred to as '**SEBI**') observed that there has been a change in shareholding of Shri Obul Reddy Puppala, the promoter and director of M/s Covidh Technologies Limited (formerly Aptus Industries Limited), a company listed on the stock exchanges, for the quarter ending March 2013, June 2013 and September 2013.
2. It was observed that the shareholding of the promoter, Shri Obul Reddy Puppala (hereinafter referred to as '**Noticee**') was alleged to have changed by 87,000 shares (0.82% of the paid up capital of the company) from March 2013 quarter to June 2013 quarter and changed by another 8,00,978 shares (7.56% of the paid up capital of the company) from June 2013 quarter to September 2013 quarter. It was alleged that these changes were not disclosed under Regulations 13(3), 13(4) and 13(4A) read with 13(5) of SEBI (Prohibition of Insider Trading) Regulations, 1992 (hereinafter referred to as '**PIT Regulations**') and 29(2) read with Regulation 29(3) of SEBI (Substantial Acquisition of Shares and Takeovers) Regulations, 2011 (hereinafter referred to as '**SAST Regulations**').

APPOINTMENT OF ADJUDICATING OFFICER

3. The undersigned was appointed as the Adjudicating Officer on December 09, 2014 under section 15-I of SEBI Act read with rule 3 of SEBI (Procedure for Holding Inquiry and Imposing Penalties by Adjudicating Officer) Rules, 1995 (hereinafter referred to as '**SEBI Rules**') to inquire into and adjudge under Section 15A (b) of the SEBI Act for the alleged violation of Regulation 13(3), 13(4), 13(4A) read with Regulation 13(5) of the **PIT Regulations** and Regulation 29(2) read with Regulation 29(3) of the **SAST Regulations** by the promoter of M/s Covidh Technologies Limited (a company listed on stock exchange) namely, Shri Obul Reddy Puppala.

SHOW CAUSE NOTICE, REPLY AND PERSONAL HEARING

4. A Show Cause Notice (hereinafter referred to as '**SCN**') Ref. No. SEBI-HLO/SP/DT/8098/2015, dated March 17, 2015 was issued to the aforesaid Noticee under rule 4(1) of SEBI Rules communicating the alleged violations of PIT Regulations and SAST Regulations. The Noticee was called upon to show cause within 14 days from the date of receipt of the SCN as to why an inquiry should not be initiated against him and penalty be not imposed under Section 15A(b) of the SEBI Act for the alleged violation of PIT Regulations and SAST Regulations.
5. Shri Obul Reddy Puppala, vide letter dated April 02, 2015 submitted his reply to the SCN dated March 17, 2015. Vide the aforesaid letter the Noticee has inter alia submitted as under:
 - a. *That the statement given by SEBI is true and the disclosure was not submitted inadvertently.*
 - b. *That all the said shares were kept under pledge and obtained funds and invested the same in the company as working capital.*
 - c. *That the loan could not be repaid and as a result the said pledged shares were sold without intimation to the Noticee.*
 - d. *That however, the shareholding was sent to the Exchanges as per Clause 35 of the shareholding pattern every quarter and also in the yearly disclosure in terms of Regulation 30(1) of*

SEBI (Substantial Acquisition of Shares & Takeovers) Regulations, 2011.

- e. That the non-disclosure was never the intention nor was any undue advantage or gain made out of the non-disclosure or caused any loss or damage to the interest of the investors.*
 - f. That SEBI is requested to kindly pardon him for this time and take a lenient view on the same and that he assures SEBI that henceforth they will comply with the regulatory provisions without fail.*
6. In the interest of natural justice and in terms of Rule 4(3) of the SEBI Rules, the Noticee, Shri Obul Reddy Puppala was granted an opportunity of hearing on July 24, 2015 vide hearing notice dated July 07, 2015.
7. Shri Obul Reddy Puppala, vide email dated July 23, 2015, requested for postponement of the hearing to any suitable day between August 10, 2015 and August 15, 2015. Thereafter, vide hearing notice dated August 5, 2015, an opportunity for personal hearing on August 14, 2015 was granted to the Noticee. However, the Noticee did not attend and thereafter vide email dated September 10, 2015 requested another opportunity of personal hearing. Upon another hearing opportunity being granted to the Noticee on October 7, 2015, the Noticee, vide email dated October 7, 2015, once again requested postponement of the personal hearing. Thereafter, vide hearing notice dated October 8, 2015, a final opportunity for personal hearing on October 27, 2015 was granted to the Noticee.
8. Shri Obul Reddy Puppala appeared on October 27, 2015 and reiterated the submissions made by him in his reply dated April 02, 2015. He further stated that additional written submissions will be filed by November 16, 2015. Vide e-mail dated November 16, 2015, the Noticee forwarded a copy of consent application for settlement in the matter qua SCN dated March 17, 2015. He also gave verbal assurance that a formal consent application shall be filed to the department / division.
9. However, as per the available records, it was noted that no original signed consent application was ever filed by the Noticee.

Thereafter, hearing Notice dated March 09, 2018 was sent to the Noticee at latest address given by the Noticee i.e. 12-108/1, B C Colony, Aganampudi (Post), Gajuwaka, Vishakhapatnam 530046 via speed post acknowledgment due ("SPAD") wherein the Noticee was once again given the opportunity of personal hearing on March 23, 2018 but the notice was returned undelivered. The hearing Notice was also sent through e-mail to puppalaor2015@gmail.com; which was given on an earlier occasion. However, no reply was received from the Noticee.

10. Subsequently, another hearing Notice dated March 22, 2018 was sent to the Noticee at another address available on record i.e. 15-93/5, B C Colony, Aganampudi (Post), Gajuwaka, Vishakhapatnam 530046, but the hearing notice was returned undelivered. An attempt was also made to deliver the notice to the Noticee through the Company. It was informed by the Company that the Noticee had resigned from the post of director on February 12, 2014 and that the company has not been able to trace the Noticee. Thereafter, a public notice was published in one English daily newspaper having nation-wide circulation and another in a newspaper having wide circulation in the language of the region (Telugu) where the Noticee was last known to have resided. The public notice was issued on April 27, 2018 in Times of India (Hyderabad), Deccan Chronicle (Vishakapatnam), Swatantravaartha (Vishakapatnam), The Hindu (Vijaywada) and Sakshi / Telugu (Vishakapatnam, Ananthapur, Guntur, Kadapa, Kurnool, Nellore, Ongole, Rajamundry, Srikakulam, Tirupati, Vijaywada, Tadepalligudem) advising the Noticee to attend hearing before the Adjudicating officer on May 18, 2018 either personally or through his authorized representative. It was also indicated in the public notice that in case the Noticee fails to attend the hearing, the adjudication proceedings will proceed ex- parte.

11. The Noticee failed to appear for the hearing either personally or through an Authorized representative. In view of this, I am constrained to proceed in the matter against the Noticee ex- parte. I am of the view that principles of natural justice have been complied with since sufficient opportunities have been provided to the Noticee to submit reply and to appear for hearing, which the Noticee has failed to avail of. Therefore, the present proceedings

against the Noticee are undertaken ex-parte on the basis of available documents and information.

CONSIDERATION OF ISSUES AND FINDINGS

12.I have examined the SCNs and the supplementary SCNs issued to the Noticee, the submissions made by the Noticee in his replies and during the personal hearing and the documents available on record. I observe that the allegation against the Noticee is that he has failed to make the relevant disclosures under Regulations 13(3), 13(4), 13(4A) read with 13(5) of the PIT Regulations and Regulation 29(2) read with 29(3) of the SAST Regulations.

13.The issues that, therefore, arise for consideration in the present case are:

- a. *Whether the Noticee failed to make the relevant disclosures under Regulation 13(3), 13(4), 13(4A) read with 13(5) of the PIT Regulations?*
- b. *Whether the Noticee failed to make the relevant disclosures under Regulation 29(2) read with Regulation 29(3) of the SAST Regulations?*
- c. *Do the violations, if any, attract monetary penalty under Section 15A(b) of SEBI Act?*
- d. *If so, what would be the monetary penalty that can be imposed taking into consideration the factors mentioned in Section 15J of SEBI Act?*

14.Before moving forward, it is pertinent to refer to the relevant provisions of the PIT Regulations and SAST Regulations, which read as under:

Regulation 13- Disclosure of interest or holding in listed companies by certain persons- Initial Disclosure

(1)...

(2)...

(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 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.

(4) Any person who is a director or officer of a listed company, shall disclose to the company and the stock exchange where the securities are listed in Form D, the total number of shares or voting rights held and change in shareholding or voting rights, if there has been a change in such holdings of such person and his dependents (as defined by the company) from the last disclosure made under sub-regulation (2) or under this sub regulation, and the change exceeds Rs.5 lakh in value or 25,000 shares or 1% of total shareholding or voting rights, whichever is lower.

(4A) Any person who is a promoter or part of promoter group of a listed company, shall disclose to the company and the stock exchange where the securities are listed in Form D, the total number of shares or voting rights held and change in shareholding or voting rights, if there has been a change in such holdings of such person from the last disclosure made under Listing Agreement or under sub-regulation (2A) or under this sub-regulation, and the change exceeds Rs.5 lakh in value or 25,000 shares or 1% of total shareholding or voting rights, whichever is lower.

(5) The disclosure mentioned in sub-regulations (3), (4) and (4A) shall be made within [two] working days of: (a) the receipts of intimation of allotment of shares, or (b) the acquisition or sale of shares or voting rights, as the case may be.

Disclosure of acquisition and disposal (takeover Regulations)

29(1)...

(2) Any person, who together with persons acting in concert with him, holds shares or voting rights entitling them to five per cent or more of the shares or voting rights in a target company, shall disclose the number of shares or voting rights held and change in shareholding or voting rights, even if such

change results in shareholding falling below five per cent, 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 two per cent of total shareholding or voting rights in the 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 two working days of the receipt of intimation of allotment of shares, or the acquisition of shares or voting rights in the target company to,—

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

(b) the target company at its registered office.

15. It is observed that the Noticee was a promoter and director of the company. The Noticee was holding more than 5% shares in the company and his shareholdings were 11,18,500 shares (10.55% of the paid-up capital of the company), 10,31,500 shares (9.73% of the paid-up capital of the company) and 2,30,522 shares (2.17% of the paid-up capital of the company) of the company as on March 31, 2013, June 30, 2013 and September 30, 2013, respectively, as per shareholding pattern filed by the company with the stock exchange. These changes were broadly owing to the following transactions as seen from available records for the period March 31, 2013 to September 30, 2013:

<i>Date</i>	<i>Decrease/ Debit- no of shares</i>	<i>Violation</i>
<i>From 31.3.13 to 30.6.13</i>	<i>87,000</i>	<i>13(4) & 13(4A) PIT Regulations</i>
<i>04/07/13*#</i>	<i>1,00,000</i>	<i>13(4) & 13(4A) PIT Regulations</i>
<i>04/07/13*#</i>	<i>1,00,000</i>	<i>13(4) & 13(4A) PIT Regulations</i>
<i>11/07/13*#</i>	<i>3,00,000</i>	<i>13(4) & 13(4A) PIT Regulations and 29(2) of SAST Regulations</i>
<i>16/07/13*#</i>	<i>1,00,000</i>	<i>13(4) & 13(4A) PIT Regulations</i>
<i>16/07/13*#</i>	<i>1,00,000</i>	<i>13(4) & 13(4A) PIT Regulations</i>
<i>22/07/13*#</i>	<i>1,25,000</i>	<i>13(4) & 13(4A) PIT Regulations</i>

Note:

** -as per demat transaction statement of the Noticee with NSDL – DP ID12013300, client ID 00358606.*

#- indicated to be pledge transactions by the Noticee

16. I thus note from the submissions made that the Noticee has transacted in shares of Covidh Technologies Ltd. during the period March 2013 – September 2013. The Noticee altogether sold 8,87,978 shares [11,18,500 shares – 2,30,522 shares] of the company constituting for 8.38% of the paid-up capital of the company. There were 7 individual transactions as tabulated above, which were required to be disclosed by the Noticee to the company and the exchange(s) within two working days from the date of transaction.
17. It is seen from available record that while the required disclosures were made to the company, disclosures were not made to the stock exchange by the Noticee. The Noticee too, had vide letter dated April 02, 2015 admitted that the disclosures were not submitted inadvertently and that the non-disclosure was never the intention nor was any undue advantage or gain made out of the non-disclosure or caused any loss or damage to the interest of the investors. Thus no disclosures have been made under regulation 13(4) and 13(4A) of the PIT Regulations.
18. The Noticee had also indicated that the transactions were in the nature of pledge and necessary disclosures have been made under Regulations 31(1) and 31(2) of SAST Regulations. However, it has been observed that there are no pledge details available under the head “shares pledged / encumbered” in Share Holding pattern available on the BSE website. Further, CDSL and NSDL have, vide e-mail dated January 07, 2014 and January 03, 2014 respectively, also confirmed that no details are available with them with respect to pledging of shares by the Noticee.
19. It is further seen that with respect to the sale transaction of 3,00,000 shares on 11/7/2013 (2.83% of the paid up capital of the company), no disclosures have been made by the Noticee to the stock exchange under Regulation 29(2) read with 29(3) of the SAST Regulations.
20. As the violation of the statutory obligation under Regulations 13(4) and 13(4A) read with 13(5) of PIT Regulations and Regulations 29(2) and 29(3) of SAST Regulations has been established, I hold

that the Noticee is liable for monetary penalty under section 15A (b) of SEBI Act, which reads 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 there under,-

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 of one lakh rupees for each day during which such failure continues or one crore rupees, whichever is less”

21. While determining the quantum of penalty under sections 15A (b), it is important to consider the factors stipulated in section 15J of SEBI Act, which reads as under-

“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.*

[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.]¹”

¹ Inserted by Part VIII of Chapter VI of the Finance Act, 2017 vide Gazette Notification No. 7, Extraordinary Part II Section 1 dated March 31, 2017, w.e.f April 26, 2017

22. Thus, I find that in the extant case, as per Section 15A(b) of the SEBI Act, the Noticee is liable to a penalty of one lakh rupees for each day during which such failure continues or one crore rupees, whichever is less. Further, under Section 15-J of the SEBI Act, the Adjudicating Officer has to give due regard to certain factors which have been stated as above while adjudging the quantum of penalty. It is noted that no quantifiable figures are available to assess the disproportionate gain or unfair advantage made as a result of such non-compliance by the Noticee. Further, from the material available on record, it is not possible to ascertain the exact monetary loss to the investors on account of non-compliance by the Noticee. However, I note that the Hon'ble Securities Appellate Tribunal (SAT) in the matter of Komal Nahata Vs. SEBI (Date of judgment-January 27, 2014) has also observed that-

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

23. In the matter, I also note that in ***Appeal No. 78 of 2014 of Akriti Global Traders Ltd. Vs. SEBI, the Hon'ble Securities Appellate Tribunal (SAT) vide Order dated September 30, 2014*** had observed that-

“...Argument of appellant that the delay was unintentional and that the appellant has not gained from such delay and therefore penalty ought not to have been imposed is without any merit, because, firstly, penal liability arises as soon as provisions under the regulations are violated and that penal liability is neither dependent upon intention of parties nor gains accrued from such delay.”

24. In view of the aforesaid judgments of SAT, the argument put forth by the Noticee that delay in reporting has not caused any loss to investors nor has the Noticee made any gain from delay in reporting is not relevant for the given case.

25. Obligation to make disclosures under PIT Regulations and SAT Regulations arises as soon as the transactions (buy / sell) is executed. The argument advanced by the Noticee that the disclosures were not made inadvertently cannot be accepted.
26. In the instant matter, there were, in all, 7 individual transactions that were required to be disclosed to the exchange in a time bound manner by the Noticee i.e. within 2 working days of the sale of shares. Thus, it is felt that, since there is failure on various occasions on the part of the Noticee to make disclosure to the exchange, the same has to be considered as repetitive. However, it is noted here that disclosures are seen to have been made by the Noticee to the company.
27. It is important to point out that securities market operates on a disclosure based regime and hence true and timely disclosure of information, as prescribed under the statute, is an important regulatory tool intended not only to enable regulator to effectively monitor transactions in the market but also serve a public purpose by bringing out transparency. The Noticee, by its failure to make requisite disclosure under PIT Regulations and SAST Regulations has prevented dissemination of valuable information to investors at the relevant point of time. Correct and timely disclosures are also an essential part of the proper functioning of the securities market and failure to do so results in preventing investors from taking well-informed decision.

ORDER

28. Having considered all the facts and circumstances of the case, the material available on record, the submissions made by the Noticee (both oral and written), as aforesaid, I, in exercise of the powers conferred upon me under Section 15I of the SEBI Act read with Rule 5 of the Adjudication Rules, hereby impose a penalty of Rs.6,00,000 (Rupees Six Lakh) on the Noticee under the provisions of Section 15A(b) of the SEBI Act for the failure on the part of the Noticee to make timely disclosures under Regulations 13(4) and 13(4A) read with 13(5) PIT Regulations and Regulation 29(2) read with 29(3) of SAST Regulations. I am of the view that the said penalty is commensurate with the default committed by the Noticee.

29. 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 Adjudication 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

30. The Noticee shall forward said Demand Draft or the details / confirmation of penalty so paid through e-payment to the General Manager (Enforcement Department- 1), Division of Regulatory Action- 1 (DRA-1), Securities and Exchange Board of India, SEBI Bhavan, Plot No. C-4A, “G” Block, Bandra Kurla Complex, Bandra (East), Mumbai – 400 051.
31. The format for forwarding details / confirmations of e-payments shall be made in the following tabulated form as provided in SEBI Circular no. SEBI/HO/GSD/T&A/CIR/P/2017/42 dated May 16, 2017 and details of such payment shall be intimated at e-mail ID: tad@sebi.gov.in

Date	
Department of SEBI	
Name of Intermediary /other Entity	
Type of Intermediary	
SEBI registration no (if any)	
PAN	
Amount in Rupees	
Purpose of payment	
Bank Name and Account Number from which payment is remitted	
UTR No.	

32. In terms of the provisions of Rule 6 of the Securities and Exchange Board of India (Procedure for Holding Inquiry and Imposing Penalties by Adjudicating Officer) Rules 1995, a copy of this order is being sent to the Noticee viz. Shri Obul Reddy Puppala and also to Securities and Exchange Board of India, Mumbai.

Date: August 16, 2018
Place: Mumbai

Sanjay C. Purao
Adjudicating Officer