

BEFORE THE ADJUDICATING OFFICER
SECURITIES AND EXCHANGE BOARD OF INDIA
[ADJUDICATION ORDER NO. AK/AO-46-55/2014]

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 Polsani Ravinder Rao (PAN: AFYPP6682G),	Shri A R S Rajan (PAN: ABQPA5872D),
Ms. Lakshmi Rajan (PAN: ACSPA4052C),	Ms. Ramana Bharati (PAN: AQXPR3490G),
Shri Ramana Boina Shankar (PAN: APIPR2889D),	Shri Sreeram V Mangalapalli (PAN: ADPPM5088C),
Shri PV Ravi Kumar (PAN: AIHPP9846J),	Ms. P Leela Madhuri Devi (PAN: AKHPP5834E),
Shri P Suresh Gandhi (PAN: ALVPG3297P) and	Shri Venkat Naresh Majeti (PAN: AXWPM9402B)

In the matter of

M/s. Arunjyoti Enterprises Limited

FACTS OF THE CASE

1. Securities and Exchange Board of India (hereinafter referred to as '**SEBI**') observed that in the scrip of M/s. Arunjyoti Enterprises Ltd. (hereinafter referred to as '**Arunjyoti**'/ '**the company**') certain promoters, namely Shri Polsani Ravinder Rao, Shri A R S Rajan, Ms. Lakshmi Rajan, Ms. Ramana Bharati, Shri Ramana Boina Shankar and Shri Sreeram V Mangalapalli as well as certain other persons viz. Shri PV Ravi Kumar, Ms. P Leela Madhuri Devi, Shri P Suresh Gandhi and Shri Venkat Naresh Majeti (hereinafter collectively referred to as '**the Noticees**') failed to make relevant disclosures as required under SEBI (Substantial Acquisition of Shares and Takeovers) Regulations, 1997 (hereinafter referred to as '**SAST Regulations, 1997**'), SEBI (Substantial Acquisition of Shares and Takeovers) Regulations, 2011 (hereinafter referred to as '**SAST Regulations, 2011**') and/ or SEBI (Prohibition of Insider Trading) Regulations, 1992 (hereinafter referred to as '**PIT Regulations**'), as applicable.

APPOINTMENT OF ADJUDICATING OFFICER

2. The undersigned was appointed as the Adjudicating Officer vide order dated August 07, 2013 under Section 15I of the Securities and Exchange Board of India Act, 1992 (hereinafter referred to as '**SEBI Act**') to inquire into and adjudge under Section 15A(b) of the SEBI Act the alleged violation of the SAST Regulations, 1997, SAST Regulations, 2011 and/ or PIT Regulations.

SHOW CAUSE NOTICE, HEARING AND REPLY

3. SEBI *inter alia* observed that:
 - a. Shri Polsani Ravinder Rao, Director and Promoter of the company, had violated the provisions of Regulation 13(4) read with 13 (5) of PIT Regulations;
 - b. Shri ARS Rajan, Ms. Lakshmi Rajan, Ms. Ramana Bharati, Shri Ramana Boina Shankar and Shri Sreeram V Mangalapalli, promoters of the company, had violated the provisions of Regulation 13 (4A) read with 13 (5) of PIT Regulations;
 - c. Ms. P Leela Madhuri Devi and Shri P Suresh Gandhi had violated the provisions of Regulation 13(3) read with 13(5) of PIT Regulations;
 - d. Shri PV Ravi Kumar had violated the provisions of Regulation 7(1) read with 7(2) of SAST Regulations, 1997 and Regulations 13 (1) read with 13 (5) of PIT Regulations;
 - e. Shri Venkat Naresh Majeti had violated the provisions of Regulation 29 (2) read with 29 (3) of SAST Regulations, 2011 and Regulation 13 (3) read with 13 (5) of PIT Regulations.
4. Accordingly, vide common show cause Notice Nos. EAD6/AK/VG/23200 /2013, EAD6/AK/VG/23206/2013, EAD6/AK/VG/22309/2013, EAD6/AK/VG/23211/2013, EAD6/AK/VG/23227/2013, EAD6/AK/VG/23220/2013, EAD6/AK/VG/23221/2013, EAD6/AK/VG/23227/2013, EAD6/AK/VG/23231/2013 and EAD6/AK/VG/23234/2013

dated September 12, 2013 (hereinafter referred to as '**SCN**') issued under Rule 4 of SEBI (Procedure for Holding Inquiry and Imposing Penalties by Adjudicating Officer) Rules, 1995 (hereinafter referred to as '**the Rules**'), the Noticees were advised to show cause as to why an inquiry should not be held against them and penalty be not imposed under Section 15A (b) of the SEBI Act for the alleged violations specified in the SCN.

5. The Noticees replied to the SCN vide their letters each dated October 7, 2013. The Noticees have *inter alia* submitted as under:

- a. Shri Polsani Ravinder Rao has submitted that he was not aware of the provisions under which the disclosures were required to be made and therefore he could not make the said disclosures. Further, Shri Polsani Ravinder Rao has submitted that his shareholding was disclosed each year under Clause 35 of the Listing Agreement and Regulation 8(3) of the SAST Regulations, 1997. He has stated that no undue advantage or gain was made out of the non disclosure, nor was any loss or damage caused to the interest of investors due to an inadvertent error on his part;
- b. Shri A R S Rajan, Ms. Lakshmi Rajan, Ms. Ramana Bharati, Shri Ramana Boina Shankar and Shri Sreeram V Mangalapalli have all *inter alia* submitted that they were not aware of the disclosures that are required to be made for sale of shares. It has been submitted that the violation has resulted from an honest omission out of ignorance and not deliberate violation or non-compliance of SEBI Regulations/ Guidelines. It has been further stated that they have not made any profit in the transaction or caused any loss to anyone by the aforesaid non disclosure;
- c. Ms. P. Leela Madhuri Devi has stated that she had gifted to her husband Shri PV Ravi Kumar 4,51,750 shares, and, that it was not a transaction done with any outsider. Ms. P. Leela Madhuri Devi and Shri PV Ravi Kumar have *inter alia* further submitted that they were not aware that gifting of shares between husband and wife requires disclosures in terms of the PIT

Regulations and the SAST Regulations, 1997. The Noticees have submitted that the non disclosure was out of ignorance and not intentionally done;

- d. Shri Venkat Naresh Majeti and Shri P. Suresh Gandhi have submitted that the non disclosure was out of a lack of knowledge/ awareness of SEBI Regulations.

6. Thereafter, the Noticees vide hearing notice dated October 15, 2013 were granted an opportunity of personal hearing before me on November 15, 2013. Mr. Sarveswar Reddy, Authorized Representative (AR) of the Noticees, appeared for the hearing on the scheduled date. The AR submitted that the shares were transferred by the noticee Shri Polsani Ravinder Rao in December 2010 quarter for a financial arrangement and these shares were returned to him in the March 2011 quarter. On behalf of the noticees Shri A R S Rajan, Ms. Lakshmi Rajan, Ms. Ramana Bharati, Shri Ramana Boina Shankar and Shri Sreeram V Mangalapalli, AR submitted that their total holding was only 4.87% and by virtue of transfer of their shares to other promoters, they ceased to be the promoters of the company. With regard to noticees Ms. P Leela Madhuri Devi and Shri PV Ravi Kumar, AR submitted that they are husband and wife and the shares were transferred inter-se by way of a gift. AR also reiterated the other submissions made by the Noticees in their reply. The AR was further advised to submit the details of the transfer and the purpose of the transfer.

7. Pursuant to the hearing, following written submissions were *inter alia* also filed by the Noticees:

- a) Noticee Shri Polsani Ravinder Rao vide letter dated November 13, 2013 submitted that during the year 2010, the company had ambitious plans to operate retail segment in a bigger fashion for which lot of funds were required and since the company was lacking funds, in good faith, 1,00,000 shares were transferred by him to one Shri Venkat Vasudeva with an oral understanding that he would provide to arrange funds for the business expansion i.e. setting up of new retail outlets. It has been further submitted that he could not arrange the funds since the economy was in difficult phase for raising funds and that the shares are still lying with him and

have not been circulated in the market. It has been further submitted that in order to maintain the promoters holding intact, Shri Rao bought 1,00,000 shares from Shri PV Ravi Kumar with an understanding that either to return the shares with Rs. 25 lakhs, or, to buy out the shares within four years at a price prevailing in the market as on that date, whichever is higher, at the option of the seller. A copy of the MOU so entered was provided. Shri Polsani Ravinder Rao vide the aforesaid letter has further stated that the aforesaid transactions were done with a view to build the company on a bigger scale by availing the economic reforms introduced or proposed to be introduced by the Government of India in various sectors, as a part of achieving inclusive growth in India;

- b) Noticees Shri A R S Rajan, Ms. Lakshmi Rajan, Ms. Ramana Bharati, Shri Ramana Boina Shankar and Shri Sreeram V Mangalapalli vide their respective letters dated November 18, 2013 have all *inter alia* stated that they had exited the company by selling their shares in off-market to the core promoters of the company viz. Shri Polsani Ravinder Rao/ Shri N Venugopal at a price of Rs. 30.30 per share pursuant to a gentleman's agreement. Copy of the said agreements and copy of the transfer deeds were provided;
- c) Noticees Ms. P Leela Madhuri and Shri PV Ravi Kumar have submitted that 4,51,750 shares were transferred by way of a gift between husband and wife. Copy of the purported Gift Deed for the transaction and the supporting evidence that they were husband and wife was provided;
- d) Noticee Shri Venkata Naresh Majeti submitted that he had transferred 4,54,134 shares to his broker Nirmal Bang Securities account with a view to sell the shares in the market. Further, that of these only 1,39,134 shares were sold in the market and the balance 3,15,000 shares were still lying in his DP Beneficiary account.

CONSIDERATION OF ISSUES AND FINDINGS

- 8. I have examined the SCN, the submissions made by the Noticees in their replies and during the personal hearing and the documents available on record. I observe that the allegation against the Noticees is that they failed to make the relevant

disclosures under the PIT Regulations, the SAST Regulations, 1997 and SAST Regulations, 2011, as applicable.

9. The issues that arise for consideration in the present case are:

- a. Whether Noticee Shri Polsani Ravinder Rao, Director and Promoter of the company, was required to make disclosures under Regulation 13(4) read with 13 (5) of PIT Regulations, 1992, and if so, whether he has violated the provisions thereof?
- b. Whether the Noticees Shri A R S Rajan, Ms Lakshmi Rajan, Ms. Ramana Bharati, Shri Ramana Boina Shankar and Shri Sreeram V Mangalapalli, promoters of the company, were required to make disclosures under Regulation 13 (4A) read with 13 (5) of PIT Regulations, and if so, whether they have violated the provisions thereof?
- c. Whether the Noticees Ms. P. Leela Madhuri Devi and Shri P Suresh Gandhi were required to make disclosures under Regulation 13(3) read with 13(5) of PIT Regulations, and if so, whether have they violated the provisions thereof?
- d. Whether the Noticee Shri PV Ravi Kumar was required to make disclosures under Regulation 7(1) read with 7(2) of SAST Regulations, 1997 and Regulation 13 (1) read with 13 (5) of PIT Regulations, and if so, whether he has violated the provisions thereof?
- e. Whether Shri Venkat Naresh Majeti was required to make disclosures under Regulation 29 (2) read with 29 (3) of SAST Regulations, 2011 and Regulation 13 (3) read with 13 (5) of PIT Regulations, and if so, whether he has violated the provisions thereof?
- f. Whether the failure on the part of the Noticees to comply with the aforesaid provisions of the SAST Regulations, 1997, SAST Regulations, 2011 and PIT Regulations attracts monetary penalty under section 15A(b) of SEBI Act, and, if so, what would be the monetary penalty that can be imposed on the Noticees.

10. Before moving forward, it will be appropriate to refer to the relevant provisions of the PIT Regulations, the SAST Regulations, 1997 and SAST Regulations, 2011, which read as under:

SEBI (Prohibition of Insider Trading) Regulations, 1992

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

13. (1) Any person who holds more than 5% shares or voting rights in any listed company shall disclose to the company in Form A, the number of shares or voting rights held by such person, on becoming such holder, within 2 working 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.

Continual disclosure.

(3) Any person who holds more than 5% shares for voting rights in any listed company shall disclose to the company 51[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 subregulation, 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 5(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.

SEBI (Substantial Acquisition of Shares and Takeovers) Regulations, 1997

Acquisition of 5 per cent and more shares or voting rights of a company.

7 (1) Any acquirer, who acquires shares or voting rights which (taken together with shares or voting rights, if any, held by him) would entitle him to more than five per cent or ten per cent or fourteen per cent or fifty four per cent or seventy four per cent shares or voting rights in a company, in any manner whatsoever, shall disclose at every stage the aggregate of his shareholding or voting rights in that company to the company and to the stock exchanges where shares of the target company are listed.

(2) The disclosures mentioned in sub-regulations (1) 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.

SEBI (Substantial Acquisition of Shares and Takeovers) Regulations, 2011

Disclosure of acquisition and disposal.

29.(1) Any acquirer who acquires shares or voting rights in a target company which taken together with shares or voting rights, if any, held by him and by persons acting in concert with him in such target company, aggregating to five per cent or more of the shares of such target company, shall disclose their aggregate shareholding and voting rights in such target company in such form as may be specified.

(2) Any acquirer, 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 every acquisition or disposal of shares of such target company representing two per cent or more of the shares or voting rights in such 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.

11. Now, the first issue for consideration is whether the Noticee Shri Polsani Ravinder Rao was required to make disclosures under Regulations 13(4) read with 13 (5) of PIT Regulations for the change in his shareholding from the quarter ending September

2010 to the quarter ending December 2010, and again in the quarter ending March 2011, and if so, whether he has violated the provisions thereof. I note from a perusal of the Annual Report of the company for the period 2010-11 that the Noticee Shri Polsani Ravinder Rao was the Promoter and Managing Director of the company at the relevant point of time. I find that the holding of the Noticee Shri Polsani Ravinder Rao changed by more than 1,00,000 shares from the quarter ending September 2010 to the quarter ending December 2010, and again in the quarter ending March 2011. From the Shareholding Pattern of persons belonging to the category Promoter and Promoter Group as available on the Bombay Stock Exchange Ltd. (BSE) website, I note that in the quarter ending September 2010, the shareholding of the Noticee Shri Polsani Ravinder Rao was 11,31,745 shares. This number fell to 10,30,245 shares in the quarter ended December 2010 and again rose to 11,30,245 shares in the quarter ended March 2011. I note that Regulation 13(4) of the PIT Regulation mandates directors and officers of listed companies to disclose to the company and to the stock exchange(s) where the shares of the company are listed, any change in their shareholding, *inter alia*, if the change exceeds 25,000 shares. Thus, since the holding of the Noticee Shri Polsani Ravinder Rao, Director and Promoter of the company changed by more than 1,00,000 shares from the quarter ending September 2010 to the quarter ending December 2010, and again by 1,00,000 shares in the quarter ending March 2011, the Noticee Shri Polsani Ravinder Rao, who was the Managing Director and Promoter of the company at the relevant point of time, was required to disclose the same to the company and the stock Exchange where the shares of the company were listed, within two working days under Regulation 13(4) read with 13(5) of the PIT Regulations. However, the Noticee did not make the requisite disclosure. Hence, it was alleged that the Noticee has violated Regulation 13(4) read with 13(5) of the PIT Regulations. I note that the Noticee Shri Polsani Ravinder Rao has admitted that the said disclosures were not made as he was not aware of the provisions under which the disclosure was necessitated. Thus, it is established without doubt that the Noticee Shri Polsani Ravinder Rao has violated the provisions of Regulation 13 (4) read with 13 (5) of the PIT Regulations.

12. The next issue is whether the five Noticees Shri A R S Rajan, Ms Lakshmi Rajan, Ms. Ramana Bharati, Shri Ramana Boina Shankar and Shri Sreeram V Mangalapalli were required to make disclosures under Regulations 13 (4A) read with 13 (5) of PIT Regulations with respect to change in their shareholdings from the quarter ending September 2011 to the quarter ending December 2011, and if so, whether they have violated the provisions thereof. I note from the shareholding pattern of the company as at quarter ending September 2011 available on the BSE website that these aforesaid five Noticees were the promoters of the company at the relevant point of time. Further, I find that there was a change in the shareholdings of these five Noticees from the quarter ending September 2011 to the quarter ending December 2011 in the manner stated in the table below:

Sr. No.	Name of the Promoters	Change in holding
1.	Shri A R S Rajan	The holding of 61,070 shares (0.84%) of Shri A R S Rajan in September 2011 quarter has become 'Nil' in December 2011 quarter.
2.	Ms. Lakshmi Rajan	The holding of 81,280 shares (1.12%) of Ms. Lakshmi Rajan has become 'Nil' in December 2011 quarter.
3.	Ms. Ramana Bharati	The holding of 77,510 shares (1.07%) of Ms. Ramana Bharati has become 'Nil' in December 2011 quarter.
4.	Shri Ramana Boina Shankar	The holding of 70,000 shares (0.96%) of Shri Ramana Boina Shankar has become 'Nil' in December 2011 quarter.
5.	Shri Sreeram V Mangalapalli	The holding 64,120 shares (0.88%) of Shri Sreeram V Mangalapalli has become 'Nil' in December 2011 quarter.

13. Thus, as is evident from the table above, the five promoters viz. Shri A R S Rajan, Ms. Lakshmi Rajan, Ms. Ramana Bharati, Shri Ramana Boina Shankar and Shri Sreeram V Mangalapalli had each transferred their entire holding, and hence, at the end of December 2011 quarter, their holding in the company had become 'Nil'. Regulation 13 (4A) of PIT Regulations mandates that any person who is a promoter or part of promoter group of a listed company, must disclose to the company and the stock exchange where the securities of the company are listed, the change in shareholding or voting rights held by him, if the change exceeds Rs. 5 lakh in value or 25,000 shares or 1% of total shareholding or voting rights, whichever is lower. From the table above, I note that each of the five promoter Noticees had transferred more

than 25,000 shares individually, and hence, they were required to make the necessary disclosure within two working days under Regulations 13 (4A) read with 13(5) of the PIT Regulations. However, these five promoter Noticees too have admitted that no such disclosures were made by them. I note from the submissions made that these five Noticee promoters had exited the company by selling their shares to the core promoters of the company viz. Shri Polsani Ravinder Rao/ Shri N Venugopal, pursuant to an agreement, claimed to be a gentleman's agreement. However, I note that transfer of shares by way of *inter-se* transfers amongst promoter entities does not exempt disclosures required to be made under Regulation 13 (4A) read with 13(5) of the PIT Regulations. Thus, it is established without doubt that the five promoter entities viz. Shri A R S Rajan, Ms. Lakshmi Rajan, Ms. Ramana Bharati, Shri Ramana Boina Shankar and Shri Sreeram V Mangalapalli have violated the provisions of Regulations 13 (4A) read with 13 (5) of the PIT Regulations.

14. We will now consider whether Ms P. Leela Madhuri Devi was required to make the relevant disclosure under the provisions of Regulation 13 (3) read with 13 (5) of PIT Regulations and whether Shri PV Ravi Kumar was required to make relevant disclosures under the provisions of Regulation 7(1) read with 7(2) of SAST Regulations, 1997 and Regulation 13 (1) read with 13 (5) of PIT Regulations. I note that Ms. P Leela Madhuri Devi off loaded her entire stake of 4,51,750 shares (i.e. 8.93% of the paid-up share capital of the company) on May 07, 2010. Since she held more than 5% shares and offloaded her entire stake (thus exceeding the 2% threshold), she was under Regulation 13(3) read with 13 (5) of PIT Regulations, required to make the relevant disclosure to the company within two working days of the said sale of shares. Further, I note that Shri PV Ravi Kumar acquired 4,51,750 shares (i.e. 8.93% of the paid-up share capital of the company) on May 07, 2010. Thus, since by the said acquisition, he held more than 5% shares in the company, he was required to make the relevant disclosure under Regulation 7(1) read with 7(2) of SAST Regulations, 1997 to the company and the Stock Exchanges where the shares of the company were listed, within two days of the receipt of intimation of allotment of shares or the acquisition of shares or voting rights, as the case may be. Similarly,

he was required to disclose to the company, the number of shares held by him within two working days of the receipt of intimation of allotment of shares or the acquisition of shares or voting rights, as the case may be, under Regulation 13(1) of the PIT Regulations. I note that Regulation 13(5) of the PIT Regulations does not apply to the alleged non-compliance on the part of Shri PV Ravi Kumar. From the reply of the Noticees, I find that the Noticees are husband and wife and have inter-se transferred 4,51,750 shares between them by way of gift and provided a copy of the gift deed entered between them on May 07, 2010. It is, however, observed that the gift deed is not notarised. Further, vide email dated November 23, 2010, the AR has informed that the stamp duty on the same has not been paid. Hence, I am unable to rely upon the gift deed. I further note that PIT and SAST Regulations does not exempt transfers between family members not involving payment of consideration, from making disclosures under the said Regulations. I note that the object of the PIT and SAST Regulations mandating disclosure of acquisitions beyond certain quantity is to give equal treatment and opportunity to all shareholders and to protect their interests. The Noticees Shri PV Ravi Kumar and Ms. P Leela Madhuri Devi have stated that they were not aware that gifting shares between husband and wife required disclosures in terms of PIT and SAST Regulations. They have admitted that the non disclosure was out of ignorance and not intentionally done. Thus, it is established without doubt that Ms. P. Leela Madhuri Devi has violated the provisions of Regulation 13 (3) read with 13 (5) of PIT Regulations and her husband Shri P.V. Ravi Kumar has failed to make necessary disclosures under Regulation 7(1) read with 7(2) of the SAST Regulations, 1997 and under Regulation 13 (1) of the PIT Regulations.

15. Next is the issue of whether Shri P. Suresh Gandhi was required to make disclosures under Regulations 13(3) read with 13(5) of PIT Regulations, and whether he has violated the provisions thereof. I note that Shri P Suresh Gandhi had off loaded his entire stake of 2,83,500 shares i.e. 5.6% of the paid up capital of the company, in the quarter ending December 2010. Regulation 13(3) of SAST Regulations, 1997 stipulates that any person who holds more than 5% shares or voting rights in any listed company must disclose to the company the change in the number of shares or voting rights held by him, even if such change results in his shareholding falling

below 5%, if there has been change in such holdings from the last disclosure, and such change exceeds 2% of total shareholding or voting rights in the company. As is evident, since the shareholding of Shri P. Suresh Gandhi was 5.6% of the paid up capital of the company, he was required to disclose the fact that he had sold his entire stake (thus exceeding the 2% threshold) in the prescribed Form in two working days under Regulations 13(3) read with 13(5) of PIT Regulations. However, he did not make any such disclosure. Shri P. Suresh Gandhi in his reply has admitted that it was due to lack of knowledge of SEBI Regulations that he could not make the requisite disclosures. It is, thus, established that Shri P. Suresh Gandhi too failed to adhere to the provisions of Regulations 13(3) read with 13(5) of PIT Regulations.

16. We now come to the issue of whether Noticee Shri Venkat Naresh Majeti was required to make disclosures under Regulations 29 (2) read with 29 (3) of SAST (Regulations), 2011 and Regulation 13 (3) read with 13 (5) of PIT (Regulations), 1992, and if so, whether he has violated the provisions thereof. I note that it has been alleged that Shri Venkat Naresh Majeti has off loaded his entire stake of 6.26% of the paid up capital or 4,54,134 shares of the company in the quarter ending December 2011. However, I find that the Noticee Shri Venkat Naresh Majeti has vide letter dated November 18, 2013 submitted that he had transferred 4,54,134 shares to the account of his broker M/s. Nirmal Bang Securtities Pvt. Ltd. with a view to sell the shares in the market. However, of these, only 1,39,134 shares were sold in the market and the balance 3,15,000 shares were still lying in his DP Beneficiary account. I note that the broker M/s. Nirmal Bang Securtities Pvt. Ltd. (hereinafter referred to as '**Nirmal Bang**') vide email dated January 20, 2014 has confirmed that Shri Venkat Naresh Majeti transferred 4,52,460 shares of the company to their Future and Options Margin Account on December 28, 2011. The broker has stated that the said account is maintained by them for receiving shares of clients with respect to the Futures and Options Segment. The broker has also submitted that that the client did not take any position in the Futures and Options segment and that the Noticee subsequently sold 1,38,301 shares. The broker has further confirmed that the balance 3,52,003 shares have been transferred back to the clients account on February 28, 2013. Shri Venkat Naresh Majeti vide email dated March 27, 2014 has

also confirmed that the details furnished by Nirmal Bang are correct. From the same, I find that the change in the shareholding of Shri Venkata Naresh Majeti amounts to only 1.41% of the total paid up capital of the company. Regulation 13(3) of the PIT Regulations states that any person who holds more than 5% shares or voting rights in any listed company shall disclose to the company the change in his shareholding or voting rights, if such change exceeds 2% of total shareholding or voting rights in the company from the last disclosure. Similarly, Regulation 29(2) of SAST Regulations, 2011 requires that only those acquisition or disposal of shares representing two per cent or more of the shares or voting rights of the company must be disclosed. Hence, I conclude that the Noticee Shri Venkata Naresh Majeti has not violated Regulation 13(3) read with 13(5) of the PIT Regulations as well as Regulation 29 (2) read with 29 (3) of SAST Regulations, 2011.

17. I further note from the documents submitted by Shri A R S Rajan, Ms. Lakshmi Rajan, Ms. Ramana Bharati, Shri Ramana Boina Shankar and Shri Sreeram V Mangalapalli that each one of them had sold the shares to Shri Polsani Ravinder Rao/ Shri N. Venugopal, the core promoters of the company, through off-market transactions at a price of Rs. 30.30 per share. Further, from the copy of Memorandum of Understanding (MoU) entered by each one of them with the purchaser, I find that it was agreed between the parties that about 10% of the consideration will be paid by the purchaser to the seller in cash on the date of signing of the MoU and balance would be paid within three years from the date of signing of the MoU. I further find that it was also agreed that in case of default in payment of the balance money, the shares shall unconditionally be returned to the seller and the amount paid in cash on the date of signing of the MoU would stand fortified.

18. It was observed that Shri A R S Rajan and Shri Sreeram V.Mangalapalli had entered into individual MOUs, each dated October 12, 2011, with Shri N. Venugopal, one of the other core promoters of the company, to sell 61,070 shares and 64,120 shares respectively to him. Similarly, Ms. Ramana Bharati, Ms. Lakshmi Rajan and Shri Ramana Boina Shankar had entered into individual MOUs, each dated October 12,

2011, with Shri Polsani Ravinder Rao, one of the core promoters of the company, to sell 77,510 shares, 81,280 shares and 70,000 shares respectively to him.

19. From the copy of the MOUs submitted, it was observed that in respect of Ms. Ramana Bharati, Shri A R S Rajan, Ms. Lakshmi Rajan, Shri Sreeram V Mangalapalli and in respect of Shri Ramana Boina Shankar, it was agreed that Rs. 3 lacs, Rs. 2,50,421, Rs. 2,62,784, Rs. 2 lacs and Rs. 2 lacs respectively in cash would be paid on the date of signing of MOU by the buyer, and, the balance amount of Rs. 20,48,553, Rs. 16 lacs, Rs. 22 lacs, Rs. 17,42,836 and Rs. 19,21,000 respectively was to be paid by the buyer within three years from the date of signing of the MOU. Also, that in case of default in payment of balance money, the shares shall unconditionally be returned to the respective sellers and the amount paid in cash would stand forfeited. In view of the same, the AR of the aforesaid five promoter Noticees was requested to produce the following in each case:

- a) the copy of the relevant bank statement showing the withdrawal of the amount which was to be paid in cash on the date of signing of MOU;
- b) whether the balance amount has been paid. If so, the mode of such payment with documental evidence including the relevant entries in the bank statement;
- c) and the present status of the underlying shares.

20. In respect of Ms. Ramana Bharati, Ms. Lakshmi Rajan and Shri Ramana Boina Shankar, the core promoter Shri Polsani Ravinder Rao has stated that he had borrowed a sum of Rs. 8 lacs in form of cash from Ms. P. Rajani, his sister-in-law in August 2011 and the upfront amount of Rs. 7,62,784 (Rs. 2 lacs to Shri Ramana Boina Shankar, Rs. 2,62,784 to Ms. Lakshmi Rajan and Rs. 3 lacs to Ms. Ramana Bharati) was paid from the said borrowed amount and provided the bank statement of his sister-in-law, Ms. P. Rajani showing withdrawal of Rs. 8 lacs on August 11, 2011. He has further stated that the balance amount is still to be paid by him to Ms. Ramana Bharati, Ms. Lakshmi Rajan, Shri Ramana Boina Shankar and that the shares are lying with him.

21. Similarly, in respect of Shri A R S Rajan and Shri Sreeram V Mangalapalli, the other core promoter Shri N. Venugopal has stated that he had borrowed a sum of Rs. 5 lacs in form of cash from his mother Ms. N. Renuka in November 2011 and the upfront amount of Rs. 4,50,421 (Rs. 2 lacs to Shri Sreeram V. Mangalapalli and Rs. 2,50,421 to Shri A R S Rajan) was paid from the said borrowed amount and provided the bank statement of his mother, Ms. N. Renuka showing withdrawal of Rs. 5 lacs on November 18, 2011. He has also further stated that the balance amount is still to be paid by him to Shri A R S Rajan and Shri Sreeram V Mangalapalli and that the shares are lying with him.

22. It was observed that the bank entries showing withdrawal of cash are either much earlier viz. August 11, 2011, or, much later viz. November 18, 2011, as compared to the date of the MOU i.e. October 12, 2011. Besides, the cash amounts have not been withdrawn from the bank account of the core promoters to whom the shares were transferred in off-market. The core promoters have confirmed that the balance amounts have not been paid by them to the sellers and that the shares are in their possession. Thus, it appears from the aforesaid that no consideration has been received by the promoters Ms. Ramana Bharati, Ms. Lakshmi Rajan and Shri Ramana Boina Shankar on account of off-market transfer of shares by them to the core promoter Shri P Ravinder Rao. Similarly, it appears that no consideration has been received by the promoters Shri A R S Rajan and Shri Sreeram V Mangalapalli on account of off-market transfer of shares by them to the other core promoter Shri N. Venugopal. From the above, I observe that the five Noticee promoters viz. Shri A R S Rajan, Ms Lakshmi Rajan, Ms. Ramana Bharati, Shri Ramana Boina Shankar and Shri Sreeram V Mangalapalli who had off-loaded their shares to the core promoters viz. Shri P Ravinder Rao/ Shri N. Venugopal during the December 2011 quarter and exited the company appear to have not received the consideration amount from the core promoters till date. Further, I find that the MOUs as aforesaid have been entered on October 12, 2011, whereas the share transfer forms are dated April 19, 2011 i.e. almost six months before the date of entering of the MOUs. Furthermore, I note that though the Stamp Duty Vendor is the same, the serial number of the 100 rupee stamp paper dated 03.05.2010 is BE 622893 and that of 02.09.2010 is BE

622899, whereas, the serial number of stamp papers dated 06.09.2011 are running from BE 622881 to 84 and BE 622887, i.e. the later serial numbers correspond to the earlier date and *vice versa*. In view of all of the above, the transactions appear suspect. Not only is the validity of the MOUs questionable, but also the shares may revert back to the transferors if the balance amounts are not paid on or before the end of three year period. In view of all of the above, the validity of the MoUs is in question. It, therefore, appears that the five promoter noticees viz. Shri A R S Rajan, Ms Lakshmi Rajan, Ms. Ramana Bharati, Shri Ramana Boina Shankar and Shri Sreeram V Mangalapalli have exited the company by transferring their shares to other promoters without consideration.

23. Further, I find that the Noticee Promoter and Director, Shri Polsani Ravinder Rao has also bought 1,00,000 shares from Shri PV Ravi Kumar during the quarter ended March 2011 with an understanding that either to return the shares with Rs. 25 lacs or to buy out the shares within four years at a price prevailing in the market as on that date, whichever is higher, at the option of the seller.

24. However, under the PIT Regulations, I find that disclosure becomes mandatory once the change in holding of the promoters from the last disclosure exceeds Rs. 5 lakh in value or 25,000 shares or 1% of total shareholding or voting rights, whichever is lower, irrespective of whether the consideration amount pursuant to transfer has been received or not. In the given case, since the shares have changed hands, I conclude that the relevant provisions of the PIT Regulations stated as above stand triggered irrespective of receipt of the consideration amount. Besides, 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 observed that:

“Argument that erroneous transfer was without consideration and did not constitute trade is also without any merit because, for purposes of SAST Regulations what is relevant is acquisition of shares and once acquisition of shares exceeds the limits prescribed therein, provisions of SAST Regulations are triggered.”

Similarly, I am of the view that in respect of the case at hand, even in respect of PIT Regulations, regardless of the consideration, once transfers or acquisitions exceed the limits prescribed therein, disclosures are mandated under the PIT Regulations.

25. Thus, in view of the foregoing, I conclude that each of the five Noticee promoters viz. Shri A R S Rajan, Ms Lakshmi Rajan, Ms. Ramana Bharati, Shri Ramana Boina Shankar and Shri Sreeram V Mangalapalli have triggered the respective provisions of PIT Regulations and/ or SAST Regulations, as applicable, even though they may not have received the consideration amount from the core promoters to whom they had transferred the shares. Similarly, Noticee Promoter and Director, Shri Polsani Ravinder Rao has triggered the provisions of the PIT Regulations, as applicable, even though he may not have paid consideration to the seller.

26. The next issue for consideration as to whether the failure on the part of the Noticees (other than the Noticee Shri Venkat Naresh Majeti) who have violated the provisions of PIT Regulations and/ or SAST Regulations, as applicable, attracts monetary penalty under section 15A(b) of SEBI Act, and, if so, what would be the monetary penalty that can be imposed on the said Noticees. The Hon'ble Supreme Court of India in the matter of *SEBI Vs. Shri Ram Mutual Fund* [2006] 68 SCL 216(SC) has held that:

"In our considered opinion, penalty is attracted as soon as the contravention of the statutory obligation as contemplated by the Act and the Regulations is established and hence the intention of the parties committing such violation becomes wholly irrelevant..."

27. In view of the foregoing, I am convinced that it is a fit case to impose monetary penalty on the promoter and director of the company Shri Polsani Ravinder Rao, five promoters of the company viz. Shri A R S Rajan, Ms. Lakshmi Rajan, Ms. Ramana Bharati, Shri Ramana Boina Shankar and Shri Sreeram V Mangalapalli, as well as on Shri PV Ravi Kumar, Ms. P. Leela Madhuri Devi and Shri P Suresh Gandhi under section 15A(b) of the SEBI Act, which reads as under:

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

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.

28. While determining the quantum of penalty under Section 15A (b) of SEBI Act, 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.”*

29. In view of the charges as established, the facts and circumstances of the case and the various judgments referred to and mentioned hereinabove, the quantum of penalty would depend on the factors referred in Section 15-J of SEBI Act and stated as above. It is noted that no quantifiable figures are available to assess the disproportionate gain or unfair advantage made as a result of such default by the Noticees Shri Polsani Ravinder Rao, Shri A R S Rajan, Ms Lakshmi Rajan, Ms. Ramana Bharati, Shri Ramana Boina Shankar, Shri Sreeram V Mangalapalli, Shri P.V.Ravi Kumar, Ms. P. Leela Madhuri Devi and Shri P Suresh Gandhi. Further from the material available on record, it may not be possible to ascertain the exact monetary loss to the investors on account of default by these Noticees. However, the disclosures under Regulation 13 of the PIT Regulations aims to make insider trading transparent by facilitating exposure of any illegal trade, and, thereby, serving as a

deterrent. Further, the main objective of the SAST Regulations, 1997 and SAST Regulations, 2011 is to afford fair treatment for shareholders who are affected by the change in control. The Regulation seeks to achieve fair treatment by *inter alia* mandating disclosure of timely and adequate information to enable shareholders to make an informed decision and ensuring that there is a fair and informed market in the shares of companies affected by such change in control. 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. Thus, the cornerstone of both SAST Regulations, 1997, SAST Regulations, 2011 and PIT Regulations is investor protection. Besides, 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 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 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 same, the argument put forth by the Noticees Shri Polsani Ravinder Rao, Shri A R S Rajan, Ms. Lakshmi Rajan, Ms. Ramana Boina Shankar, Shri Ramana Bharati and Shri Sreeram V Mangalapall that no loss or damage was caused to the interest of investors is not relevant for the given case.

30. Further, I am also inclined to consider the following mitigating factors while adjudging the quantum of penalty: a) the paid-up capital/ market capitalization of the company at the relevant point of time; b) the trading volumes of the company's shares on the exchanges, where the shares were listed, during the relevant period; and c) the number of occasions in the instant proceeding that the Noticees have violated the relevant provisions of the SAST Regulations/ PIT Regulations, as applicable.

31. I find that the scrip was listed on Calcutta Stock Exchange Limited (CSE) in the physical segment category and has not traded in C-STAR (CSE Online Screen-based Trading and Reporting System) since 1997. The scrip was listed on BSE with effect from July 30, 2010. The market capitalization of the company during the relevant period was about Rs. 50 crore. The paid up capital of the company was 72,58,110 shares of Rs. 10/- each aggregating Rs. 7,25,81,100/- and during the relevant period of non-disclosure about 32% of the paid-up capital of the company was held by the Promoters and about 68% was held by Public Shareholders. As per the BSE website, there were about 700 odd shareholders in the public shareholding category during the relevant period. Further, I note that during the relevant period of non-disclosure by the Noticees under the applicable provisions of PIT Regulations/ SAST Regulations, 1997/ 2011, I note that the average daily trading volumes on BSE was approx. 15,000 shares during the quarter ended December 2011, was approx. 34,000 shares during the quarter ended March 2011 and approx. 4,000 shares during the quarter ended December 2010 respectively. I also note that the company was listed on BSE only on July 30, 2010.

32. Presuming that the Noticee Shri Polsani Ravinder Rao would have made continual disclosures under the PIT Regulations at the relevant point of time, I find that the Noticee Shri Polsani Ravinder Rao would have been required to make disclosures on two (2) occasions as a result of change of his shareholding by more than 1,00,000 shares from the quarter ending September 2010 to the quarter ending December 2010, and again by 1,00,000 shares in the quarter ending March 2011, through off-market transactions. However, I find that the Noticee Shri Polsani Ravinder Rao has failed to make the relevant disclosure under PIT Regulations on each such occasion. The Noticee Shri Polsani Ravinder Rao has submitted that his shareholding was sent to the stock exchange as per Clause 35 of the Listing Agreement every quarter and also in the yearly disclosure in terms of Regulation 8(3) of SAST Regulations, 1997. I find that the said claim of the Noticee has not been supported by documental proof to demonstrate that such filings by the company were indeed made within the stipulated time. Moreover, I note that filing under Clause 35 of the Listing Agreement is made after the end of the quarter and that under Regulation 8(3) of

SAST Regulations, 1997 was required to be made only after the end of the year, whereas, disclosures under Regulation 13(4) of the PIT Regulations are required to be made immediately within two working days of the receipts of intimation of allotment of shares, or the acquisition or sale of shares or voting rights, as the case may be. Besides, the Noticee Shri Polsani Ravinder Rao cannot absolve himself by making disclosures under Listing Agreement/ SAST Regulations in lieu of making necessary disclosures under the PIT Regulations, as the purpose and intent of both the laws are different. The non-disclosure by the Noticee under the PIT Regulations undermines the investor interest relating to the effectiveness of purpose of continuous disclosures. Besides, I note from the Annual Report of the company for the period 2010-11 that the Noticee Shri Polsani Ravinder Rao was the Promoter and Managing Director of the company at the relevant point of time. I further note from the said report that the Board had also designated Shri Polsani Ravinder Rao as the Compliance Officer of the company. Thus, I find that Noticee Shri Polsani Ravinder Rao had a greater responsibility of making timely and appropriate disclosures under the PIT Regulations in accordance with its spirit, intention and purpose. However, I note that Shri Polsani Ravinder Rao has submitted that he was not aware of the provisions under which disclosures were required to be made. It is, thus, a paradoxical situation wherein the compliance officer itself is unaware of what compliances are required to be made.

33. Further, I find that presuming that the Noticee Promoters Shri A R S Rajan, Ms Lakshmi Rajan, Ms. Ramana Bharati, Shri Ramana Boina Shankar and Sreeram V Mangalapalli would have made continual disclosure under the PIT Regulations at the relevant point of time, I find that they would have been required to make disclosure on one (1) occasion each as a result of their off-loading of 61,070 shares, 81,280 shares, 77,510 shares, 70,000 shares and 64,120 shares respectively to the core promoters through off-market transactions during the December 2011 quarter. However, I find that each of the five Noticee Promoters have failed to make the relevant disclosure under PIT Regulations on each such occasion. Being the promoters of the company, they too had a responsibility of making timely and appropriate disclosures under the PIT Regulations in accordance with its spirit,

intention and purpose. Non-compliance with disclosure requirements by Promoters/ Directors of the company undermines the regulatory objectives and jeopardizes the achievement of the underlying policy goals.

34. Further, I note that due to inter-se off-market transfer of 4,51,750 shares between husband and wife, Ms P. Leela Madhuri Devi was required to make the relevant disclosure under the provisions of PIT Regulations on one (1) occasion and Shri PV Ravi Kumar was required to make relevant disclosures under the requisite provisions of SAST Regulations, 1997 on one (1) occasion and under PIT Regulations on one (1) occasion. However, I find that both Ms P. Leela Madhuri Devi as well as her husband Shri PV Ravi Kumar have failed to make the relevant disclosure under PIT Regulations/ SAST Regulations, 1997, as applicable, on each such occasion.

35. Similarly, I find that Shri P. Suresh Gandhi was required to make disclosures under the provisions of PIT Regulations on one (1) occasion, when he off loaded his entire stake of 2,83,500 shares of the company in the quarter ending December 2010, however, he failed to make such disclosure under the relevant provisions of the PIT Regulations.

36. I note that the five Noticees who are promoters of the company and one Noticee who is a promoter cum Managing Director cum designated Compliance Officer of the company have all stated ignorance of the law as the reason for not making disclosures under the relevant provisions of SAST Regulations/ PIT Regulations, as applicable. However, those who bear the responsibility cannot take shelter under lack of knowledge, as ignorance of law cannot be a defense to get exemption from liability arising under law due to such non-compliance. Besides, any transaction which requires compliance of the Takeover/ PIT Regulations, if not complied, is always a serious matter and the Noticees cannot claim ignorance of law to avoid liability, since the shareholders/ investors were deprived of the information. Further, I note that under Section 15A(b) of the SEBI Act, for violation of the aforesaid Regulations, the prescribed penalty is one lakh rupees for each day during which such failure continues or one crore rupees, whichever is less.

ORDER

37. After taking into consideration all the facts and circumstances of the case, under Section 15A (b) of SEBI Act, I impose a penalty of

- a. Rs.10,00,000/- (Rupees Ten Lakh only), on Shri Polsani Ravinder Rao,
 - b. Rs. 5,00,000/- (Rupees Five Lakh only) each, on Shri A R S Rajan, Ms Lakshmi Rajan, Ms. Ramana Bharati, Shri Ramana Boina Shankar and Sreeram V Mangalapalli,
 - c. Rs. 8,00,000/- (Rupees Eight Lakh only), on Ms P. Leela Madhuri Devi and Shri PV Ravi Kumar, to be paid jointly and severally, and
 - d. Rs.3,00,000/- (Rupees Three Lakh only), on Shri P. Suresh Gandhi,
- which will be commensurate with the violations committed by them.

38. The Noticees named in the para above shall pay the respective amounts 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 should be forwarded to Shri. K Saravanan, Deputy General Manager, Integrated Surveillance Department, SEBI Bhavan, Plot No. C – 4 A, “G” Block, Bandra Kurla Complex, Bandra (E), Mumbai – 400 051.

39. Further, considering the facts and circumstances of the case, I, however, do not find the instant matter fit for imposition of penalty on the Noticee Shri Venkat Naresh Majeti in terms of Section 15A(b) of SEBI Act and dispose of the proceeding accordingly.

40. In terms of rule 6 of the Rules, copies of this order are sent to the Noticee and also to the Securities and Exchange Board of India.

Date: **March 28, 2014**

Place: **Mumbai**

Anita Kenkare
Adjudicating Officer