

**BEFORE THE ADJUDICATING OFFICER
SECURITIES AND EXCHANGE BOARD OF INDIA**

[ADJUDICATION ORDER NO. EAD-2/DSR/JAK/813-814 /2017]

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:

- 1. Chhibbar Business & Fiscals Private Limited(AABCC1229R)**
- 2. Doyang Wood Products Limited(AAACD7255M)**

In the matter of

Ashirwad Steels & Industries Limited

1. Securities and Exchange Board of India (hereinafter referred to as 'SEBI') has examined trading in the scrip of Ashirwad Steels & Industries Ltd.(hereinafter referred to as 'ASIL/Company') for possible violations of the provisions of the SEBI Act, 1992, SEBI (Prohibition of Insider Trading) Regulations, 1992 (hereinafter referred to as 'PIT Regulations') and SEBI (Substantial Acquisition of Shares and Takeovers) Regulations, 2011 (hereinafter referred to as 'SAST Regulations'). Examination Period being from 01/01/2015 to 24/08/2015. It is alleged that the promoter entities i.e. Chhibbar Business & Fiscals Private Limited (hereinafter referred to as 'CBFPL/Noticee') had violated Regulation 13(4A) read with Regulation 13(5) of PIT Regulations and Doyang Wood Products Limited (hereinafter referred to as 'DWPL/Noticee') had violated Regulation 13(1), 13(3) and 13(4A) read with Regulation 13(5) of PIT Regulations and Regulation 29(1) and 29(2) read with Regulation 29(3) of SAST Regulations. SEBI has, therefore, initiated Adjudication Proceedings against the Noticees for the alleged violations.

Appointment of Adjudicating Officer

2. I have been appointed as the Adjudicating Officer vide order dated January 25, 2017, under Section 15 I of the SEBI Act read with Rule 3 of the SEBI (Procedure for Holding Inquiry and Imposing Penalties by Adjudicating Officer) Rules, 1995 (hereinafter referred to as the 'Rules') to inquire into and adjudge the alleged violations of the provisions of law by the noticees under Section 15A(b) of the SEBI Act .

Show Cause Notice, Reply and Personal Hearing

3. Show Cause Notices dated March 14, 2017 (hereinafter referred to as SCNs) were issued to the Noticees in terms of Rule 4 of the said Rules requiring them to show cause as to why an inquiry should not be held for the alleged violation of provisions of law. Vide letter dated March 27, 2017, both the Noticees replied to the SCN and inter-alia submitted as follows:

"It is true and a fact that we had acquired 93480 equity shares of ASIL in the month of March 2015 at a price of around Rs 5/- share, but the information thereof could not be given to Bombay Stock Exchange(BSE) as required under Regulation 13(1), 13(3) and 13(4A) read with Regulation 13(5) of PIT Regulations and Regulation 29(1) and 29(2) read with Regulation 29(3) of SAST Regulations due to omission/oversight.

Furthermore this inadvertent omission/error was not in any way backed by any mischievous desire to manipulate or rig the market share prices of ASIL and on a perusal of the high/low share price data of ASIL as provided by BSE from 01.04.2014 to 31.03.2016(copies enclosed), it gets proved that our intentions have been honest and bona-fide and the non-intimation of acquisition of shares under SEBI (PIT) Regulations was not meant to harm anybody's

financial/material interest and/or to make or earn any extraordinary/manipulative monetary gain of any kind.

We had purchased the shares @Rs.4.97/- each during March 2015 and twelve months prior and twelve months after the month of acquisition the market price of ASIL's shares on BSE's trading platform remained within a range of low of Rs. 3.30 per share(during May 2014) and high of Rs. 7.06(during February/March 2016) and hence there was no price rigging or manipulation of any kind.

In other words we wish to convey that subsequent to our acquisition of shares of ASIL; the market price of shares remained within a limit and the share prices didn't go up abnormally or showed any abnormal or extraordinary movement on either side. On the contrary after our acquisition; the market price of shares went down to as low as Rs.3.30/- per share in the month of September 2016 and therefore our company had absolutely no intention of manipulating/ rigging the share price in any manner whatsoever.

Thus, the inadvertent omission/lapse to give intimation of our acquisition of shares was not in any way meant to make or gain profits, windfall, abnormal or otherwise and due to our unintentional omission/lapse to give timely disclosure under SEBI(PIT) Regulations, no person suffered any loss or got adversely affected financially or otherwise."

4. In the interest of natural justice and in order to conduct an inquiry as per Rule 4 (3) of the said Rules, an opportunity of personal hearing was granted to the Noticees on October 25, 2017. The Authorized Representative (AR) attended the hearing on October 25, 2017 and reiterated the submissions made vide letters dated March 27, 2017 and October 24, 2017.

5. Consideration of Issues, Evidence and Findings

I have carefully perused the charges leveled against the Noticees as per the SCNs and the material as available on record. The issues that arise for consideration in the present case are:

- (a) Whether the Noticees have violated the provisions of Regulation 13(1), 13(3) and 13(4A) read with 13(5) of PIT Regulations and Regulation 29(1) and 29(2) read with 29(3) of the SAST Regulations?***
- (b) Do the violations, if any, on the part of the Noticees attract any penalty under Section 15 A(b) of the Act?***
- (c) If yes, what should be the quantum of penalty?***

6. The relevant provisions of law are reproduced as under:

Relevant provisions of PIT Regulations:

Disclosure of interest or holding by directors and officers and substantial shareholders in a listed companies -

Continual disclosure.

13(1) Any person who hold 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.

13(3) Any person who holds more than 5% shares for voting rights in any listed company shall disclose to the company in Form C the number of shares or voting rights held and change in shareholding or voting rights, even if such change results in shareholding falling below 5%, if there 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.

13(4A) Any person who is a promoter or part of the 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) order 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.

13(5) The disclosure mentioned in sub-regulation (3), (4) and (4A) shall be made within two 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.

Relevant provisions of SAST Regulations:

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.

29(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 shares or voting rights, even if such change results in shareholding falling below five per cent, if there has been a 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.

29(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.

7. It is noted that CBFPL was holding 21,74,153 (17.39%) shares as on 25/03/2015.

Thereafter, its shareholding increased. Details are as under:

Date	Total Holding of Client	Issued Capital	Change	Violation	Total Holding as %age of Issued Capital
25/03/2015	2174153	12500000	0		17.39

26/03/2015	2267633	12500000	93480	Regulation 13 (4A) of SEBI(PIT) Regulations	18.14
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8. It is noted that there was a delay 17 days in making disclosures by CBFPL to the Company and Stock Exchange, the same was accepted by CBFPL vide its replies, therefore, it can be concluded that CBFPL had violated Regulation 13 (4A) of PIT Regulations read with Regulation 13(5) of PIT Regulations..
9. DWPL was holding 4,42,566 (3.54%) shares as on 19/01/2015. Thereafter, its shareholding increased. Details are as under:

Date	Tot Holding of Client	Tot Holding as %age of Issued Capital	change in holding	Cumulative change in holding for Reg. 13(4A) of SEBI(PIT) Regulations	Violation
19/01/2015	442566	3.54	0	0	
20/01/2015	465566	3.72	23000	23000	
21/01/2015	475566	3.80	10000	33000	Regulation 13(4A) of SEBI(PIT) Regulations
22/01/2015	493566	3.95	18000	18000	
23/01/2015	518366	4.15	24800	42800	Regulation 13(4A) of SEBI(PIT) Regulations
24/01/2015	518366	4.15	0	0	
26/01/2015	518366	4.15	0	0	
27/01/2015	540865	4.33	22499	22499	
28/01/2015	555834	4.45	14969	37468	Regulation 13(4A) of SEBI(PIT) Regulations
29/01/2015	575734	4.61	19900	19900	
30/01/2015	595668	4.77	19934	39834	Regulation 13(4A) of SEBI(PIT) Regulations
31/01/2015	595668	4.77	0	0	
02/02/2015	605638	4.85	9970	9970	
03/02/2015	605638	4.85	0	9970	
04/02/2015	630592	5.04	24954	34924	Regulation 13(4A) and 13(1) of SEBI(PIT) Regulations & 29(1) of SEBI(SAST) Regulations
11/02/2015	655556	5.24	24964	24964	
12/02/2015	655556	5.24	0	24964	
13/02/2015	675556	5.40	20000	44964	Regulation 13(4A) of SEBI(PIT) Regulations
14/02/2015	675556	5.40	0	0	
16/02/2015	700556	5.60	25000	25000	
23/02/2015	725780	5.81	25224	50224	Regulation 13(4A) of SEBI(PIT) Regulations
24/03/2015	825780	6.61	100000	100000	Regulation 13(4A) of SEBI(PIT) Regulations

25/03/2015	931476	7.45	105696	105696	Regulation 13(4A) and 13(3) of SEBI(PIT) Regulations & 29(2) of SEBI(SAST) Regulations
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10. It is noted that the share holding of DWPL had increased from 3.54% to 7.45% (on market purchase), PIT Regulations and SAST Regulations triggered on different occasions. Consolidated disclosures with delay (ranging from 2-3 months) were made to the Company and the Stock Exchange, the same was accepted by DWPL vide its replies. Therefore, it can be concluded that DWPL had violated Regulation 13(1), 13(3), 13(4A) read with Regulation 13(5) of PIT Regulations and Regulation 29(1) and 29(2) read with Regulation 29(3) of SAST Regulations.

11. In view of the above, CBFPL and DWPL are liable for monetary penalty under Section 15A(b) of the SEBI Act which reads as under:

If any person, who is required under this Act or any rules or regulations made hereunder,—

To file any return or furnish any information, books or other documents within the time specified there for in the regulations, fails to file return or furnish the same within the time specified there for in the regulations, he shall be liable to a penalty which shall not be less than one lakh rupees but which may extend to one lakh rupees for each day during which such failure continues subject to a maximum of one crore rupees.

12. While determining the quantum of penalty, it is important to consider the factors stipulated in Section 15J of the Act, 1992 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 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.

13. I observe, from the material available on record, that it is not possible to quantify, any gain or unfair advantage accrued to the Noticees or the extent of loss suffered by the investors as a result of the default committed by the Noticees. I find that the default of CBFPL is not repetitive in nature. I also find that the default of DWPL is repetitive in nature.

14. At this juncture, I would like to quote the observations from the Order dated 4.9.2013 passed by Hon'ble Securities Appellate Tribunal (SAT) in the matter of Vitro Commodities Private Limited Vs SEBI wherein Hon'ble SAT had observed that "It may be noticed that provisions of Regulations 7(1) of Takeover Regulations, 1997 and Regulation 13(1) of PIT Regulations, 1992 are not substantially different, since violation of first automatically triggers violation of second and hence there is no justification for imposition of penalty for second violation when penalty for first violation has been imposed. It may be seen that Regulation 7(1) of Takeover Regulations, 1997 and Regulation 13(1) of PIT Regulations, 1992 are not stand alone Regulations and one is corollary of other".

15. In the light of the above observations of Hon'ble SAT, I am of the view that the violation of the provisions of Regulation 13(1) of the PIT Regulations and Regulation 29(1) of the SAST Regulations committed by DWPL are not substantially different. Therefore, these violations can be considered as a single violation for the purpose of imposition of penalty on DWPL.

ORDER

16. In view of the above, after considering all the facts and circumstances of the case and in exercise of the powers conferred under Section 15-I of the Act and Rule 5 of said Rules, I hereby impose monetary penalties as under:

Sr. No.	Name of the Noticee	Provisions of law violated	Penal Provisions	Penalty Amount (in `)
1.	Chhibbar Business & Fiscals Private Limited	Regulation 13(4A) read with Regulation 13(5) of PIT Regulations	15A(b) of the SEBI Act, 1992	1,00,000/- (Rupees One Lakh Only)
2.	Doyang Wood Products Limited	Regulation 13(1) of PIT Regulations and 29(1) of SAST Regulations, 13(3) and 13(4A) read with Regulation 13(5) of PIT Regulations and Regulation 29(2) read with Regulation 29(3) of SAST Regulations	15A(b) of the SEBI Act, 1992	3,00,000/- (Rupees Three Lakhs Only)

17. In my view, the penalties are commensurate with the defaults committed by the noticees.

18. The Noticees shall remit / pay the said amount of penalties within 45 days of receipt of this order either by way of Demand Draft in favor 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:

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

19. The said demand draft or forwarding details and confirmation of e-payment made in the format as given in table below should be forwarded to "The Division Chief (Enforcement Department - DRA-I), Securities and Exchange Board of India, SEBI Bhavan, Plot no. C- 4 A, "G" Block, Bandra Kurla Complex, Bandra (E), Mumbai - 400 051."

1	Case Name	
2	Name of the Payee	
3	Date of Payment	
4	Amount Paid	
5	Transaction No.	
6	Bank Details in which payment is made	

7	Payment is made for (like penalties/disgorgement / recovery/ settlement amount and legal charges along with order details)	
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20. In terms of Rule 6 of the said Rules, copies of this order are sent to the Noticees and also to the Securities and Exchange Board of India.

Date: October 30, 2017
Place: Mumbai

D. SURA REDDY
GENERAL MANAGER &
ADJUDICATING OFFICER