

**BEFORE THE ADJUDICATING OFFICER**  
**SECURITIES AND EXCHANGE BOARD OF INDIA**  
**[ADJUDICATION ORDER NO. Order/GR/KG/2020-21/8680-8682]**

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**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) RULES, 1995 AND UNDER SECTION 23-I OF SECURITIES CONTRACTS (REGULATION) ACT, 1956 READ WITH RULE 5 OF SECURITIES CONTRACTS (REGULATION) (PROCEDURE FOR HOLDING INQUIRY AND IMPOSING PENALTIES BY ADJUDICATING OFFICER) RULES, 2005.**

In respect of

**The Orissa Minerals Development Co. Ltd., Dr. Satish Chandra (PAN AACPC6864E)**  
**AND Ms. Sucharita Das (PAN AGSPD1209Q)**

In the matter of

**The Orissa Minerals Development Co. Ltd.,**

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**BACKGROUND**

1. Securities and Exchange Board of India (hereinafter referred to as **“SEBI”**), conducted investigation into the alleged delayed disclosure of the price sensitive information (hereinafter referred to as **“PSI”**) by The Orissa Minerals Development Company Ltd., (hereinafter referred to as **“OMDC/Company”**), in the scrip of OMDC, to the Stock Exchanges [The Bombay Stock Exchange (herein after referred to as **“BSE”**) and National Stock Exchange

(hereinafter referred to as “**NSE**”)] for alleged violation of provisions of the SEBI Act, 1992 and SEBI (Prohibition of Insider Trading) Regulations, 1992 during the investigation period July 02, 2012 to August 10, 2012 (hereinafter referred to as “**IP**”).

2. Investigation alleged that OMDC had failed to disclose the following **PSI** on an immediate basis to BSE and NSE during the **IP** :
  1. Environment Clearance (hereinafter referred to as “**EC**”) received from OMDC from Ministry of Environment and Forest (hereinafter referred to as “**MoEF**”) for production of Iron Ore and Manganese Ore for its Kolha Roida Iron and Manganese Mines.
  2. Approval received from the Ministry of Steel (“**MoS**”) to the proposal of Merger of Bisra Stone Lime Company Ltd. (hereinafter referred to as “**BSLC**”) with OMDC.
  3. Approval received from the MoS to the proposal of issuance of bonus shares of OMDC.
  4. Approval received from the MoS to the proposal of splitting shares of OMDC in 1:10 ratio.

Accordingly, SEBI had alleged that OMDC, Dr. Satish Chandra, (erstwhile Managing Director, OMDC (hereinafter referred to as “**Satish**”) and Ms. Sucharita Das, the erstwhile Compliance officer, OMDC (hereinafter referred to as “**Sucharita**”) (collectively known as “**Noticees**”) have violated Clause 2.1 of the Code of Corporate Disclosure Practices for Prevention of Insider Trading specified under Schedule II read with Regulation 12(2) of the SEBI (Prohibition of Insider Trading) Regulations, 1992 (hereinafter referred to as “**PIT Regulations**”) and OMDC has also violated Clause 36 of Listing Agreement read with Section 21 of the Securities Contracts (Regulation) Act, 1956 (hereinafter referred to as “**SCRA**”). SEBI, has therefore, initiated adjudication

proceedings under the provisions of Section 15I of SEBI Act, 1992 (hereinafter referred to as **“SEBI Act”**) and Section 23I of SCRA to inquire and adjudge the alleged violation of the provisions of law by the Noticees and to impose penalties, if liable, under Section 15HB of the SEBI Act and Section 23A(a) of the SCRA.

### **APPOINTMENT OF ADJUDICATING OFFICER**

3. Ms. Anita Kenkare (CGM) was appointed as the Adjudicating Officer vide orders dated April 24, 2015 and February 15, 2016 under Section 15-I of the SEBI Act, read with Rule 3 of Securities and Exchange Board of India (Procedure For Holding Inquiry and Imposing Penalties) Rules, 1995 (hereinafter referred to as **“SEBI Adjudicating Rules”**) and under Section 23-I of the SCRA and Rule 3 of Securities Contract (Regulation) (Procedure for holding Inquiry and Imposing Penalties by Adjudicating Officer) Rules, 2005 (hereinafter referred to as **“SCRA Adjudication Rules”**) to inquire and adjudge the alleged violation Clause 2.1 of the Code of Corporate Disclosure Practices for Prevention of Insider Trading specified under Schedule II read with Regulation 12(2) of PIT Regulations and Clause 36 of Listing Agreement read with Section 21 of SCRA and to impose penalty under the provisions of Section 15HB of SEBI Act and Section 23A(a) of SCRA, if the said charges stand established.

### **Show Cause Notice, Reply and Personal Hearing**

4. Accordingly, Show Cause Notice (hereinafter referred to as **“SCN”**) No. EAD-6/AK/VV/15537/2016/1 dated May 31, 2016 was issued in terms of sub-Rule (7) of Rule 4 of SEBI Adjudicating Rules and of Sub-Rule (7) of Rule 4 of SCRA Adjudicating Rules whereby 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 15HB of SEBI Act and Section 23A(a) of SCRA for the alleged violations specified in the SCN.

5. The SCN issued to Satish was returned undelivered stating “addressee left”. Subsequently, vide letter dated June 16, 2016, OMDC was advised to deliver the SCN. It is observed that OMDC vide letter dated June 27, 2016 has made the following submissions:

- a. *The company is a Central Government Public Sector Enterprise (CPSE) under Ministry of Steel.*
- b. *Company has internal procedures and standards for sending any communication to outsiders, including other government departments and public at large.*
- c. *The approval of the Competent Authority is required for every letter and/or communication to be issued by the Company. OMDC have to place a proper ‘Note Sheet’ explaining the basic facts and reasons for every letter and/or communication to be sent, while placing the same before the signing authorities. This practice is common in other CPSE’s as well.*
- d. *Every officer of the Company is bound to follow the procedures, and at times it may take even a day or two. Until the communication is sent out, the confidentiality of the information is fully maintained by the officers of the company having the information.*
- e. *With regard to the communication to stock exchanges, the compliance Officer is authorized to send the communication to Stock Exchanges. The Compliance Officer before sending any communication places a Note Sheet before Competent Authority, and after obtaining his approval, the Compliance Officer sends the communication.*
- f. *As regards to the Environment Clearance in respect of Kolha Roida Iron Ore & Manganese Mines:*

- i. *The Company had received the Environment Clearance from Ministry of Environment & Forests (hereinafter referred to as 'MoEF') in respect of Kolha Roida Iron Ore & Manganese Mines on July 24, 2012 by General Manager- Commercial after the close of office hours. General Manager- Commercial had forwarded the said letter to the Compliance Officer on July 25, 2012 at 10:51 hrs through telefax.*
- ii. *The MoEF uploads the copy of Environment Clearance on the day of Environment Clearance is signed by the issuing authority (even though not sent to the concerned recipient) and that the date of publication of environmental clearance on MoEF website in respect of Kolha Roida Iron Ore & Manganese Mines was July 23, 2012.*
- iii. *Thus, the Environment Clearance in respect of Kolha Roida Iron Ore & Manganese Mines was available on the MoEF's Website on July 23, 2012, however, the same was received by the Company on July 24, 2012.*
- iv. *The Compliance Officer had first appraised the relevant authority regarding receipt of the said Environment Clearance and kept the information strictly confidential. The Compliance Officer had placed a Note Sheet as per the internal procedure for disseminating the information the regarding Environment Clearance in respect of Kolha Roida Iron Ore & Manganese Mines on July 25, 2012 before the relevant authority for approval.*
- v. *The relevant authority had promptly accorded its consent for dissemination on the same day i.e. on July 25, 2012. Thereafter, the Compliance Officer had sent the communication to NSE and BSE on July 25, 2012. The sequence is explained as follows:*

<i>Sr.</i>	<i>Details</i>	<i>Date</i>	<i>Actual date of receipt of</i>	<i>Date of</i>	<i>Corporate Announcement sent to</i>

N o		of MoE F letter	MoEF letter by the Company		placing of Note Sheet for its approval by authority	BSE		NSE	
			Date	Time		Date	Time	Date	Time
1	Environment Clearance in respect of Roida Iron & Manganese Ore Mining project	July 23, 2012	July 24, 2012 (Received by Compliance Officer on July 25, 2012)	After officer hours (received by Compliance officer at 10.51 am)	July 25, 2015	July 25, 2012	12:56 hrs	July 25, 2012	12:55 hrs

vi. The above mentioned disclosure sent by the Company was disseminated at 13:23 hrs on July 25, 2012 on BSE website and at 13:29 hrs on July 25, 2012 on NSE website.

vii. The Company and its officers had taken prompt step in accordance with the internal procedures and had promptly disclosed the information regarding Environment Clearance in respect of Kolha Roida Iron Ore and Manganese Mines, being a price sensitive information, to the NSE and BSE.

viii. However, the fact that the said information was already available on the MoEF website on July 23, 2012, cannot be disputed.

g. As regard letter from MoS regarding merger of BSLC with the Company, and issue of Bonus shares:

i. The Company had received a letter dated July 23, 2012 from MoS on July 24, 2012 at 11:30 hrs in the Managing Director's Office. The said letter was forwarded to the Compliance Officer on July 25, 2012 for dissemination. In the said letter, MoS had advised the Company to initiate the following action points:

- BSLC may be merged with the Company; and
- The Company may look into issue of Bonus shares as per legal requirements.

ii. As per the internal procedure, the Compliance Officer had appraised the relevant authority regarding receipt of the said letter from the MoS and kept the information strictly confidential.

iii. The Compliance Officer had placed a Note Sheet as per the internal procedure for disseminating the information regarding merger of BSLC with the Company and issue of Bonus shares, on July 25, 2012 before the relevant authority for approval.

iv. The relevant authority had promptly accorded its consent for dissemination on the same day, i.e. on July 25, 2012. Thereafter, the Compliance Officer had sent the communication to NSE and BSE. The sequence are as follows:

Sr. No	Details	Date of MoEF letter	Actual date of receipt of MoEF letter by the Company		Date of placing of Note Sheet for its approval by authority	Corporate Announcement sent to			
						BSE		NSE	
			Date	Time		Date	Time	Date	Time
1	Merger of BSLC with the	July 23,	July 24, 2012	11:30 hrs	July 25, 2015	July 25,	17:55 hrs	July 25, 2012	17:52 hrs

	<i>Company</i>	<i>2012</i>				<i>201</i>			
	<i>Issue of Bonus shares</i>					<i>2</i>			

v. *The above disclosure sent by the Company was disseminated at 18:55 hrs on July 25, 2012 on BSE website and at 18:42 hrs on July 25, 2012 on NSE website.*

vi. *The Company and its officers had taken prompt step in accordance with the internal procedures and had promptly disclosed the information regarding merger and issue of bonus shares, being a price sensitive information to the NSE and BSE.*

h. *As regard to the letter from MoS in respect of splitting of shares of the Company in 1:10 ratio:*

i. *The Company had received a letter dated July 26, 2012 from MoS on July 26, 2012 at 18:18 hrs. As the letter was received via telefax at 18:18 hrs on July 26, 2012, being after closure of office, the same was seen on next day i.e. on July 27, 2012.*

ii. *In continuation of MoS's letter of even number dated July 26, 2012, the MoS has conveyed its approval and advised the Company to initiate necessary action relating to the issue of splitting of shares of the Company in 1:10 ratio.*

iii. *As per the internal procedure, the Compliance Officer had appraised the relevant authority regarding receipt of the said letter from MoS and kept the information strictly confidential.*

iv. *The Compliance Officer had placed a Note Sheet as per the internal procedure for disseminating the information regarding issue of splitting of shares of the Company in 1:10 ration, on July 27, 2012 before the relevant authority for approval.*



v. The relevant authority had accorded its consent for dissemination on the same day i.e. on July 27, 2012. Thereafter, the Compliance Officer had sent the communication to NSE and BSE. The sequence are as follows:

Sr. No	Details	Date of MoE F letter	Actual date of receipt of MoEF letter by the Company		Date of placing of Note Sheet for its approval by authority	Corporate Announcement sent to			
						BSE		NSE	
			Date	Time		Date	Time	Date	Time
1	Splitting of shares of the company	July 26, 2012	July 26, 2012	18:18 hrs.	July 27, 2015	July 27, 2012	11:44 hrs	July 27, 2012	11:45 hrs
						2012			
						2			

vi. The above disclosure sent by the Company was disseminated on BSE website at 12:10 hrs on July 27, 2012 and on NSE website at 16:32 hrs on July 31, 2012.

vii. The Company and its officers had taken prompt step in accordance with the internal procedures and had promptly disclosed the information regarding splitting of shares of the Company in 1:10 ratio, being a price sensitive information, to the NSE and BSE.

viii. However, there was a delay in dissemination of the above disclosure regarding splitting of shares of the Company by BSE. The company had promptly disclosed the information on July 27, 2016 and the same was available on BSE on the same day, but the same was disseminated by NSE only on July 31, 2012 at 16:32 hrs.

- i. *That in all the above three instances, the Company had promptly disclosed the price sensitive information to the NSE and BSE. Also, the Company and its officers had kept the information strictly confidential and not passed on such information to any person directly or indirectly by way of making a recommendation for the purchase or sale of securities or otherwise.*
- j. *Further, none of the Officers of the Company or their relatives have traded, directly or indirectly, in the scrip of the Company while in the possession of the said information.*
- k. *The movement in the share price of the Company was independent of any influence from any insider. In other words, no insider had any influence, directly or indirectly, on movement in the share price of the Company.*
- l. *Further, no insider had gained undue benefit by trading with the benefit of possessing Unpublished Price Sensitive Information (UPSI) which the rest of the market does not have.*
- m. *The objective of the PIT Regulations is to prohibit violative insider trading whereby insiders who are in possession of UPSI take undue advantage of such possession in their trades with the rest of the market that does not have a level-playing field in terms of access to material information. In our case, none of the insiders, at any of the above mentioned three occasions, had entered into violative insider trading while in possession of UPSI to take undue advantage of such possession in their trades which the rest of the market that did not have.*
- n. *Further, the information regarding Environment Clearance for Kolha Roida Iron Ore & Manganese Mines received from MoEF, advise received from MoS regarding merger of BSLC with the Company, issue of Bonus shares and advise received from MoS regarding splitting of shares, were not handled*

*lightly and were handled only on a need to know basis and were not communicated except where necessary.*

- o. That the Company has always complied with all the regulatory requirements as are applicable to the Company in true spirit of law. We had never intentionally and/or willfully committed any breach of regulatory compliances or reporting which were applicable to the Company.*
  - p. That in view of the above facts, it will be appreciated that the disclosures are made promptly without delay as per the provisions of the PIT Regulations and Clause 36 of the Listing Agreement read with section 23(A)(a) of the Securities Contracts (Regulation) Act, 1956, and that at no point of time the Company or its Officers had entered into any violative insider trading or taken any undue advantage of possession of UPSI and that, therefore, it is not correct to construe and allege that the Company had failed to disclose the price sensitive information promptly and failed to comply with the provisions of the PIT Regulations and Clause 36 of the Listing Agreement read with section 23(A)(a) of the Securities Contracts (Regulation) Act 1956, with regard to disclosure of information to the stock exchanges and that, therefore, no default/violation on the part of the Company or its officer be alleged and that therefore no penalty be levied on the company under Section 15HB of the SEBI Act, 1992 and I or under Section 23(A)(a) of SCRA, as applicable.*
  - q. Accordingly, submitted that there has been no violation on the part of the Noticees in the matter of alleged delay in dissemination of price sensitive information.*
6. Subsequently, vide Hearing notice dated April 11, 2017, a hearing opportunity was granted to the Noticees on May 02, 2017. The hearing notice issued to Ms. Sucharita Das was returned with remarks 'Moved'. With respect to Dr. Satish Chandra, the notice was issued to the address T/V-36 Rly. Enclave, San Martin Marg, New Delhi – 110021, where SCN had earlier

got delivered, a letter was received from Rail Vikas Nigam Ltd. (RVNL) stating *inter alia* that the letter appears to have been mistakenly sent to the address of CMD, RVNL.

7. On the date of hearing i.e May 02, 2017, Mr. Amit Ghosh and Ms. Anu Singh, Compliance Officer, OMDC, the 'Authorised Representative' (hereinafter referred to as '**ARs**') appeared on behalf of OMDC, Dr. Satish Chandra and Ms. Sucharita Das. Also, during the hearing, the hearing notices of Dr. Satish Chandra and Ms. Sucharita Das was handed over to the AR.
8. Further, the ARs has clarified that the reply dated June 27, 2016 filed by OMDC has been filed on behalf of OMDC, Dr. Satish Chandra and Ms. Sucharita Das. Also, the ARs has reiterated the submissions made therein and in reply dated June 27, 2016 to the SCN filed by OMDC.
9. At the time of hearing, OMDC has submitted the following, vide its letter dated May 02, 2017:

*i. that we are a Government Company within the meaning of Section 2[45] of the Companies Act, 2013 under the Administrative control of the Ministry of Steel, Government of India. The Company accords high priority to the discharge of statutory compliances and maintenance of Corporate Governance norms. Besides complying with the Listing Agreements I Listing Regulations, the Company complies with the Guidelines on Corporate Governance for Central PSUs, as laid down by the Department of Public Enterprises in true spirit. It is noteworthy that the Company's compliances of the said Guidelines for the financial years 2012-13 and 2013-14 were graded under the "Excellent" category by its Administrative Ministry.*

*ii. As mentioned in the letter dated 27th July, 2016 to SEBI, the Company has certain laid down*

internal procedures and standards for making Corporate Disclosures to outsiders including Government departments etc whereby such communications needs to be approved by the competent authority under a "Note Sheet" explaining background facts and reasons prior to issue, a practice which is common to other CPSEs as well. Although this adds marginally to the time frame, it keeps the system streamlined and ensures a top-level focus on dissemination of information as part of good governance. This norm was duly followed by the Company for the three cases covering the period from July 2, 2012 to August 10, 2012 ["the investigation period "] concerning which the aforesaid Show Cause Notice has been issued to the Company on the ground of delay in document filing. We place before you the sequential data pertaining to the three filings made to BSE and NSE.

Details of Three filings in the Investigation Period covered under the Show	Date of receipt of the letter by the Company of	Actual Date of	Date of placement of Note Sheet for	Corporate Announcement sent to BSE and NSE- Date & Time				
				BSE		NSE		
		Date	Time		Date	Time	Date	Time
[1]  Environment clearance in  respect of  Kolha Roida	July  23,  2012	July 24,  2012  Effective  date of	After  Office  Hour  s	July 25,  2012	July 25,  2012	12.56  Hours	July 25,  2012	12.55  Hours
[2] Advice for  Merger of Bisra Stone Lime Co. Ltd  /BSLO	July  23,  2012	July 24,  2012	11.30  Hour  s	July 25,  2012	July 25,  2012	17.55  Hours	July 25,  2012	17.52  Hours

[3] Advice for July	July 26, 2012	After July 27, 2012	July 11.44	July 11.45
Splitting of Shares	26, 2012	er 2012	27, Hours	27, Hours
of the	2012	Offi	2012	2012
Company, received	Effective date	ce		

iii. In the context of the aforesaid filing of information made by the Company during the investigation period, we now propose to draw your kind attention to the under-mentioned facts or factors which merit careful consideration :

a. Clause 2.1 of the Code of Corporate Disclosure Practices for prevention of Insider Trading specified under Schedule II of the SEBI [Prohibition of Insider Trading Regulations, 1992 [herein after referred to as "the PIT Regulations" or "Insider Trading Code"]] stipulates that price sensitive information shall be given by listed companies to Stock Exchanges and disseminated on a continuous and immediate basis. Clause 36 of the Listing Agreement mandates that the Company shall immediately inform the Exchange of all material events which have a bearing on the performance/ operations of the Company as well as price sensitive information. It may kindly be seen from the above chart that the aforesaid disclosures were made by the Company, upon receipt, without delay to keep the Stock Exchange abreast of sensitive information on a continuous basis and with due promptitude. It may please be observed that the functionaries including the Compliance Officer acted expeditiously and there was hardly any delay in the three filings. Rather, delay lay with the Stock Exchange in some cases for instance, the corporate announcement for Splitting of shares of the Company received from the Ministry of Steel after office hours on 26th July, 2012 and filed promptly by the Company on 27th July, 2012 at 11.45 hours, was put up on the NSE website as late as 31st July, 2012 at 16.32 hours although the same appeared on the BSE website on the same date viz., 27th July, 2012.

b. In all the three cases, the Company, its Managing Director and the Compliance Officer had kept

*the information strictly confidential and not passed on such information to any person including a relative, directly nor indirectly or by way of a recommendation for purchase or sale of securities of the Company or otherwise and thereby fulfilled the requirements mandated under Chapter II of the PIT Regulations [captioned "Prohibition on Dealing, Communicating and Counseling"]. It is a matter of fact that there exists no evidence whatsoever to show that there was any breach of confidentiality on the part of the Company or its Managing Director or Compliance Officer or any other functionary on the aforesaid matters.*

- c. *Further, there is no evidence whatever on record to show that any of the Officers of the Company or their relatives - including the Insiders - have traded, directly or indirectly in the shares of the Company during the investigation period while in possession of the information or gained undue benefit by trading on the strength of unpublished price sensitive information. Reference may be made at this juncture to the data given in sl. 23 of the Company's letter to SEBI bearing reference no. SEBI/OMDC/ CS/05-2014/01 dated 9th May, 2015,, which confirms that the four companies - viz., Gandiv Investment Pvt Ltd, Anvil fintrade Pvt Ltd, Teenlok Advisory Services Pvt Ltd and Jewels Advisory Services Ltd-- which dealt in the securities of the Company during the investigation period, had no relationship or linkage with the Company, its management or any other insider possessing the information on a need-to-know basis.*
- d. *It follows from the submissions in [iii] above, that the movement in the share price of the Company during the investigation period was completely independent of any influence from any insider and no insider had any influence, direct or indirect over the share price movement. As mentioned above, no unpublished price sensitive information was communicated by the individuals possessing the information to the individuals taking trading decisions. It is a matter of fact that there is no evidence of such mechanisms and procedures having been breached.*

- e. *It is also open to doubt as to whether the aforesaid communications from the Ministry were, in fact, unpublished price sensitive information in the hands of the Company, because the information had been placed on the website of the concerned Ministries for public viewing before the communications reached the Company. Hence, it cannot be denied that these were actually published information very much in the public domain. A contrarian view would clearly be short of logic. Question may be raised as to why then the Company made the filing. Obviously, as a measure of caution and in pursuit of the principle that, when in doubt, make the filing.*
- f. *Regulation 2[k] of the Insider Trading Code defines the term "unpublished" to mean information which is not published by the Company or its agents and is not specific in nature. Explanation to the Regulation adds that speculative reports in print or electronic media which is not published by the Company or its agents shall NOT be considered as published information. It automatically follows, there-from , that definitive reports / matters-- appearing in print or electronic media originating from sources other than the Company or its agents -- would surely constitute 'published information' as is the case for all the three situations referred to above. In this connection, we crave leave to refer to the definition of the expression "unpublished price sensitive information" appearing in Regulation 2[1] [n] of the SEBI [Prohibition of Insider Trading] Regulations, 2015, because this recent Regulation is more articulate and has better clarity on the matter. The said Regulation states that the expression unpublished price sensitive information means "any information, relating to a company or its securities, directly or indirectly, that is not generally available, which upon becoming available, is likely to materially affect the price of the securities...." [emphasis added]. Adjudicating Officer may please note that placement of the information by the respective Ministry on their website before routing the same to the Company inevitably has the effect of making definitive information generally available and, thereby, converts it into a 'published information' in the hands of the Company.*
- g. *It is pertinent to mention that from a purely legal standpoint, the advice received from the Ministry*



*of Steel vide No. 2 and 3 of the Chart, to the effect that the Company may initiate necessary action as per legal requirement for mergers, bonus shares and stock-split constitute a directional advice from one of the principle stakeholders / shareholders to the Company. These issues require numerous prior actions, commencing with financial analysis and, depending upon financial implications, placement of agenda proposal to the Board of Directors followed by approval of the Board. It is felt that it only at that stage when the proposal is structured for placement to the Board that the issue really becomes price sensitive.*

- b. Without prejudice to the contention of the Company that it had kept the aforesaid information received from the respective Ministries strictly confidential and had made timely filing of the documents during the investigation period, it is hereby affirmed that the Company has never intentionally or wilfully committed any breach of regulatory compliance or reporting as applicable to the Company.*
  
- i. Besides placing on record its track record on governance as mentioned in 51. [viii] above as well as in the second paragraph of this letter, attention of the Adjudicating Officer is kindly drawn to one of the key principles of jurisprudence. The principle recognizes that mens rea or intention is an essential factor for pinning fault on a person or entity arising out of his/ its act or omission. Just to illustrate, the Indian Penal Code provides that even a crime is not committed if the mind of the person, doing the act, is innocent. In short, the intent and act must both concur to place liability on a person. The Company places before you this time-honoured legal dictum for consideration as it has never wilfully committed any regulatory non-compliance and puts on record that adherence to law, rather than circumventing it constitute the Company's governance philosophy.*
  
- j. Section 15J of the SEBI Act, 1992 lists out the following factors based on which a Company could become liable in an adjudication proceeding viz.,*

- *The amount of disproportionate gain or unfair advantage, wherever quantifiable, made as a result of the default*
- *Amount of loss caused to an investor or group of investors as a result of the default*
- *The repetitive nature of the default.*

k. *It would be abundantly clear from the submissions made under Sl [ii] and [iii] above, that the Company and its functionaries including the Insiders, far from making disproportionate gain have not made any gain whatsoever by delayed filing as alleged. Again, as the information was in the public domain even before reaching the Company, the possibility of causing any loss to an investor I investor groups- consequent to the alleged delay in filing by the Company -- is remote and can well be ruled out. The Chart given at the beginning of this letter shows with ample clarity, that there was no default -- not to speak of repetitive default - by the Company. The Company, therefore, urges the Adjudicating Officer to re-view the matter in a bias-free, non-mechanical manner shorn of pre-conceptions and based on natural justice.*

l. *Without prejudice to the contention of the Company that it has not delayed any of the statutory filings identified under the Show Cause Notice, it is requested that the Hon'ble Adjudicating Officer may kindly take into account the*

- *'Mitigating factors annotated in 51. [viii] herein above as well as in the second paragraph herein including the fact that in case of two of the letters from the concerned Ministry, the letter had been sent to and received by the Company after the Office hours, shortening the time at the Company's disposal; and*
- *Total absence of aggravating factors in the alleged default and drop the charges against the Company and its Officers under the aforesaid Show Cause Notice taking a pragmatic view of the aforesaid three situations.*

*m. To conclude, we urge upon you to note dispassionately that disclosures by the Company on the subject three cases have been made promptly and without delay in consonance with the provisions of the PIT Regulations and Clause 36 of the Listing Agreement read with Section 23(A) (a) of the Securities Contracts (Regulations), Act, 1956, that at no point of time in the investigation period did the Company or its Officers enter into any adverse insider trading activities or taken any unfair advantage by reason of being in possession of unpublished price sensitive information and, accordingly, it would not be correct, equitable and legally fair to construe and hold that the Company has failed to disclose price sensitive information promptly or failed to comply with the provisions of the PIT Regulations and Clause 36 of the Listing Agreement read with Section 23(A) (a) of the Securities Contracts (Regulations), Act, 1956 with regard to disclosure of information to the Stock Exchanges.*

*Accordingly, requested that no default or violation on the part of the Company and its Officers be recorded during the proceedings and no penalty be imposed on the Company and I or its Officers under Section 15HB of the SEBI Act, 1992 and / or under Section 23(A)(a) of the Securities Contract [Regulations] Act. The Company, on its part, affirms that it would continue to scrupulously abide by all the provisions of the SEBI Act and all related Regulations made there under.*

10. During the hearing, the following queries were put forth to the ARs:

- 1. To whom was the then Compliance Officer of OMDC reporting to at the relevant point at time.*
- 2. Please provide a copy of the Code of Conduct for Prevention of Insider Trading followed by OMDC at the relevant point of time along with the minutes of the Board Meeting approving the said code.*

3. *Policy that was followed by OMDC for follow up with Ministry Departments with respect to pending clearances with the Ministry Departments at the relevant point of time along with supporting documental proof such as minutes of the Board approving the said policy, etc.*
4. *Who received price sensitive documents forwarded by Ministry Departments to OMDC at the relevant point of time?*
5. *The internal policy, procedures and standards followed by OMDC for receiving (including recording of date & time of receipt) and acting upon (including seeking approval for dissemination of information to stock exchanges) such price sensitive documents at the relevant point of time along with supporting documental proof such as minutes of the Board approving the said policy/ procedures etc.*
6. *Policy that was followed by OMDC at the relevant point of time for maintaining confidentiality of all price sensitive documents received from Ministry departments along with supporting documental proof, till such time that it was disclosed to stock Exchanges for dissemination of information to public.*
7. *It is observed from OMDC's reply dated June 27, 2016 to the SCN that it was known to OMDC that MoEF uploads the copy of Environment Clearance on the day the environment clearance is signed by the issuing authority (even though not sent to the concerned recipient). Under the circumstances, since environment clearances of OMDC's projects were pending with MoEF, what measures had been adopted by OMDC at the relevant point of time to ensure that it becomes aware of any such upload on MoEF website on an almost immediate basis, more so since such information was price sensitive?*
8. *Please provide copies of all correspondence had with MoEF in the matter of environment clearance in respect of Kolha Roida Iron Ore and Mnaganese mine of M/s. Bharat Process and Mechanical Engineers Ltd.*

9. *Mode by which MoEF had forwarded letter dated July 23, 2012 to OMDC in the matter of environment clearance in respect of Kolha Roida Iron Ore and Mnaganese mine of M/s. Bharat Process and Mechanical Engineers Ltd. along with documental proof.*
10. *Mode by which MoS had forwarded (a) letter dated July 23, 2012 w.r.t merger of Bisra Stone Lime Company Ltd. (BSLC) with OMDC & issue of bonus shares, and (b) letter dated July 26, 2012 in respect of splitting of shares along with documentary proof.*
11. *The exact time on July 24, 2012 when OMDC received MoEF's letter issuing environment clearance in respect of Kolha Roida Iron Ore and Mnaganese mine of M/s. Bharat Process and Mechanical Engineers Ltd. along with supporting documental proof.*
12. *How did the General Manager (Commercial) receive letter sent by MoEF issuing environment clearance in respect of Kolha Roida Iron Ore and Mnaganese mine of M/s. Bharat Process and Mechanical Engineers Ltd. after the close of office hours. Kindly provide supporting documentary proof that the said letter was received by OMDC after office hours.*
13. *In which case, when it was known to OMDC that the said information regarding environment clearance in respect of Kolha Roida Iron Ore and Mnaganese mine of M/s. Bharat Process and Mechanical Engineers Ltd. was price sensitive, why was the said information not passed on to the Compliance Officer, or, in his absence directly to the stock exchanges instantaneously.*
14. *The name and designation of the authority whom the compliance officer first apprised regarding receipt of environment clearance in respect of Kolha Roida Iron Ore and Mnaganese mine of M/s. Bharat Process and Mechanical Engineers Ltd.*

15. *Why did the then Managing Director of OMDC not refer the letter dated July 23, 2012 received from MoS to the Compliance Officer instantaneously on receipt, instead the same was referred to Compliance Officer only next day as claimed by OMDC in reply dated June 27, 2016.*
16. *The noting made on MoS letter dated July 23, 2012 indicates that the letter was referred to Company Secretary along with some others on July 24, 2012 itself, which appears to be contradictory to facts mentioned in OMDC's reply dated June 27, 2016 that the letter was forwarded to the Compliance Officer only on July 25, 2012. Kindly clarify.*
17. *Whether MoS letters dated July 23, 2012 and July 26, 2012 addressed to Dr. Satish Chandra, Managing Director, Bird Group of Companies were uploaded on MoS website. Alternatively whether information contained in the said letters was uploaded on MoS website. If so, please provide the date/ time when the same were uploaded along with supporting details thereof as also policy followed, if any, by MoS for uploading of such documents.*
18. *The fax no. 011-23062522 on MoS letter dated July 26, 2012 of OMDC's reply dated June 27, 2016 appears to be of Steel Authority of India. Thus, it appears that fax claimed by OMDC to have been received on July 26, 2012 at 18:18 hrs. i.e. after the closure of office from MoS appears to have been actually received from Steel Authority of India. Kindly clarify. Further, in which case please provide the date and time of receipt of MoS letter dated July 26, 2012 by OMDC along with documental proof and the name & designation of the official who received the said letter.*
19. *OMDC along with its reply dated June 27, 2016 to the SCN has provided copies of page nos. 3, 4 & 5 of internal Note sheet regarding approvals sought for disseminating price sensitive information to the stock Exchanges. OMDC may also provide copies of page nos. 1 & 2 of the internal note sheets as well duly attested, so as to have clear picture in the matter.*

11. OMDC, vide letter dated May 26, 2017, has filed submission to the queries raised during the hearing and the details are as follows:

1. *The then Compliance officer of OMDC was reporting to the then Managing Director, Dr. Satish Chandra at the relevant point of time.*
2. *The Board in its meeting dated 14.02.2011 had approved the Code of Conduct for Prevention of Insider Trading.*
3. *OMDC, as a mining company has to obtain a numbers of statutory clearances, from different Government Agencies, for grant/renewal of leases. Such applications are/ were made based on operational requirements and as per stipulations in different Acts, Rules and Regulations. There cannot therefore be any express policy for seeking approval of the Board for making application for such clearance, although obtaining of such clearances in the format prescribed under law is mandatory. As an administrative measure, OMDC follows up with different Ministries and Government departments for obtaining the clearances. The Follow-up made by the Company is more a matter of administrative requirement rather than a rigid policy.*
4. *Documents which are sent to the Company are /were first received at the dispatch/ Receipt section of the Company and thereafter the same are I were sent to the concerned Department to whom the letter is addressed.*
5. *The Company follows requisite Internal procedure for receiving documents. The Company has a Dispatch/ Receipt Section. The staff at the Receiving section receives the documents and, thereafter, through internal post system, forwards the documents to the respective departments to whom the letter is*

*addressed. As explained during the hearing, the Company follows an internal procedure for dissemination of information to the Stock Exchange. Whenever any relevant or material information is received which is not of a routine nature, the Compliance Officer takes approval of competent authority by way of moving a Note-sheet before disseminating the information to Stock Exchange. After getting the requisite approval, the Compliance Officer informs the respective Stock Exchange.*

- 6. Any information that appears to be price sensitive is I was forwarded to the Managing Director from where the information is I was thereafter forwarded to then Compliance Officer for necessary action. The Company, its Managing Director and the Compliance Officer keeps I kept the Price Sensitive information strictly confidential and do not I did not pass on such information to any person including a relative , directly or indirectly or by way of a recommendation for purchase or sale of securities of the Company or otherwise and thereby fulfilled the applicable requirements mandated under Chapter II of the PIT Regulations [captioned "Prohibition on Dealing, Communicating and Counseling"].*
- 7. Lot of time elapses before formalities are completed at the MoEF level. It is not possible for the Company to maintain close follow up of the movement of file within the Ministry. Therefore, it becomes just a matter of guess work as to when the environment clearance will be granted. OMDC became aware of such clearance only after it was received by the company on 25th July, 2012 by fax, which was immediately informed to the Stock Exchange.*
- 8. The copies of all correspondence with MoEF in the matter of environment clearance in respect of Kolha Roida Iron Ore and Manganese mine of M/s. Bharat Process and Mechanical Engineers Ltd.*
- 9. The Company had received MoEF letter dated 23.07.2012 in the matter of environment clearance in respect of Kolha Roida Iron Ore and Manganese mine of M/s. Bharat Process and Mechanical Engineers Ltd by speed-post on 30.07.2012.*



10. *The Company had received MoS letter dated 23.07.2012 w.r.t merger of Bisra Stone Lime Company Ltd.(BSLC) with OMDC & issue of bonus shares by fax on 24th July 2012, and b) letter dated July 26, 2012 in respect of splitting of shares by fax 26th July 2012 after closure of office hour.*
11. *OMDC received MoEF letter dated 23.07.2012 in matter of environment clearance in respect of Kolha Roida Iron Ore and Manganese mine of M/s. Bharat Process and Mechanical Engineers Ltd on July 25, 2012 by fax.*
12. *OMDC received MoEF letter dated 23.07.2012 in matter of environment clearance in respect of Kolha Roida Iron Ore and Manganese mine of M/s. Bharat Process and Mechanical Engineers Ltd on July 25,2012 by fax. It was inadvertently noted by GM (Commercial) dated 24th July, 2012.*
13. *The said information regarding environment clearance in respect of Kolha Roida Iron Ore and Manganese mine of M/s. Bharat Process and Mechanical Engineers Ltd. was not price sensitive. Grant of environment clearance does not confer any right on the lessee to start their mining operation, it is only one of the conditions for obtaining renewal from the Government. Therefore, in all fairness, the grant of environment clearances cannot be treated as Price sensitive information. OMDC, at that point of time, complied by informing respective Stock Exchanges as a matter of pre-caution. It is worthwhile to mention that the said mines are still not in operation. To start I operate a mine requires a series of clearances/ approvals/ permissions, some of which are stated below:*

<b>SR. No</b>	<b>Subject</b>	<b>Applicable Laws</b>
1	Renewal/ Extension of Mining lease	Sec 8A (6/ 7) of MMDR (Amended) Act, 2015.  The Mineral (Mining by Govt. Company Rules, 2015 [Rule- 3] for mining lease granted to Government Companies or Corporations.
2	Mining Plan  Mining scheme	Sub section 2(b) of Sec 5 of MMDR (Amended) Act, 2015.  The Mineral Concession Rules, 2016 [Rule-13]  The Mineral Concession Rules, 2016 [Rule- 17]  The Mineral Conservation & Development Rule-2016  [Rule-12].
3	Environment  Clearances	The Environment Protection Act, 1986  [EIA Notification-2006]
4	Forest Clearances	The Forest (Conservation) Act, 1980 [Sec.-2]
5	The Wildlife  Management Plan	The Wildlife (Protection) Act, 1972
6	Surface Right	The Mineral Concession Rules, 2016 [Chapter-XIV]
7	Consent to Establish	The Water (Prevention & Control of Pollution) Act, 1974 [Sec.-25 & 26], The Air (Prevention & Control of Pollution) Act, 1981 [Sec.21]
8	Consent to operate	The Water (Prevention & Control of Pollution) Act, 1974 [Sec.-25 & 26], The Air (Prevention & Control of Pollution) Act, 1981 [Sec.21]

*Among all the clearances/ approvals/ permissions, Environment clearance is just one of the approvals in respect of Kolha Roida Iron Ore and Manganese mine of M/s. Bharat Process and Mechanical Engineers Ltd. The Environment clearance cannot, therefore, be considered as Price Sensitive information. Question may be raised as to why then the Company made the filing. Obviously, as a measure of caution and in pursuit of the principle that, when in doubt, make the filing. In this context, it may be pertinent to mention that at the hearing also, the Company had explained the reasons why the obtaining of the environmental clearance was actually 'published information ' very much in the public domain and had requested the Adjudicating Officer to review the matter in a bias-free , non-mechanical manner, shorn of pre-conceptions .*

*xiii. Regarding receipt of Environment clearance in respect of Kolha Roida Iron Ore and Manganese mine of M/s Bharat Process and Mechanical Engineers Ltd., the Compliance officer first apprised Mr. TK Saha, the then General Manager, Finance and Accounts.*

*xiv. The letter was received by General Manager Commercial and, hence, the letter was forwarded to Compliance Officer for necessary action. The Compliance Officer promptly provided the information to Stock Exchanges, after getting necessary approval of Competent Authority.*

*xv. It would be seen from the noting made on MoS letter dated July 23, 2012, that the letter was referred to Company Secretary and others on July 24, 2012. As the letter was marked to other officers, it reached the Company Secretary on July 25, 2012 as per internal post system followed by the Company. Once the letter reached to Company Secretary, it was immediately informed to the Stock Exchanges, after getting necessary approval of Competent*

*Authority on Note-Sheet.*

*xvi. OMDC does not have any record available if the MoS letters were uploaded at Ministry website at that point of time.*

*xvii. The Company has enquired and found that the Fax no. 011-23062522 on MoS letter dated July 26, 2012 was of the Joint Secretary Office, MoS itself.*

*xviii. As per the records available with the Company for past years, there are no other past non-compliance by OMDC with respect to the SEBI Act and Regulations.*

12. Subsequent to the transfer of Ms. Anita Kenkare, the undersigned was appointed as the AO vide order dated 14/08/2019 conveyed by communique dated 23/10/2019.

13. Subsequent to the appointment of the undersigned as the AO, an opportunity of personal hearing was provided to the Noticees on March 27, 2020. Thereafter, hearing was again scheduled on August 17, 2020 vide notice dated August 7, 2020 communicated through email of even date.

14. The Noticees, through their common AR responded vide email dated August 12, 2020, to the aforesaid Notice of hearing, wherein it reiterated its earlier submissions made vide letter dated May 2, 2017. The Noticees in their revised representation dated August 12, 2020, to the said email had also proposed as reproduced herein below:

*[xv] In view of the current extraordinary circumstances prevailing in the country due to the pandemic caused by COVID-2019 entailing enforcement of lockdowns and requiring social distancing, we place before you our plea to kindly:*

*[a] Consider dispassionately the comprehensive Written Submissions set out herein above along with the attachments and waive the requirement of physical presence by way of personal hearing in terms of Rule 4. OR*

*[b] As mentioned in your email, alternatively, permit us to make the personal appearance sought by you in the matter through Video-conferencing on 17th August, 2020 at 11a.m.*

15. The said proposal of the Noticees was accepted and conveyed to the Noticees vide email dated August 13, 2020. I therefore note that the principles of natural justice have been duly complied with in the present case.

### **Consideration of Issues**

16. I have carefully perused the written submissions of the Noticees, the submission made at the hearings and the documents available on record. It is observed that the allegation against OMDC, Dr. Satish Chandra and Ms. Sucharita Das is that the noticees have failed to disclose the Price Sensitive Information in a timely manner under the provisions of Clause 2.1 of the Code of Corporate Disclosure Practices for Prevention of Insider Trading specified with Regulation 12(2) of PIT Regulations and further OMDC was alleged to have violated Clause 36 of Listing Agreement read with Section 12 of SCRA.

17. The issues that, therefore, arises for consideration in the present case are:

- a. Whether the noticees viz., OMDC, Dr. Satish Chandra and Ms. Sucharita Das had delayed in disseminating price sensitive information to the exchanges in respect of four price sensitive events, resulting in violating the relevant provisions of PIT Regulations and/or listing agreement read with SCRA, as applicable.
- b. Do the violations, if any, attract monetary penalty under Section 15HB of SEBI Act and Section 23A(a) of SCRA, as applicable?
- c. If so, what would be the monetary penalty that can be imposed taking into consideration the factors mentioned in Section 15J of SEBI Act and Section 23J of SCRA?

18. I carefully read the submissions of the noticees and before proceeding further, the relevant provisions are as follows:

***SEBI (PROHIBITION OF INSIDER TRADING) REGULATIONS, 1992***

***POLICY ON DISCLOSURES AND INTERNAL PROCEDURE FOR  
PREVENTION OF INSIDER TRADING***

***Code of Internal procedures and conduct for listed companies and other  
entities.***

*Regulation 12 (2) The entities mentioned in sub-regulation (1), shall abide by the code of Corporate Disclosure Practices as specified in Schedule II of these Regulations.*

## ***SCHEDULE II***

***(see under regulation 12(2))***

### ***CODE OF CORPORATE DISCLOSURE PRACTICES FOR PREVENTION OF INSIDER TRADING***

*Clause 2.1 Price sensitive information shall be given by listed companies to stock exchanges and disseminated on a continuous and immediate basis*

#### **Findings**

16. The alleged delayed disclosure of price sensitive information (PSI) by OMDC to the Exchanges BSE and NSE in respect of **each of the four (4) price sensitive events** is shown in tabulated form below:

Sr. No.	PSI Details	Date of MoEF/ MoS letter	Receipt of MoEF/ MoS letter by OMDC/  Uploaded on MoEF/ MoS website		Corporate Announcements			
					BSE		NSE	
			Date	Time	Date	Time	Date	Time
1	Environment  Clearance for	23-07-  2012	23-07-  2012	Not  available	25-07-  2012	13:23	25-07-  2012	13:29

Sr. No.	PSI Details	Date of MoEF/ MoS letter	Receipt of MoEF/ MoS letter by OMDC/ Uploaded on MoEF/ MoS website		Corporate Announcements			
			Date	Time	BSE		NSE	
					Date	Time	Date	Time
	Kolha Roida Iron & Manganese Ore Mining project							
2	Merger of BSLC with OMDC	23-07- 2012	24-07- 2012	11:30 am	25-07- 2012	18:55	25-07- 2012	18:42
3	Issue of Bonus Shares	23-07- 2012	24-07- 2012	11:30 am	25-07- 2012	18:55	25-07- 2012	18:42
4	Splitting of shares of OMDC	26-07- 2012	26-07- 2012	18:18 hrs.	27-07- 2012	12:10	31-07- 2012	16:32



17. The following are the details of the traded data immediately prior to the announcements made by OMDC, on the date of the announcements and immediately thereafter as per the BSE website:

Date	Open	High	Low	Close	WAP	No. of Shares	No. of Trades	Total Turnover	Deliverable Quantity	% Del. Qty to Trade Qty	* Spread	
											H-L	C-O
24/07/12	30,400.05	30,942.75	30,201.00	30,314.20	30,488.84	556	435	1,69,51,797	144	25.90	741.75	-85.85
25/07/12	30,500.00	36,377.00	30,500.00	36,377.00	34,474.77	7,284	5,822	25,11,14,248	1,673	22.97	5,877.00	5,877.00
26/07/12	37,400.00	42,798.00	37,400.00	40,723.35	41,256.01	8,941	7,551	36,88,69,993	1,457	16.30	5,398.00	3,323.35
27/07/12	40,989.00	42,319.70	40,305.00	41,562.90	41,448.52	5,483	4,665	22,72,62,212	744	13.57	2,014.70	573.90
30/07/12	41,800.00	43,398.80	41,042.00	42,609.45	42,336.99	3,984	3,426	16,86,70,550	543	13.63	2,356.80	809.45
31/07/12	42,998.00	46,870.35	42,830.00	46,119.05	44,940.51	5,958	4,818	26,77,55,559	697	11.70	4,040.35	3,121.05
1/08/12	46,449.00	50,400.00	46,250.00	48,789.50	49,023.17	8,827	7,133	43,27,27,547	1,104	12.51	4,150.00	2,340.50

18. Similarly, following are the details of the traded data immediately prior to the announcements made by OMDC, on the date of the announcements and immediately thereafter as per the NSE website:

Date	Prev Close	Open Price	High Price	Low Price	Last Price	Close Price	VWAP	Total Trade d Quant ity	Turnove r ₹ in Lacs	No. of Trad es	Deli vera ble Qty	% Dly Qt to Trad ed Qty
20-Jul- 2012	32,149.0 5	32,299. 00	32,400. 00	31,166.3 0	31,299.9 5	31,251. 50	31,684.6 8	922	292.13	787	284	30.80
23-Jul- 2012	31,251.5 0	31,000. 00	31,000. 00	30,202.2 5	30,449.9 5	30,368. 70	30,523.5 9	492	150.18	431	203	41.26
24-Jul- 2012	30,368.7 0	30,699. 95	30,900. 00	30,200.0 0	30,210.0 0	30,300. 05	30,474.4 0	658	200.52	542	276	41.95
25-Jul- 2012	30,300.0 5	30,499. 95	36,360. 05	30,300.1 0	36,360.0 5	36,360. 05	34,524.8 0	11,962	4,129.86	9,049	3,149	26.33
26-Jul- 2012	36,360.0 5	37,690. 00	42,680. 00	37,200.0 0	40,825.0 0	40,737. 00	41,313.4 8	14,222	5,875.60	12,03 5	1,565	11.00
27-Jul-	40,737.0	41,600.	42,300.	40,430.0	41,600.0	41,599.	41,456.2	8,241	3,416.41	7,039	945	11.47

2012	0	00	00	0	0	50	1					
30-Jul-2012	41,599.50	41,895.00	43,499.00	41,067.15	42,602.00	42,681.30	42,365.81	5,591	2,368.67	4,600	927	16.58
31-Jul-2012	42,681.30	42,681.30	46,949.40	42,300.00	46,000.00	46,103.40	44,818.20	8,678	3,889.32	6,781	971	11.19
01-Aug-2012	46,103.40	46,359.95	50,399.00	46,105.00	48,800.10	48,823.15	49,101.99	13,822	6,786.88	11,239	1,814	13.12

The four price sensitive events are discussed below:

**Environment clearance in respect of Kolha Roida Iron & Manganese Ore Mining Project**

19. It is noted that announcement w.r.t. accordance of **Environment Clearance by MoEF** for the Kolha Roida Iron & Manganese Ore Mining project of BPME, **which was published on MoEF website on July 23, 2012 as per OMDC's letter dated May 09, 2014**, was made by OMDC only at **13:23 hrs. on July 25, 2012 on BSE website and at 13:29 hrs. on July 25, 2012 on NSE website** as below:

BSE WEBSITE 25 Jul 2012			
Updates	Company Update		13:23
Orissa Minerals Development Company Ltd has informed BSE that the Company has got Environment Clearance (EC) from Ministry of Environment and Forest (MOEF) vide letter dated			

July 23, 2012 (issued on July 24, 2012) for production of 3 million tonnes per annum of Iron Ore (ROM) and 0.24 million tonnes per annum of Manganese Ore (ROM) for its Kolha-Roida Iron and Manganese Mines (254.952 hect.).

NSE WEBSITE 25 Jul 2012	
Broadcast Date/Time	25-Jul-2012 13:29
Subject	Updates
Announcement	The Orissa Minerals Development Company Limited has informed the Exchange that The Orissa Minerals Development Company Limited (OMDC) has got Environment Clearance (EC) from Ministry of Environment and Forest (MOEF) vide letter dated July 23, 2012 (issued on July 24, 2012) for production of 3 million tonnes per annum of Iron Ore (ROM) and 0.24 million tonnes per annum of Manganese Ore (ROM) for its Kolha-Roida Iron and Manganese Mines (254.952 hect.).

20. The sequence of events relating to grant of Environment Clearance (hereinafter referred to **‘EC’**) from the Ministry of Environment and Forest (hereinafter referred to as **‘MoEF’**) are:

Sr. No	Date	Event
1	June 04, 2008	Application by OMDC to MoEF for EC

2	March 24, 2009, June 08, 2009, August 19, 2010, January 24, 2011 and September 23, 2011	Further correspondence from OMDC to MoEF
3	July 23, 2012	Clearance issued by MoEF
4	July 23, 2012	MoEF uploads the copy of EC on the day EC is signed by the issuing authority
5	July 24, 2012	Actual receipt of EC by OMDC
6	July 25, 2012	Corporate Announcement on Exchange

21. Also, OMDC in its submission dated May 09, 2014, has stated that **MoEF** uploads the copy of **EC** on the day the EC is signed by the issuing authority and that the date of publication of environmental clearance on MoEF website in respect of Kolha Roida Iron Ore & Manganese Mines was July 23, 2012.

22. Kolha Roida Iron & Manganese Mine was one of the six mines, whose closure had resulted in significant drop in revenue from operations of ODMC and in turn its profitability. As per the Annual Report of OMDC for FY 2011-12, it is observed that the closure of mining operation in all six mines in Odhisa, due to non-renewal of mining leases and non-receipt of forest and environment clearances had brought the company's operations to a standstill. The revenue from operations for FY 2011-12 was just Rs. 152.54 lacs as against Rs. 4482.89 lacs from the previous financial year FY 2010-11. Further, it is observed from the said Annual Report that the forest clearance for the Kolha Roida Iron & Manganese Mines (254.952 hect.) of BPME was valid upto August 14, 2016 and was awaiting environment clearance for commencement of mining operations. The Annual Report of FY 2011-12 has further reported that mining operation in

Kolha-Roida was started w.e.f. **July 26, 2012** after the receipt of the environment clearance by MoEF.

23. It is observed that the approval of EC from MoEF in respect of Kolha Roida Iron & Manganese Ore Mining Project (hereinafter referred to '**Kolha Roida**') was crucial for OMDC considering that the business operation of OMDC had come to standstill due to non-renewal of mining leases and non-receipt of forest clearance and EC. Also, the Company's financial position was affected to a large extent due to such closure of mining operation in Odhisa. Thus, the EC from MoEF for this mining project was extremely important to maintain the financial position of OMDC.
24. Thus, OMDC, immediately upon receipt of the EC from MoEF had started the mining operation, which is clear from the disclosure made by OMDC in its Annual Report FY 2011-12. Thus, I have no doubt to conclude that the EC from MoEF for the mining operation was a Price Sensitive Information (**PSI**) which might have significantly affected the price of the scrip.
25. Also, OMDC in its submission dated June 27, 2016 has acknowledged the fact that the EC in respect of Kolha Roida is a PSI, subsequently vide its submission dated May 26, 2017 it has modified its position stating that the grant of EC does not confer any right on the lessee to start their mining operation, it is one of the conditions for obtaining renewal from the Government., which cannot be accepted on the ground that OMDC has started the mining operation immediately upon receipt of the EC from MoEF and also the forest clearance of OMDC was valid upto August 14, 2016.

26. With respect to delay in dissemination of information to the public, OMDC vide letter dated May 09, 2014 has stated that MoEF uploads the copy of EC on the day the EC is signed by the issuing authority and that the date of publication of EC on MoEF website was July 23, 2012. Further, as per the submission of OMDC I observed that the actual date of receipt of EC at OMDC's end in respect of Kolha Roida was July 24, 2012. Thus, OMDC was aware on the date i.e. July 23, 2012 of EC accorded by MoEF.

27. I do not find it relevant to deal with the internal procedure followed by OMDC on dispatch/receipt of any document as well as the internal procedures for obtaining approval of competent authority for publishing a PSI, as the same have no bearings upon the statutory requirements under the PIT Regulations.

28. The PIT Regulations and the Listing Agreement stipulates that any PSI should be disseminated to the stock exchanges in a continuous and immediate basis. In this regard, it shall be imperative to understand the meaning of the term "immediate" and whether or not the dissemination of the information to the stock exchange in the instant case was "immediate". I note that the said term has no statutory definition. The Hon'ble Securities Appellate Tribunal has recorded its observation on this term in its order dated August 7, 2019, in *NDTV vs SEBI* (SAT Appeal No. 358 of 2015). The relevant portion of the order is reproduced herein under:

*"20. Clause 36 of the Listing Agreement read with the Gu*

*idance Note make it apparently clear that the company is required to intimate the Stock Exchange with regard to the material events immediately, which information is required to be made to the public*

*immediately. The word “immediately” has to be construed accordingly. It was urged that the word “immediately” should be construed liberally and not literally and, thus, contended that a reasonable time has to be given to make appropriate disclosure under Clause 36 of the Listing Agreement. In support of the submissions, the learned counsel has placed reliance upon a decision in **Rosali V. vs. Taico Bank and Ors. (2009) 17 SCC 690** where the Supreme Court held that the word immediately should mean within a reasonable time and further held that is a well-settled principle of interpretation of a statute that where literal meaning leads to anomaly and absurdity, it should be avoided.*

21. *As per Black’s Law Dictionary-eighth edition, the word “immediate” means occurring without delay, instant. As per Black’s Law Dictionary-sixth edition, the term “immediately” means without interval of time, without delay, straightaway, or without any delay or lapse of time. The words ‘forthwith’ and ‘immediately’ have the same meaning. They are stronger than the expression ‘within a reasonable time.’ and imply prompt, vigorous action, without any delay.*

22. *In Wharton’s Law Lexicon the term “immediately” in the statute, means within a reasonable time. In Words and Phrases, the word “immediately” when used in a statute, is not synonymous with “then and there”.*

23. *Thus in a strict sense the word “immediately” means at once, forthwith, instantaneously or instantly and is also defined as meaning promptly, quickly, without delay, without interval or without lapse of time. However, in a broader relative sense, the term “immediately” means within a reasonable time, necessarily excludes all mesne time and is often construed to mean as soon as an act can be performed within a reasonable time.*



24. *A Full Bench of the Karnataka High Court in Keshava v. Ramchandra [AIR 1981 Kant. 97], while interpreting the word “immediately” occurring in Article 134A of the Constitution of India, pointed out that the object of Article 134A was to avoid unnecessary delay and that it was precisely for this reason that the word “immediately” had been used to convey a sense of urgency.*

*In Rao Mahmood Ahmad Khan through their L.R. v/s Ranbir Singh and Ors. 1995 Supp (4) SCC 275 the Supreme Court held:*

*“The word ‘immediately’ connotes and implies that the deposit should be made without undue delay and within such convenient time as is reasonably requisite for doing the thing same day with all convenient speed excluding the possibility of rendering the other associated corresponding act and performance of duty nugatory. The word ‘immediately’ therefore, connotes proximity in time to comply and proximity in taking steps to resell on failure to comply with the requirement of deposit as first condition that is to take place within relatively short interval of time and without any other intervening recurrence. The meaning of the word ‘forthwith’ is synonymous with the word ‘immediately’ which means with all reasonable quickness and within a reasonably prompt time.” [emphasis supplid]*

I therefore, observe that whether or not the aforesaid disclosures were done “immediately”, it is necessary to ascertain if the intervening period of time between the date and time of the receipt of the PSI by the Noticees and its dissemination to the stock exchanges, was indeed a ‘reasonable’ time or otherwise.

29. I observe that the aforesaid facts related to the date and time of receipt and subsequent dissemination of the PSI to the exchanges have not been disputed by the Noticees. In their defense, they have sought to rely upon the fact that OMDC's internal processes for obtaining approval for making the requisite disclosures had to be carried out during the intervening period and have provided copies of documents related to such internal process, such as note sheets for approval etc.
30. However, in this case, OMDC had the knowledge of the EC accorded by MoEF as on July 23, 2012, although the actual copy of the said EC was received on July 24, 2012. The same was disseminated after a lag of one day, i.e., on July 25, 2012. From the submissions of the Noticees, I note that the Noticees were aware of the grant of the EC as on July 23, 2012, when the same was uploaded on the website of the MoEF. Therefore, the subsequent receipt of the physical copy of the same EC on July 24, 2012, was only a formality. The Noticees ought to have been ready to disseminate the information about the said EC to the stock exchange as soon as the physical copy was received by them without any significant lag of time, since the information of the EC was available to the Noticee well in advance on July 23, 2012. Since the said information was already available on the public domain since July 23, 2012, I see no reason why the dissemination of the same required elaborate process of internal approval. Be that as it may, I note that the process for obtaining the approval of the competent authority in this regard had begun only on July 24, 2012, i.e., after the receipt of the actual copy of the EC and not on July 23, 2012, when the EC had already come to the knowledge of the Noticees. This absence of prompt action for initiating the process of seeking approval for the dissemination cannot be considered to be reasonable and therefore the said lag in time on the part of the Noticees is not in compliance with Clause 2.1 of the Code of Corporate Disclosure Practices For Prevention of

Insider Trading specified under Schedule II read with Regulation 12(2) of PIT Regulations and further, constitutes violation of Clause 36 of Listing Agreement read with Section 21 of SCRA by OMDC.

31. In the aforesaid context I also find that the Noticees have strenuously argued that the PSI in question was brought to the knowledge of the public at large on July 23, 2012, when the EC was uploaded on the website of the MoEF and therefore, had ceased to be an UPSI from that point in time. I find that none of the Noticees have been alleged to have engaged in insider trading, which would have entailed establishing that the Noticees had traded in the securities of the company while being in possession of the UPSI. In the present case, no such charge has been leveled. Rather, the charge is of non-dissemination of the PSI to the stock exchanges on an immediate basis as stipulated under Clause 2.1 of the Schedule II to the PIT Regulations 1992, as already cited in the preceding paragraphs. Under the said provision of law, there is no requirement for the PSI to be “unpublished”. Under the said Clause 2.1, a clear and unambiguous obligation has been placed upon a listed company to disseminate PSI to stock exchanges on a “continuous and immediate basis”. As already established in the preceding paragraphs, such dissemination had not taken place on a “continuous and immediate basis” and any argument/ contentions on whether the PSI in question was “unpublished” or not is wholly irrelevant to the present proceedings.

#### **Merger of the Bisra Stone Lime Company Ltd with OMDC and Issue of Bonus Shares**

32. OMDC vide letter dated June 12, 2014 has provided copy of letter dated July 23, 2012 of Ministry of Steel (hereinafter referred to as ‘MoS’) addressed to Dr. Satish Chandra, Managing

Director, Bird Group of Companies and received by OMDC on July 24, 2012 at 11:30 am (as per the fax details on the said letter). The said letter of MoS states that during the interactions with Department of Disinvestment, Merchant Bankers and other stakeholders, a view had emerged that the following action points be expeditiously initiated by Bird Group of Companies, subsidiary company of RINL, to improve the fundamentals and financial ratios of the company to fetch better realization from Initial Public Offer (IPO):

- a) That Bisra Stone Lime Company Ltd. (BSLC) may be merged with OMDC;
- b) That Bird Group of Companies should make all possible efforts to get the environment clearance in respect of Kolha Roida and Dalki Mines from MoEF expeditiously;
- c) That the issue of splitting shares of EIL in 1:10 may be initiated;
- d) That EIL and OMDC may look into issue of Bonus shares as per legal requirements;
- e) That EIL and OMDC to be listed on NSE/ BSE immediately to discover the current share value.

The MoS's letter further stated that the action points as stated above were to be completed within 45 days.

33. OMDC, made announcement in respect of merger and issue of bonus shares on July 25, 2012 at 18:55 hrs on July 25, 2012 on BSE website and at 18:42 hrs on July 25, 2012 on NSE website, the details of announcement made at NSE and BSE are as follows:

BSE WEBSITE 25 Jul 2012		
Updates		25 Jul 2012 18:55
Orissa Minerals Development Company Ltd has informed BSE that Ministry of Steel vide its letter dated July 23, 2012 informed that the following proposals had been approved by the Ministry of Steel and forwarded to the Company for initiating necessary action on urgent basis :		

1. The Bisra Stone Lime Company Limited (BSLC) may be merged with The Orissa Minerals Development Company Limited (OMDC).

2. OMDC may look into the issue of Bonus shares as per legal requirements.

The above mentioned items will be placed at the ensuing Board Meeting of OMDC for consideration.

**NSE WEBSITE 25 Jul 2012**

Broadcast Date/Time	<b>25-Jul-2012 18:42</b>
Subject	Updates
Announcement	The Orissa Minerals Development Company Limited has informed the Exchange that Ministry of Steel vide its letter dated July 23, 2012 informed that the following proposals had been approved by the Ministry of Steel and forwarded to the Company for initiating necessary action on urgent basis : (i) The Bisra Stone Lime Company Limited (BSLC) may be merged with The Orissa Minerals Development Company Limited (OMDC); (ii) OMDC may look into the issue of Bonus shares as per legal requirements. The above mentioned items will be placed at the ensuing Board Meeting of OMDC for consideration.

34. Merger of BSLC with OMDC and issuance of bonus of shares is a PSI and even OMDC has not disputed that. Having said that, I have read the submission made by OMDC in this regard, wherein it is observed that MoS vide letter dated July 23, 2012, addressed to Dr. Satish Chandra, MD of Bird Group of Companies, has requested to take possible efforts to carry out the merger of BSLC with OMDC and issuance of bonus shares within 45 days. The said letter of MoS was received by OMDC through fax at 11:30 am.
35. Subsequently, it is observed from the submissions, that the Company Secretary- OMDC (Ms. Sucharita Das) discussed the letter dated July 23, 2012 of MoS with Managing Director, Dr. Satish Chandra and it was decided to inform the Stock Exchanges with respect to merger of BSLC with OMDC and issuance of bonus shares of OMDC. The Company Secretary- OMDC (Ms. Sucharita Das) had subsequently put up an Office Note dated July 25, 2012, seeking approval for dissemination of the PSI to Stock Exchanges. Upon approval, the corporate announcement was made in regard to the PSI to Stock Exchanges on July 25, 2012.
36. Considering the letter of MoS which is a PSI which was received by OMDC on July 24, 2012, at 11:30 AM, OMDC, the approval authority (Dr. Satish Chandra) and Company Secretary (Ms. Sucharita Das) should have taken a prompt action by complying with the formalities by seeking necessary approval and ensured that the same to be disseminated on the stock exchange in a timely manner. In this case, the dissemination to the stock exchange happened on July 25, 2012, well after the business hours (after 17:50 Hours on both BSE and NSE), i.e., after lapse of more than 24 hours since the receipt of the PSI by the MoS letter, the intervening period of time being wholly consumed in the internal processes of the Noticees for seeking approval. This lapse of

time also cannot be considered as ‘reasonable’ considering that the information was price sensitive. Thus, I hold that the Noticees have violated Clause 2.1 of the Code of Corporate Disclosure Practices for prevention of Insider Trading specified under Schedule II read with Regulation 12(2) of PIT Regulations. Further, OMDC has also violated Clause 36 of Listing Agreement read with Section 21 of SCRA.

### **Splitting of shares of OMDC**

37. OMDC, received a letter dated July 26, 2012 from MoS on the same date, addressed to Dr. Satish Chandra, *‘to split the shares of OMDC in 1:10 ratio be initiated by the Company to increase the affordability and volume of shares in the market’*. It is observed that the said letter of MoS received through fax at 18:18 hrs. Based on the submission, it is observed that Dr. Satish Chandra has informed Company Secretary Ms. Sucharita Das *‘to inform the stock exchange in line with the information sent earlier for issue of bonus shares’*.

38. Subsequently, a note sheet was put up by the Company Secretary- OMDC Ms. Sucharita Das seeking approval of the GM (F&A) for intimation to the stock exchanges on the issue of split of shares of OMDC on July 27, 2012. Pursuant to the approval, the details of split of shares of OMDC was disseminated to the Stock Exchanges on July 27, 2012. The details of the corporate announcement made in this regard are as follows:

BSE WEBSITE 27 Jul 2012			
27 Jul 2012			
Updates	Company Update		12:10

Orissa Minerals Development Company Ltd has informed BSE that Ministry of Steel vide its letter dated July 26, 2012 informed that in continuation of Ministry's letter of even number dated July 23, 2012, the proposal had been approved by the Ministry of Steel and forwarded to the Company for initiating necessary action related to the issue of splitting of shares of OMDC in 1:10 ratio.

The above mentioned item may be placed at the ensuing Board Meeting of OMDC for consideration.

#### NSE WEBSITE 31 Jul 2012

Broadcast Date/Time	<b>31-Jul-2012 16:32</b>
Subject	Updates
Announcement	The Orissa Minerals Development Company Limited has informed the Exchange that "Ministry of Steel vide its letter no. 8(15)/2012-RM II dated 26.07.2012 informed that in continuation of Ministry's letter of even number dated 23.07.2012, the proposal had been approved by the Ministry of Steel and forwarded to the Company for initiating necessary action related to the issue of splitting of shares of OMDC in 1:10 ratio. The above mentioned item may be placed at the ensuing Board Meeting of OMDC for consideration."

39. Without doubt I conclude that the split of shares is a PSI, since it was likely to materially affect the price of securities of the Company.



40. I have perused the submission of the Noticees in this regard and it is an admitted fact that the split of shares of OMDC is a PSI. It is observed that the PSI was disclosed within eighteen (18) hours since its receipt after the business hours on July 26, 2012, to the stock exchanges.

41. I find that the Listing Agreement mandates the listed companies to immediately inform the stock exchanges of all material events, including price sensitive information, which will have a bearing on the performance/operations of the Company. In terms of clause 36 of the Listing Agreement, *'the company will also immediately inform the exchange of all events which will have bearing on the performance/operations of the company as well as price sensitive information'*. Further sub-clause 7(ii) and (iii) of clause 36 of Listing Agreement states clearly stipulates that the *Company shall immediately inform the stock exchanges of any other information having bearing on the operation/performance of the company as well as price sensitive information which includes but not restricted to; Acquisition, merger, de-merger, amalgamation, restructuring, scheme of arrangement, spin off or setting divisions of the company etc and change in market lot of the Company's shares, sub-division of equity shares of company*. The Code of Corporate Disclosure practices for prevention of Insider Trading as stated in Schedule II read with Regulation 12(2) of the PIT Regulations also mandates that the PSI should be disclosed by listed companies to stock exchanges on a continuous and immediate basis. As already mentioned, Environment clearance in respect of Kolha Roida Iron & Manganese Ore Mining Project; Merger of Bisra Stone Lime Co. Ltd with the Company; Issue of bonus shares and Splitting of shares of the Company were 'price sensitive information' within the meaning of Regulation 2(ha) of the PIT Regulations and therefore, ought to have been disseminated to the stock exchanges on the same date of the receipt of the information or within reasonable time thereof, which should not have been greater than 24 hours from the time of its receipt. It is on record that the

Company has failed to make the disclosure within such reasonable period of time on a prompt and immediate basis in three out of the four cases mentioned above (the only exception being the dissemination of the information of splitting of the shares of the company). The said three disclosures were made by the Company to stock exchanges belatedly each after a period of more than 24 hours since the time of their receipt by OMD. The event of delay was therefore observed in case of the three price sensitive information.

42. In the present case, the investigation has not observed price manipulation however, a huge volume spurt was observed on the date of dissemination of price sensitive information to the stock exchanges, compared to the previous day trading. However, no finding with respect to market manipulation was observed in the investigation.

43. In this context, it is relevant to quote the observations made by Hon'ble SAT in the matter of *Helios and Matheson Information Technology Limited vs SEBI* (Appeal No. 69 of 2011 decided vide order dated November 16, 2011). In the said Order, following was observed by SAT:

*... The requirement of making necessary disclosures to the stock exchanges and through them to the investors is contained in clause 36 of the listing agreement that is executed between the stock exchange(s) and the issuer company. This agreement is executed by every listed company with the stock exchange(s) where its securities are listed and it has a statutory force. There is a format prescribed by SEBI which is contained in its manuals and every listing agreement has to be in that format. The relevant part of clause 36 requiring the necessary disclosures to be made from time to time reads thus: 'Listing Agreement*

*Clause 36 –*

*"..... The Company will also immediately inform the Exchange of all the events, which will have bearing on the performance / operations of the company as well as price sensitive information.*

*The material events may be events such as:*

*(1) to (6) .....*

*(7) Any other information having bearing on the operation / performance of the company as well as price sensitive information, which includes but not restricted to,*

*(i) Issue of any class of securities.*

*(ii) Acquisition, merger, de-merger, amalgamation, restructuring, scheme of arrangement, spin off or selling divisions of the company, etc.*

*(iii) to (viii) .....*

*The above information should be made public immediately.”*

*A reading of the aforesaid clause makes it clear that a company has to immediately inform the stock exchange(s) of the events which would have a bearing on its performance/operations as well as price sensitive information. Sub-clause 7(i) of clause 36 requires the issuer company to inform the stock exchange(s) regarding issue of any class of securities...*

*...Price sensitive information when published is likely to materially affect the price of the securities of a company and it is for this reason that clause 36 of the listing agreement mandates that such information should be made public at the earliest. This is also the requirement of clause 2.1 of the Code of Corporate Disclosure Practices for Prevention of Insider Trading in schedule II to the PIT regulations which provides that “price sensitive information shall be given by listed companies to stock exchanges and disseminated on a continuous and immediate basis”. Disclosure of such information prevents insider trading. It is pertinent to mention that PIT regulations prohibit a person from trading when he is in possession of unpublished price sensitive information. Non-disclosure of price sensitive information is, thus, viewed seriously.”*

44. As evident from the above observations, OMDC, Dr. Satish Chandra (Managing Director) and Ms. Sucharita Das (Company Secretary) has made belated disclosure to the stock exchanges of the important price sensitive information. Therefore, I hold that the Noticees have violated the provisions of Clause 2.1 of the Code of Corporate Disclosure Practice for Prevention of Insider Trading contained in Schedule II read with Regulation 12(2) of the PIT Regulations, 1992. Further, OMDC, also violated Clause 36 of the Listing Agreement read with Section 21 of SCRA.

45. By not making the disclosures on time, the Noticee has failed to comply with the mandatory statutory obligation. In this context, reliance is placed upon the order of The Hon'ble Supreme Court of India in the matter of *Chairman, SEBI Vs Shri Ram Mutual Fund* {[2006] 5 SCC 361} 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*".

46. As the violation of the aforementioned provisions of law by the Noticee has been established, I am convinced that it is a fit case for imposing monetary penalty on the Noticee under the provisions of Section 15 HB of the SEBI Act and Section 23A(a) of the SC(R) Act, 1956, which read as under :

***15HB of SEBI Act-Penalty for contravention when no separate penalty has been provided.***

*Whoever fails to comply with any provision of this Act, the rule or the regulations made or directions issued by the Board thereunder for which no separate penalty has been provided, shall be liable to a penalty which shall not be less than one lakh rupees but which may extend to one crore rupees.*

**23A of SCRA-** *Any person, who is required under this Act or any rules made there under,—*

*(a) to furnish any information, document, books, returns or report to a recognised stock exchange, fails to furnish the same within the time specified therefore in the listing agreement or conditions or bye-laws of the recognised stock exchange, 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 for each such failure;*

47. While determining the quantum of penalty under Section 15HB of the SEBI Act, it is important to consider the factors stipulated in Section 15J of the SEBI Act, which reads as under :

**“15 J-Factors to be taken into account by the adjudicating officer**

While adjudging the quantum of penalty under Section 15-I, the adjudicating officer shall have due regard to the following factors, namely-

- a. the amount of disproportionate gain or unfair advantage, wherever quantifiable, made as a result of the default;
- b. the amount of loss caused to an investor or group of investors as a result of the default;
- c. the repetitive nature of the default”

48. *Similarly, while determining the quantum of penalty under section 23A(a) of the SC(R) Act, 1956, it is important to consider the factors stipulated in section 23 J of the SC(R) Act, 1956, which reads as under :*

*23J. While adjudging the quantum of penalty under section 23-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.*

49. I observed that the investigation report of OMDC for the examination period has not brought out any adverse remarks/findings/observation w.r.t price manipulation in the scrip, abnormal trading pattern and the connection of clients with the management of the Company etc. Be it as it may, the timely disclosure of the price sensitive information was of significant importance from the standpoint of the investors and to bring more transparency in the affairs of the Company. Besides this, the requirements of law also mandate the company to make timely disclosures to prevent market misconducts.

50. It is noted that no quantifiable figures are available to assess the disproportionate gain or unfair advantage made as a result of the default of the Noticee. Further, from the material made available, the amount of loss caused to an investor or group of investors is not on record. However, the belated disclosures made by listed companies tend to mislead gullible investors and place them in a precarious position. Such delay in making the disclosure of important price sensitive information, as was observed in the present case, can erode the confidence of investors and can also lead to possible market abuses/misconducts. It is of utmost importance that a sense of fair play be maintained in the market so that gullible investors do not fall prey to market misconducts. One of the main objectives of the Listing Agreement and PIT Regulations is to

achieve fair treatment by *inter alia* mandating timely dissemination of price sensitive information by entities /listed companies and therefore, ensure adequate information to the public/ investors/ shareholders so as to enable them to take a balanced investment decision. True and timely dissemination of information to public are also an essential part in the proper functioning of the securities market and failure to do so results in preventing investors from taking well-informed decisions.

**ORDER:**

51. In view of the foregoing, considering the facts and circumstances of the case, the material on record, I, in exercise of the powers conferred upon me under Section 15-I of the SEBI Act read with Rule 5 of the Adjudication Rules, 1995 and Section 23-I of the SC(R) Act, 1956 read with Rule 5 of the Adjudication Rules, 2005, hereby impose a total penalty of **Rs. 2,00,000/- (Rupees Two Lacs only)** under Section 15HB of the SEBI Act, 1992 and Section 23A(a) of the Securities Contracts (Regulation) Act, 1956, on the Noticees i.e. The Orissa Minerals Development Co. Ltd., Dr. Satish Chandra and Ms. Sucharita Das for violation of Clause 2.1 of Code of Corporate Disclosure Practice for Prevention of Insider Trading contained in Schedule II to Regulation 12(2) of the PIT Regulations, 1992 and also against The Orissa Minerals Development Co. Ltd for violation of Clause 36 of Listing Agreement read with Section 21 of SCRA.

52. The Noticees shall jointly remit / pay the said amount of penalty within 45 (forty five) 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 by online payment through following path at

SEBI website [www.sebi.gov.in](http://www.sebi.gov.in) ENFORCEMENT → Orders → Orders of AO → Click on PAY NOW or at link <https://siportal.sebi.gov.in/intermediary/AOPaymentGateway.html>

53. The said demand draft and its details or details of online payments made (in the format as given in table below) should be forwarded to “The Division Chief (Enforcement Department I-DRA-3, the Securities and Exchange Board of India, SEBI Bhavan, Plot No. C4 – A, “G” Block, Bandra Kurla Complex, Bandra (E), Mumbai – 400 051.”

Case Name :	
Name of Payee :	
Date of Payment:	
Amount Paid :	
Transaction No. :	
Bank Details in which payment is made :	
Payment is made for :  (like penalties/ disgorgement/ recovery/ settlement amount and legal charges along with order details)	

54. In the event of failure to pay the said amount of penalty within 45 days of the receipt of this Order, consequential proceedings including, but not limited to, recovery proceedings may be



initiated under Section 28A of the SEBI Act, for realization of the said amount of penalty along with interest thereon, *inter alia*, by attachment and sale of movable and immovable properties.

55. In terms of Rule 6 of the Adjudication Rules, 1995, copy of this Order is sent to the Noticees and also to the Securities and Exchange Board of India.

**Date : August 20, 2020**

**G Ramar**

**Place : Mumbai**

**Adjudicating Officer**