BEFORE THE ADJUDICATING OFFICER

SECURITIES AND EXCHANGE BOARD OF INDIA

[ADJUDICATION ORDER NO. EAD-2/DSR/RG/494/2015]

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

Seengal Capital Advisors Private Limited [PAN: AAMCS2180G]

In the matter of

CDI International Limited

(Formerly known as Compact Disc India Limited)

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1. Securities and Exchange Board of India (hereinafter referred to as 'SEBI') conducted an examination into the irregularity in trading in the shares of CDI International Limited (Formerly known as 'Compact Disc India Limited' and hereinafter referred to as 'CDI'), a company listed on the Bombay Stock Exchange (BSE), for the period from January 01, 2011 to June 30, 2013 and into the possible violation of the provisions of the SEBI Act, 1992 (herein after referred to as the Act) and various Rules and Regulations made there under.

2. The examination revealed that one of the promoters of the Company namely, Seengal Capital Advisors Private Limited (hereinafter referred to as the Noticee), was holding 4,50,000 shares constituting 3.52% of the total paid up capital of CDI on September 30, 2012. During the period from October 01, 2012 to December 31, 2012, the Noticee had acquired 4,48,000 shares of CDI which increased its shareholding in the company from 3.52% to 7.04%. Upon the said increase in the shareholding, the Noticee was required to make the necessary disclosures to the company and the stock exchange as prescribed under Regulation 13(1) and

13(4A) read with 13(5) of the SEBI (Prohibition of Insider Trading) Regulations, 1992 (hereinafter referred to as the 'PIT Regulations') and Regulation 29(1) read with Regulation 29(3) of the SEBI (Substantial Acquisition of shares and Takeover) Regulations, 2011 (hereinafter referred to as SAST Regulations). However, it was observed that the Noticee had failed to do so.

3. SEBI has, therefore, initiated adjudication proceedings under the Act to inquire into and adjudge the alleged violation of the abovementioned provisions of law by the Noticee.

Appointment of Adjudicating Officer:

4. The undersigned has been appointed as the Adjudicating Officer vide SEBI Order dated May 28, 2014 under Section 15-I of the Act read with Rule 3 of SEBI (Procedure for Holding Inquiry and Imposing Penalties by Adjudicating Officer) Rules, 1995 (hereinafter referred to as the 'Adjudication Rules') to inquire into and adjudge under Section 15A(b) of the Act, the alleged violation of the provisions of law by the Noticee.

Notice, Reply & Personal Hearing:

5. Accordingly, a notice dated July 11, 2014 (hereinafter referred to as the 'SCN') was issued to the Noticee in terms of Rule 4 of the Adjudication Rules requiring it to show cause as to why an inquiry should not be held against it for the alleged violation. The said SCN was sent to the Noticee by Registered Post Acknowledgement Due. However, the same was returned undelivered. Therefore, vide letter dated August 12, 2014, the said SCN was sent for affixture at the last known address of the Noticee, the report thereof is available on record. However, it was noted that the Noticee had not filed any reply to the said SCN. Thereafter, in the interest of natural justice and in order to conduct an inquiry as per Rule 4 (3) of the Adjudication Rules, an opportunity of personal hearing was granted to the Noticee on March 26, 2015. The said hearing notice was also sent for affixture at the last known address of the Noticee and the report thereof is available on record. Shri Suresh Kumar, Chairman of CDI, attended the said hearing on the scheduled date on behalf of the Noticee and made oral submissions. Further, Shri Suresh Kumar sought time to file a reply in the matter and accordingly, the

Noticee was advised to file its reply, if any, on or before April 06, 2015. However, vide letter dated April 04, 2015, the Noticee requested for time till April 15, 2015 to file its reply. Accordingly, vide letter dated April 15, 2015, the Noticee submitted its reply in the matter. Further, vide letter dated April 30, 2015, the Noticee stated that it has some more documents and evidence to support that it had not violated the provisions of the disclosure requirements and requested time to submit the same. Also, vide letter dated May 14, 2015 and May 25, 2015, the Noticee requested for another opportunity of personal hearing and that it has engaged a legal counsel to represent it in the matter. Accordingly, the said request was acceded to and vide notice dated May 27, 2015, another opportunity of personal hearing was granted to the Noticee on June 15, 2015. However, vide e-mail dated June 10, 2015, a request to reschedule the said hearing was received from the legal representative of the Noticee. Therefore, the said personal hearing was rescheduled to June 19, 2015. The legal representative attended the hearing on the said date and made oral submissions. Further, he requested for time to file additional submissions in the matter. Accordingly, the Noticee was granted time till June 24, 2015 to make its additional submissions. However, vide e-mail dated June 25, 2015, the Noticee requested for few more days to submit its reply. Vide letter dated June 25, 2015, the Noticee filed its additional submissions in the matter.

Consideration of Issues, Evidence and Findings

6. I have carefully perused the charges against the Noticee as per the SCN, written submissions and the materials as available on record. The issues that arise for consideration in the present case are:

a) Whether the Noticee has violated the provisions of Regulation 13(1) and 13(4A) read with Regulation 13(5) of the PIT Regulations and Regulation 29(1) read with Regulation 29(3) of the SAST Regulations?

(b) Does the violation, if any, on the part of the Noticee attract any penalty under Sections 15A(b) of the SEBI Act?

(c) If yes, what should be the quantum of penalty?

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

Relevant provisions of PIT Regulations:

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

13.(1) *Any person who holds more than 5% shares or voting rights in any listed company shall disclose to the company in Form A, the number of shares or voting rights held by such person, on becoming such holder, within 2 working days of :-*
(a) the receipt of intimation of allotment of shares; or
(b) the acquisition of shares or voting rights, as the case may be.

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

(5) *The disclosure mentioned in sub-regulations (3), (4) and (4A) shall be made within two working days of:*
(a) the receipts if intimation of allotment of shares, or
(b) the acquisition or sale 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.*

(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.

8. I find from the SCN that CDI is a listed company and the shares of the company are traded on BSE. Further, during the period of examination, it was alleged that the Noticee had transacted in the shares of CDI and the details of the same are as under:

Date	**Transac t-ion Type**	**Dr/ Cr**	**Holding prior to transaction**	**Transacte d quantity**	**Holding after transaction**	**Chang e in holdin g in term of %**
30/09/2012			450000	0	450000	3.52
1/10/2012-31/12/12	Transfer	C	450000	448000	898000	7.04

9. From the above table, I note that on September 30, 2012, the Noticee was holding 4,50,000 shares constituting 3.52% of the total paid up capital of CDI. During the period from October 01, 2012 to December 31, 2012, the Noticee had acquired 4,48,000 shares of CDI which increased its shareholding in the company from 3.52% to 7.04%. Upon the said increase in the shareholding, the Noticee, being one of the promoters of the company, was required to make necessary disclosures as prescribed under Regulation 13(1) and 13(4A) read with Regulation 13(5) of the PIT Regulations and Regulation 29(1) read with Regulation 29(3) of the SAST Regulations which the Noticee had allegedly failed to make.

10. Vide letter dated April 15, 2015, the Noticee submitted its reply to the SCN and stated that complete disclosures were made to the stock exchange through company announcements including details of weekly trades with quantities. Also, in support of the said submission, a letter dated April 02, 2013 issued to BSE and Ludhiana Stock Exchange stating that Naksh Media Pvt. Ltd has transferred 8,98,000 equity shares of CDI on April 01, 2013 to Noticee to sell the said shares in the market on behalf of Naksh Media Pvt. Ltd and another letter dated November 16, 2012 issued to BSE and Ludhiana Stock Exchange stating that Mrs. Rashmee Seengal has transferred 4,38,000 equity shares of CDI to the Noticee has been enclosed. Further, vide letter dated June 25, 2015,

the Noticee submitted its additional submissions in the matter enclosing a letter dated November 16, 2012 submitted to the company CDI enclosing disclosures made under the PIT Regulations and SAST Regulations for the said sale of shares.

11. From the foregoing and the material available on record, I find that the Noticee is one of the promoter entities in CDI and had transacted in the shares of the company which did require it to make necessary disclosures in the prescribed formats under the relevant provisions of the PIT Regulations and SAST Regulations. Upon further perusal of the documents as available on record, I find that vide e-mail dated January 30, 2014 and July 14, 2014, BSE has confirmed that the Noticee has not made the requisite disclosures and that it has not received any disclosures from the Noticee. Further, I find that the letters enclosed with the reply dated April 15, 2015 are nothing but some company announcement intimation letters sent to the Corporate Relations department of BSE and Listing Department of Ludhiana Stock exchange. I find that the said documents have no relevance with respect to present proceeding of non-compliances with the disclosure requirements by the Noticee and therefore, cannot be considered.

12. Further, I find from the additional submission and documentary evidence provided by the Noticee that vide letter dated November 16, 2012, the Noticee had made the disclosure to the company in Form A as required under Regulation 13(1) and 13(6) of the PIT Regulations upon purchase of 4,48,000 shares by way of off market transfer. Also, the Noticee has produced the disclosures made to the company under Regulation 29(1) of the Broker Regulations and disclosures made to the company in Form D as required under Regulation 13(4), 13(4A) and 13(6) of the PIT Regulations. However, on perusal of the letter dated November 16, 2012, I find that the said letter enclosing all the disclosures mentioned above, does not carry any acknowledgement (seal) of the company showing receipt of the said disclosures by the company. Also, I find that a copy of the said disclosures so made to the company in Form D upon acquiring 4,48,000 shares in off market appears to have been sent to the Department of Corporate Services, BSE. However, upon perusal, I find that no

proof of receipt of the said disclosure by the stock exchange has been provided by the Noticee. The onus of proving the delivery of the said disclosure to BSE lies with the Noticee. However, in order to examine the authenticity of the said disclosures, the BSE website was also checked once again to ascertain as to whether the said disclosures were actually made to the exchange and disseminated on the said website. Upon examination, I note that no Insider Trading disclosures have been made by the Noticee for the said transaction. Further, as mentioned above, I find that vide e-mail dated January 30, 2014 and July 14, 2014, the BSE has also confirmed that the Noticee has not made the requisite disclosures and that the exchange has not received any disclosures from the Noticee.

13. I note that the Hon'ble Securities Appellate Tribunal, in Alka India Ltd. Vs. SEBI (Order dated June 10, 2009) *inter alia*, had observed as follows:

"A copy of the courier receipt has been placed on record to substantiate its stand. We have perused this receipt. In the column meant for the name of the receiver, the of Stock Exchange, Mumbai has been written. The Bombay Stock Exchange has categorically denied having received any information from the appellant. In view of the denial made by the Bombay Stock Exchange, the onus is upon the appellant to establish that the letter making the necessary disclosures allegedly sent by courier was actually received by the Bombay Stock Exchange. No such evidence has been placed on record. Even, if we were to accept the courier receipt, it is only evidence of the fact that some letter was sent to Bombay Stock Exchange but there is no proof forthcoming of its actual receipt by the Stock Exchange. Moreover, what was that letter and whether it contained the disclosures are facts which also need to be established. The appellant failed to discharge this onus..... In view of this matter, no fault can be found with the impugned order."

14. In view of the same and on the basis of the material available on record, I find that the allegation of failure to make disclosure to the company and the BSE stands established inasmuch as the Noticee has not produced any acknowledgement (in support of delivery of the said disclosure to company and

BSE) and also in view of the denial of receipt of any such disclosure by BSE. Therefore, I conclude that the Noticee has violated the provisions of Regulation 13(1) & 13(4A) read with Regulation 13(5) of the PIT Regulations and Regulation 29(1) read with Regulation 29(3) of the SAST Regulations thus, liable for monetary penalty as prescribed under Section 15A(b) of the SEBI Act which reads as under:

15A. Penalty for failure to furnish information, return, etc.

If any person who is required under this Act or any rules or regulations made there under:-
(a).....
(b) *to file any return or furnish any information, books or other documents within the time specified therefore in the regulations, fails to file return or furnish the same within the time specified therefore in the regulations, he shall be liable to a penalty of one lakh rupees for each day during which such failure continues or one crore rupees, whichever is less.*

15. I note that the objective of the disclosure provisions laid down under the SAST and PIT Regulations is to keep the investors and public at large informed of the change in the holdings of any company. Further, proper disclosures beyond acquisition / sale of shares is to give equal opportunity to the shareholders and the investors at large. The said Regulations are framed to have transparency in the market and to further facilitate in keeping the integrity of the market intact.

16. Here, I note that in Appeal No. 66 of 2003 - *Milan Mahendra Securities Pvt. Ltd. Vs SEBI* –the Hon'ble SAT has observed that, *"the purpose of these disclosures is to bring about transparency in the transactions and assist the Regulator to effectively monitor the transactions in the market."*

17. The Hon'ble Supreme Court of India in the matter of SEBI vs. Shri Ram Mutual Funds [2006] 68 SCL (216) SC held that " *once a violation of statutory regulation is established, imposition of penalty becomes sine qua non of violation and the intention of the parties committing such violation becomes totally irrelevant. Once the contravention is established then penalty is to follow*".

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

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

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

(a) the amount of disproportionate gain or unfair advantage, wherever quantifiable, made as a result of the default;

(b) the amount of loss caused to an investor or group of investors as a result of the default;

(c) the repetitive nature of the default.

19. I observe that from the material available on record, it is difficult to quantify any gain or unfair advantage accrued to the Noticee or the extent of loss suffered by the investors as a result of the default of the Noticee. However, I note that the defaults of the Noticee are not repetitive in nature. The disclosure made under Regulation 13(4A) read with Regulation 13(5) of the PIT Regulations, by a promoter is made public only through Stock Exchange. It is with this objective that the Regulations require making of disclosures to the exchange so that investing public is not deprived of any vital information. The disclosures made by companies listed on the stock exchanges are the means to attain such end. Therefore, dissemination of complete information, on all the stock exchanges where the securities are listed, is a mandatory requirement. I note that the Noticee has failed to make disclosures to CDI and to the BSE and therefore, is liable for appropriate monetary penalty.

ORDER

20. In view of the above, after considering all the facts and circumstances of the case and exercising the powers conferred upon me under Section 15-I (2) of the SEBI Act read with Rule 5 of the Adjudication Rules, I impose a penalty of ₹7,00,000/- (Rupees Seven Lakh Only) on the Noticee viz. Seengal Capital Advisors Private Limited under Section 15A(b) of the SEBI Act in the matter. In my view, the penalty is commensurate with the default committed by the Noticee.

21. The penalty amount as mentioned above shall be paid by the Noticee through a duly crossed demand draft drawn in favour of "SEBI – Penalties Remittable to Government of India" and payable at Mumbai, within 45 days of receipt of this order. The said demand draft should be forwarded to the Division Chief, ISD, Securities and Exchange Board of India, SEBI Bhavan, Plot No. C4-A, 'G' Block, Bandra Kurla Complex, Bandra (E), Mumbai – 400 051.

22. In terms of the Rule 6 of the Adjudication Rules, copy of this order is sent to Noticee and also to Securities and Exchange Board of India.

Date: July 31, 2015 **D. SURA REDDY**

GENERAL MANAGER &

Place: Mumbai **ADJUDICATING OFFICER**