

**BEFORE THE ADJUDICATING OFFICER**  
**SECURITIES AND EXCHANGE BOARD OF INDIA**  
**[ADJUDICATION ORDER NO. RA/DPS/ 222 /2017]**

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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 BY ADJUDICATING OFFICER) RULES, 1995**

**In respect of:**

**Shri Srinivasa Rao Marupudi**  
**(PAN No. ACQPM0876L)**  
101, plot No-60, Jyothi Homes,  
Nr Satya Sai Nigamagamam,  
Sri Nagar Colony, Hyderabad, AP,  
India, 500073

**In the matter of M/s Venus Power Ventures (India) Ltd.**

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**FACTS OF THE CASE**

1. Securities and Exchange Board of India (hereinafter referred to as '**SEBI**') conducted an examination into the trading of the scrip of M/s Venus Power Ventures (India) Ltd (hereinafter referred to as '**Venus / Scrip / Company**') from September 1, 2012 to December 31, 2013 (hereinafter referred to as '**examination period**'). The shares of the company are listed on Bombay Stock Exchange (BSE). Examination *inter – alia* revealed that no disclosures were made under regulation 13(1), 13(3) and 13(4A) read with 13(5) of SEBI(Prohibition of Insider Trading) Regulations, 1992 (hereinafter referred to as '**PIT Regulations**') and regulation 29(1) and 29(2) read with 29(3) of SEBI(Substantial Acquisition of Shares and Takeovers) Regulations, 2011 (hereinafter

referred to as '**SAST Regulations**') by **Shri Srinivasa Rao Marupudi**, (hereinafter referred to as "**the Noticee / Srinivasa**").

### **APPOINTMENT OF ADJUDICATING OFFICER**

2. SEBI initiated adjudication proceedings and appointed the undersigned as Adjudicating Officer under section 15I of the Securities and Exchange Board of India Act, 1992 (hereinafter referred to as '**SEBI Act**') read with rule 3 of the SEBI (Procedure for Holding Inquiry and Imposing Penalties by Adjudicating Officer) Rules, 1995 (hereinafter referred to as '**Adjudication Rules**') vide order dated December 9, 2015, to inquire into and adjudge under section 15A(b) of the SEBI Act, the violations of 13(1), 13(3) and 13(4A) read with 13(5) of PIT Regulations and regulation 29(1) and 29(2) read with 29(3) of SAST Regulations.

### **SHOW CAUSE NOTICE, REPLY AND PERSONAL HEARING**

3. Show Cause Notice No. SEBI/HO/EAD/EAO/OW/P/2017/21699/1 dated September 11, 2017 (hereinafter referred to as "**SCN**") was issued to the Noticee under rule 4(1) of the Adjudication Rules to show cause as to why an inquiry should not be held and penalty be not imposed under section 15A(b) of the SEBI Act for the aforesaid alleged violation of PIT Regulations and SAST Regulations.
4. The observations made under the examination and the allegations levelled against the Noticee in the SCN are mentioned hereunder;
5. During the examination, it was revealed that Noticee being the promoter of the company / Venus had not disclosed about the change in its shareholding to the exchanges as well as to the company and hence, alleged to have violated regulation 13(1), 13(3) and

13(4A) read with 13(5) of PIT Regulations and regulation 29(1) and 29(2) read with 29(3) of SAST Regulations and the details of which is given below:-

Date	Holding of Shares	% Holding	Violation
24/11/2012	832,892	5.48%	PIT and SAST Regulations
26/11/2012	721500	4.75%	
31/12/2012	829345	5.46%	
03/01/2013	721500	4.75%	
17/09/2013	21500	0.14%	

6. In view of above, it is alleged that the Noticee by indulging in trading in the scrip has resulted in change in its shareholding, which triggered disclosure requirements; and by not making the disclosures, the Noticee had allegedly violated regulation 13(1), 13(3) and 13(4A) read with 13(5) of PIT Regulations and regulation 29(1) and 29(2) read with 29(3) of SAST Regulations. The aforesaid regulations are reproduced as under;

*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.

**13(3)** Any person who holds more than 5% shares for voting rights in any listed company shall disclose to the company in Form C the number of shares or voting rights held and change in shareholding or voting rights, even if such change results in shareholding falling below 5%, if there has been change in such holdings from the last disclosure made under sub-regulation (1) or under this sub-regulation; and such change exceeds 2% of total shareholding or voting rights in the company.

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

**13(5)** The disclosure mentioned in sub-regulations (3), (4) and (4A) shall be made within two working days of:

- (a) the receipts of intimation of allotment of shares, or
- (b) the acquisition or sale of shares or voting rights, as the case may be.

### SAST Regulations

#### **Disclosure of acquisition and disposal.**

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

**29(2)** Any acquirer, who together with persons acting in concert with him, holds shares or voting rights entitling them to five percent or more of the shares or voting rights in a target company, shall disclose every acquisition or disposal of shares of such target company representing two per cent or more of the shares or voting rights in such target company in such form as may be specified.

**29(3)** *The disclosures required under sub-regulation (1) and sub-regulation (2) shall be made within two working days of the receipt of intimation of allotment of shares, or the acquisition of shares or voting rights in the target company to,-*

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

*(b) the target company at its registered office.*

7. SCN was issued through Speed Post Acknowledgement Due (SPAD) to the Noticee on September 11, 2017 at the address, *Srinivasa Rao Marupudi, 101, plot No-60, Jyothi Homes, Nr Satya Sai Nigamagamam, Sri Nagar Colony, Hyderabad, AP, India, 500073*, and the same was returned undelivered by the Postal Department with remark, “*Left*”. The said SCN was also communicated to Noticee through email dated September 11, 2017 (at the e-mail ID: MARUPUDISRINIVAS@YAHOO.COM and MARUPUDISRINIVASA@YAHOO.COM - as available from its client master submitted by Central Depository Services (India) Limited (CDSL) and National Securities Depositories Limited (NSDL)) attaching the SCN dated September 11, 2017, which was duly digitally signed by the undersigned. The said notice was also uploaded at SEBI website in the head of “*Rulings/Orders - Unserved Summons/Notices*”.
8. As sufficient time has been granted to the Noticee to file reply towards the SCN which he has failed to make till date, therefore, I assume that Noticee has nothing to submit and the matter can be proceeded further on the basis of evidences available on records. It is relevant to point out that the consequence of non-filing of reply has been clearly indicated at para 8 of the SCN which states that if no reply is received within 14 days from receipt of this SCN, then, it shall be presumed that you have no reply to submit and the matter would be decided further on the basis of evidence available on record in terms of sub-rule (7) of rule (4) of the Adjudication Rules.

9. An opportunity of hearing was provided to the Noticee on October 24, 2017 vide notice dated October 3, 2017 through Speed Post Acknowledgement Due (SPAD) as well as SEBI – Hyderabad Local Office (SEBI) on October 3, 2017 was asked to served / affix the hearing notice (HN) at the last known address of the Noticee. HN issued through SPAD was returned undelivered by the Postal Department with remark, “*Left*”. The said hearing notice was also communicated to Noticee through email dated October 3, 2017 (at the e-mail ID: [MARUPUDISRINIVAS@YAHOO.COM](mailto:MARUPUDISRINIVAS@YAHOO.COM) and [MARUPUDISRINIVASA@YAHOO.COM](mailto:MARUPUDISRINIVASA@YAHOO.COM) - as available from its client master submitted by CDSL and NSDL) also attaching the SCN dated September 11, 2017, which was duly digitally signed by the undersigned. SEBI informed that SCN and hearing Notice was affixed at the address, *Srinivasa Rao Marupudi, 101, plot No-60, Jyothi Homes, Nr Satya Sai Nigamagamam, Sri Nagar Colony, Hyderabad, AP, India, 500073* on October 6, 2017. It is relevant to point out that in the said hearing notice issued on October 3, 2017, as the Noticee has not submitted its reply towards the said SCN, the Noticee was asked to file its reply on or before October 18, 2017 and copy of SCN was also enclosed with the said notice. However, no one appeared on behalf of the Noticee on the given date i.e. October 24, 2017.
10. As observed in pre paras that despite service of SCN and hearing notice through affixture at the last known address / digitally signed email, SCN was also uploaded on SEBI website under the head of “*Rulings/Orders - Unserved Summons/Notices*”, the Noticee neither submitted any reply towards the SCN nor appeared for hearing under inquiry. It is well settled position of law as well as held by the Hon’ble Securities Appellate Tribunal (**SAT**) in the matter of *Classic Credit Ltd. v/s SEBI [2007] 76 SCL 51 (SAT - MUM)* *inter-alia* held that – “*the appellants did not file any reply to the second show-cause notice. This being so, it has to be presumed that the charges alleged against them in the show-cause notice were admitted by them*”.

11. The Hon'ble SAT also made such proposition in case of *Sanjay Kumar Tayal & Ors. Vs. SEBI (in appeal No. 68/2013)* decided on February 11, 2014 viz. “....., appellants have neither filed reply to show cause notices issued to them nor availed opportunity of personal hearing offered to them in the adjudication proceedings and, therefore, appellants are presumed to have admitted charges levelled against them in the show cause notices”.

12. I am of the view that sufficient time has been provided to the Noticee to submit reply, which the Noticee had failed to make and also failed to appear for hearing and therefore, the undersigned is proceeding against the Noticee ex-parte on the basis of available records/evidence.

### **CONSIDERATION OF ISSUES AND FINDINGS:-**

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

- a. Whether the Noticee had failed to make the disclosures to BSE and the Venus in respect of its change in shareholding as stated at Para 4 – 5 of the SCN?
- b. If the disclosures were not made by the Noticee then, whether the Noticee is in violation of regulation 13(1), 13(3) and 13(4A) read with 13(5) of PIT Regulations and regulation 29(1) and 29(2) read with 29(3) of SAST Regulations.
- c. If yes, then, does the violation, on the part of the Noticee attract monetary penalty under section 15A(b) of the SEBI Act?
- d. If yes, then, what would be the monetary penalty that can be imposed upon the Noticee?

14. From the perusal of the SCN at para 4 - 5, it is observed that the Noticee being the promoter of the company / Venus had not disclosed about the change in its shareholding from 5.48% to 0.14% to exchange as well as to the company as mentioned below:-

Date	Opening balance	Buy	Sale	Closing Balance	% Holding	Change in shares	Disclosures required under PIT	Disclosures required under SAST
24/11/2012	832,892	0	0	832,892	5.48%			
26/11/2012	832892	0	111392	721500	4.75%	111392	13(4A) r.w. 13(5)	
31/12/2012	721500	107845	0	829345	5.46%	107845	13(1), 13(4A) r.w. 13(5)	29(1)
03/01/2013	829345	0	107845	721500	4.75%	107845	13(4A) r.w. 13(5)	
17/09/2013	721500	0	700000	21500	0.14%	700000	13(3), 13(4A) r.w. 13(5)	29(2) r.w. 29(3)

15. I also note from the transaction statement received from CDSL of the Noticee that all the buy and sale transactions were through off market transfers done on November 26, 2012, December 31, 2012, January 3, 2013 and September 17, 2013 which had resulted in change in shareholding and Noticee had not disclosed about the change in shareholding to BSE as well as to the company / Venus as its shareholding decreased from 5.48% to 0.14%, which triggered disclosure requirements under regulation 13(1), 13(3) and 13(4A) read with 13(5) of PIT Regulations and regulation 29(1) and 29(2) read with 29(3) of SAST Regulations. Further BSE vide its e-mail dated September 28, 2015 and October 27, 2017 confirmed that no disclosures have been received under regulation 13 of PIT Regulations and regulation 29 of SAST Regulations for the said transactions. During adjudication proceedings Company / Venus was also asked to confirm whether Noticee had made disclosures under regulation 13 of PIT Regulations and regulation 29 of SAST Regulations for the said transaction vide email which was duly digitally signed by the undersigned, however, the company / Venus has failed to reply.

16. I note that Noticee being the promoter of the company / Venus as per BSE website had not disclosed about the change in shareholding to BSE as well as to the company (Venus) as it *holds more than 5% shares* on December 31, 2012, also its shareholding *change exceeds 25,000 shares* on November 26, 2012, December 31, 2012, January 3, 2013 and September 17, 2013 and further its shareholding *change also exceeds 2% of*



*total shareholding or voting rights on September 17, 2013 which triggered disclosure requirement under regulation 13(1), 13(3) and 13(4A) read with 13(5) of PIT Regulations and regulation 29(1) and 29(2) read with 29(3) of SAST Regulations.*

17. In view of the aforesaid, I note that the violation of aforesaid non disclosures occurred during the period November 2012 and September 2013 and as per records no disclosures were made by the Noticee despite the requirement of making the same within 2 working days. Therefore, there is a delay of around 4 years in making the disclosure and the aforesaid violation continues till date as the Noticee has not made the said disclosures till date to exchange (BSE) and to the company as appears from the BSE website and confirmed by BSE vide email dated September 28, 2015 and October 27, 2017.

18. In view of the aforesaid observation and established violations against the Noticee, it is a fit case for imposing monetary penalty upon the Noticee under Section 15A(b) of the SEBI Act which read as follows:

SEBI Act:

**Penalty for failure to furnish information, return, etc.**

**15A.** *If any person, who is required under this Act or any rules or regulations made thereunder,—*

**(b)** *to file any return or furnish any information, books or other documents within the time specified therefor in the regulations, fails to file return or furnish the same within the time specified therefor in the regulations, he shall be liable to a penalty of one lakh rupees for each day during which such failure continues or one crore rupees, whichever is less;*

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

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

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

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

20. In the matter of ***Gurmeet Singh Dhingra Vs. SEBI (Appeal No. 353 of 2014)*** decided on ***December 13, 2014*** :- “...as per regulation 13(3) read with regulation 13(5) of the PIT Regulations, appellant was obliged to make disclosures within two working days of acquisition or sale of shares or voting rights as the case may be. In the present case, the appellant has neither made disclosure when regulation 13(3) got triggered on account of acquiring 2,49,300 shares of Trinity on September 28, 2009 nor the appellant has made disclosures on sale of shares on December 30, 2009, January 5, 2010, January 8, 2010 and January 23, 2010 when on all the four occasions the sale resulted in decrease in shareholding by more than 2%. Thus, on all the five occasions, it was obligatory on part of the appellant to make disclosure under regulation 13(3) within the time stipulated under Regulation 13(5) of the PIT Regulations. Penalty imposable under Section 15A(b) of SEBI Act for failure to make such disclosure is ` 1 lac each day during which such failure continues or ` 1 crore whichever is less. Since the appellant has failed to make disclosure on all the aforesaid five occasions, penalty imposable for aforesaid five violations would be ` 1 crore each i.e. ` 5 crore in all. As against penalty of ` 5 crore imposable on the appellant for not making disclosure under Regulation 13(3) read with Regulation 13(5) of PIT Regulations on the aforesaid five occasions, the adjudicating officer after considering all mitigating factors has imposed penalty of ` 5 lac which cannot be said to be excessive, arbitrary or unreasonable.

21. The available records neither reveals specify disproportionate gains/ unfair advantage made by the Noticee, the specific loss suffered by the investors due to such violations; nor the violations as repetitive in nature. Thus before arriving to the quantum of penalty

in the matter, it is necessary to refer the importance of such disclosures. The main objective of the SAST Regulations or PIT Regulations is to afford fair treatment to shareholders as regards their holdings in the company. The Regulation seeks to achieve fair treatment by inter alia mandating disclosure of timely and adequate information to enable shareholders to make an informed decision and ensuring that there is a fair and informed market in the shares of companies affected by such selling / acquiring in the company. Correct and timely disclosures are also an essential part of the proper functioning of the securities market and failure to do so results in preventing investors from taking well informed decision. Therefore, taking into consideration the facts / circumstance of the case and above factors, I am of the view that a justifiable penalty needs to be imposed upon the Noticee to meet the ends of justice.

### **ORDER**

22. After taking into consideration all the aforesaid facts and circumstances of the case, and in exercise of the power conferred upon me under section 15 I of the SEBI Act and rule 5 of the Adjudication Rules, I, hereby impose a penalty upon the Noticee / Shri Srinivasa Rao Marupudi, in terms of the provisions of Section 15A(b) of the SEBI Act, 1992, as shown in table below;

<b>Name of the Noticee</b>	<b>Violations</b>	<b>Penalty Amount</b>
Shri Srinivasa Rao Marupudi	Regulation 29(1) and 29(2) read with 29(3) of SAST Regulations	` 7,50,000/-(Rupees Seven Lakh Fifty Thousand only)
	Regulation 13(1), 13(3) and 13(4A) read with 13(5) of PIT Regulations	` 9,00,000/-(Rupees Nine Lakh only)
	<b>Total</b>	<b>` 16,50,000/-(Rupees Sixteen Lakh Fifty Thousand only)</b>

23. I am of the view, that the said penalty would commensurate with the violations committed by the Noticee.

24. The Noticee shall remit / pay the said amount of penalty within 45 days of receipt of this order either by way of Demand Draft in favour of “SEBI – Penalties Remittable to Government of India”, payable at Mumbai, or through e-payment facility into Bank Account the details of which are given below;

<b>Account No. for remittance of penalties levied by Adjudication Officer</b>	
Bank Name	State Bank of India
Branch	Bandra-Kurla Complex
RTGS Code	SBIN0004380
Beneficiary Name	SEBI – Penalties Remittable To Government of India
Beneficiary A/c No.	31465271959

25. The Noticee shall forward said Demand Draft or the details / confirmation of penalty so paid through e-payment to the Chief General Manager of Enforcement Department of SEBI. The Format for forwarding details / confirmations of e-payments shall be made in the following tabulated form as provided in SEBI Circular No. SEBI/HO/GSD/T&A/CIR/P/2017/42 dated May 16, 2017 and details of such payment shall be intimated at e-mail ID - tad@sebi.gov.in

Date	Department of SEBI	Name of Intermediary/ Other Entities	Type of Intermediary	SEBI Registration Number (if any)	PAN	Amount (in Rs.)	Purpose of Payment (including the period for which payment was made e.g. quarterly, annually)	Bank name and Account number from which payment is remitted	UTR No

26. In terms of rule 6 of the Adjudication Rules, copies of this order are sent to the Noticee and also to the SEBI.

**DATE: OCTOBER 31, 2017**  
**PLACE: MUMBAI**

**RACHNA ANAND**  
**ADJUDICATING OFFICER**