

**BEFORE THE ADJUDICATING OFFICER**  
**SECURITIES AND EXCHANGE BOARD OF INDIA**  
[ADJUDICATION ORDER NO.ISD/VIL/AO/DRK-CS/EAD-3/488-492/32-36-14]

**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**

Against:

Sr. No.	Name of Noticees	PAN No.
1.	<b>Vas Educomp Pvt. Ltd.</b> <i>(Previously known as Vasparr Trading Pvt. Ltd.)</i> 401, Court Chambers, S.V.Road, Borivali (w), Mumbai-400092	<b>AABCV2889C</b>
2.	<b>Yashraj Containeurs Ltd.</b> 401, Court Chambers, S.V. Road, Borivali (w), Mumbai-400092	<b>AAACV4846L</b>
3.	<b>Vasparr Shelter Ltd.</b> 401, Court Chambers, S.V. Road, Borivali (w), Mumbai-400092	<b>AABCV2888D</b>
4.	<b>Pushpanjali Drums Pvt. Ltd.</b> 402, Court Chambers, S.V. Road, Borivali(w), Mumbai-400092	<b>AAECP1906D</b>
5.	<b>Precision Containeurs Ltd.</b> Plot No. 757/758, 1st floor, Jwala Estate, Soniwadi, Near Kora Kendra, S.V. Road, Borivali (w), Mumbai- 400092	<b>AAACV4766F</b>

---

**FACTS OF THE CASE IN BRIEF**

1. Securities and Exchange Board of India (hereinafter referred to as "**SEBI**"), examined the irregularity observed in the matter of Vas Infrastructure Ltd. (hereinafter referred to as "**VIL**") during November 1, 2011 to May 30, 2012 and observed non-disclosure of change in shareholding by Vas Educomp Pvt. Ltd. (hereinafter referred to as "**Vas Educomp**"/"**Noticee 1**"), Yashraj Containeurs Ltd. (hereinafter referred to as "**Yashraj**"/ "**Noticee 2**"), Vasparr Shelter Ltd. (hereinafter referred to as "**Vasparr**"/ "**Noticee 3**"), Pushpanjali Drums Pvt. Ltd. (hereinafter

referred to as "*Pushpanjali*"/"*Noticee 4*"), and Precision Containeurs Ltd. (hereinafter referred to as "*Precision*"/*Noticee 5*"), (hereinafter collectively referred to as "*Noticees*"). VIL is listed on Bombay Stock Exchange Ltd. (hereinafter referred to as "*BSE*").

### **APPOINTMENT OF ADJUDICATING OFFICER**

2. The undersigned was appointed as Adjudicating Officer under Section 15-I of the Securities and Exchange Board of India Act, 1992 (*hereinafter referred to as "SEBI Act"*) read with Rule 3 of the Securities and Exchange Board of India (Procedure for Holding Inquiry and Imposing Penalties by Adjudicating Officer) Rules, 1995 (*hereinafter referred to as the "Rules"*), to inquire into and adjudge under section 15A(b) of the SEBI Act and the said appointment order was communicated vide proceedings of appointing Adjudicating Officer dated June 13, 2013 for the alleged violation of the provisions of Regulations 29(2) read with 29(3) and 31(2) read with 31(3) of the SEBI (Substantial Acquisition of Shares and Takeovers) Regulations, 2011 (*hereinafter referred to as the "SAST Regulations"*) and Regulations 13(4A) read with 13(5) of the SEBI (Prohibition of Insider Trading) Regulations, 1992 (*hereinafter referred to as the "PIT Regulations"*).

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

3. Show Cause Notices no. A&E/EAD-3/DRK-BM/21895/2013, A&E/EAD-3/DRK-BM/21892/2013, A&E/EAD-3/DRK-BM/21888/2013, A&E/EAD-3/DRK-BM/21897/2013, A&E/EAD-3/DRK-BM/21894/2013, dated August 29, 2013 (*hereinafter referred to as "SCNs"*) were sent to all the Noticees by "RPAD" in terms of the provisions of Rule 4 of the Securities and Exchange Board of India (Procedure for Holding Inquiry and Imposing Penalties by Adjudicating Officer) Rules, 1995 requiring to show cause as to why an inquiry should not be held against the Noticees and why penalty, if any, should not be imposed on the Noticees under Section 15A(b) of the SEBI Act. In the said SCNs, it was, *inter alia*, alleged that Noticees were part of the promoter group of VIL and had pledged shares of VIL with SICOM. Subsequently, the pledged shares were observed to have been invoked by SICOM on February 23, 2012. It was further observed that due to invocation, shareholding of all the Noticees had decreased as on the quarter ending March 2012 as compared to the quarter ending December 2011. The details of the shareholding of the Noticees are given below:

<b>Name of the entities</b>	<b>Details of shareholding (change in shareholding)</b>	<b>Violation of regulations</b>
Vas Educomp	From 6.60% of the share capital as on the quarter ending December 2011 to 0.53% as on the quarter ending March 2012 (change of 6.07%)	Regulations 29(2) read with 29(3), 31(2) read with 31(3) of SAST Regulations, regulation 13(4A) read with 13(5) of the PIT Regulations.
Yashraj	From 8.57% of the share capital as on the quarter ending December 2011 to 1.43% as on the quarter ending March 2012 (change of 7.14%)	Regulations 29(2) read with 29(3), 31(2) read with 31(3) of SAST Regulations, regulation 13(4A) read with 13(5) of the PIT Regulations.
Vasparr	From 4.80% of the share capital as on the quarter ending December 2011 to 0% on the quarter ending March 2012 (change of 4.80%)	Regulations 29(2) read with 29(3), 31(2) read with 31(3) of SAST Regulations, regulation 13(4A) read with 13(5) of the PIT Regulations.
Pushpanjali	From 9.94% of the share capital as on the quarter ending December 2011 to 6.42% as on the quarter ending March 2012 (change of 3.52%)	Regulations 29(2) read with 29(3), 31(2) read with 31(3) of SAST Regulations, regulation 13(4A) read with 13(5) of the PIT Regulations.
Precision	From 10.80% of the share capital as on the quarter ending December 2011 to 5.36 % as on the quarter ending March 2012 (change of 5.44%)	Regulations 29(2) read with 29(3), 31(2) read with 31(3) of SAST Regulations, regulation 13(4A) read with 13(5) of the PIT Regulations.

4. In response to the SCNs, Noticees vide their letters dated September 18, 2013 sought additional period of two weeks to file their reply as they were in the process of procuring the necessary information and documents for filing the reply. Acceding to the request of the Noticees, an opportunity of hearing was granted to the Noticees vide hearing notices dated January 3, 2014, to appear on January 23, 2014. All the Noticees submitted their reply dated January 15, 2014, wherein they have commonly stated as follows:

- a. The quarterly disclosure made by VIL to the BSE in relation to its shareholding pattern pursuant to clause 35 of the Listing Agreement contained disclosure of the fact that part of the shareholding of the Noticees in VIL were encumbered.

- b. On February 23, 2012, SICOM without any intimation to the Noticees, undertook the Invocation. The shareholding pattern of VIL for the quarter ended March 31, 2012 disclosed (in the section of persons belonging to the category Public and holding more than 1% of the total number of shares) the fact that SICOM (that did not hold any shares in VIL prior to the said quarter) held 23.59% shareholding in VIL.
5. Noticees vide their letter dated January 17, 2014 sought adjournment and requested to fix the hearing at another date since the counsel was not available on the said date. Acceding to the request of the Noticees, final opportunity of hearing was provided to the Noticees vide hearing notices dated February 10, 2014 to appear on February 18, 2014, at SEBI Bhavan, Mumbai. For the personal hearing, Mr. Paras Parekh, Advocate J. Sagar Associates, Dr. Jayesh Valia, and Mr. Vyankatesh H. Mulwad appeared as Authorised Representative (ARs) of the Noticees. During the course of the personal hearing, ARs while reiterating the submissions made vide reply dated January 15, 2014 submitted that SICOM had undertaken the invocation of shares without any intimation to them. ARs further submitted that when they came to know about the invocation, they had immediately filed the necessary disclosures to the BSE which was also reflected in the shareholding pattern of Vas Infrastructure Ltd. for the quarter ended March 31, 2012. ARs further stated that there was a marginal delay of few days. Noticees have filed their additional reply dated February 24, 2014, wherein, they have stated as follows:

*1...it is submitted that the Noticees were informed on February 25, 2012 by Stock Holding Corporation Ltd. (DP) about the fact that the invocation was effected by SICOM.*

*the shareholding details of VIL were disclosed in the shareholding pattern of VIL filed with the BSE for the quarter ended March 31, 2012 on April 27, 2012.*

### **CONSIDERATION OF ISSUES, EVIDENCE AND FINDINGS**

6. I have taken into consideration the facts and circumstances of the case and the material made available on record. As all the Noticees were represented by same authorised representatives and similar replies were filed by all the Noticees, therefore, a common order is being passed against all the Noticees.
7. Before moving forward, it would be pertinent to refer to the following provisions, which reads as under-

## **SAST Regulations**

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

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

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

- (a) every stock exchange where the shares of the target company are listed; and
- (b) the target company at its registered office.

### ***Disclosure of encumbered shares.***

**31 (2)** The promoter of every target company shall disclose details of any invocation of such encumbrance or release of such encumbrance of shares in such form as may be specified.

**(3)** The disclosures required under sub-regulation (1) and sub-regulation (2) shall be made within seven working days from the creation or invocation or release of encumbrance, as the case may be to,—

- (a) every stock exchange where the shares of the target company are listed; and
- (b) the target company at its registered office.

## **PIT Regulations**

**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 receipt of intimation of allotment of shares, or*
- b. the acquisition or sale of shares or voting rights, as the case may be.*

8. Upon perusal of the documents available on record, it is observed that Vas Educomp had pledged 7,55,200 shares, Yashraj had pledged 9,88,000 shares, Vasparr had pledged 6,00,516 shares, Pushpanjali had pledged 4,00,000 shares and Precision had pledged 7,50,000 shares of VIL with SICOM. Subsequently, the pledged shares were invoked by SICOM on February 23, 2012. It was further observed that due to invocation the holding of Noticees in VIL had decreased as mentioned in the table given at page no. 3.
9. Regulation 29(2) read with 29(3) of the SAST Regulations stipulates that any change in shareholding exceeding 2% of the share capital of the target company, who is holding 5% or more shares of the target company shall make disclosures to the target company and the stock exchange/s. Further, Regulations 31(2) read with 31(3) of the SAST Regulations stipulates that the promoter shall disclose details of invocation of encumbered shares to the target company and the stock exchange/s where the shares are listed within seven working days of the invocation of encumbrance.
10. It is observed that as per the regulation 29(2) read with 29(3) of the SAST Regulations and regulation 31(2) read with 31(3) of the SAST Regulations, Noticees being the promoters of VIL were required to disclose the change in shareholding of 6.07%, 7.14%, 4.80%, 3.52% and 5.44%, respectively, within the stipulated time as mentioned in pre-para no. 7.
11. Regulations 13 (4A) read with 13 (5) of the PIT Regulations stipulate that a promoter has to disclose to the company and the stock exchange/s the change in the shareholding exceeding Rs. 5 lakh in value or 25,000 shares or 1% of total shareholding or voting rights.
12. It is noted that as per regulation 13(4A) read with regulation 13(5) of the PIT Regulations, the Noticees being the promoters of VIL were required to disclose the

change in shareholding being more than 1% of the total shareholding to the company and to the stock exchange within two working days.

13. On perusal of the reply, submissions made during personal hearing and additional reply, submitted by the Noticees, it is observed that Noticees have contended that the invocation was effected by SICOM on February 23, 2012, however they came to know about the invocation on February 25, 2012. Noticees have further contended that the change in shareholding was disclosed in the shareholding pattern of VIL for the quarter ended March 31, 2012. However, it is observed that the Noticees failed to make disclosures under the abovementioned provisions within the stipulated time. The Noticees had made the delayed disclosure of 39 to 44 days as per the SAST Regulations and PIT Regulations.
14. Therefore, in view of the above, the allegation of the non-compliance of the provisions of regulations 29(2) read with 29(3), regulation 31(2) read with 31(3) of the SAST Regulations and regulation 13(4A) read with regulation 13(5) of the PIT Regulations, within the stipulated time, stands established against the Noticees.
15. At this juncture, I would like to quote the judgement of Hon'ble Securities Appellate Tribunal in *Milan Mahendra Securities Pvt. Ltd. Vs SEBI, SAT Order dated April 15, 2005*, wherein it was held that, *"the purpose of these disclosures so as to bring about transparency in the transactions and assist the Regulator to effectively monitor the transactions in the market."*
16. The Hon'ble Supreme Court of India in the matter of *SEBI Vs. Shri Ram Mutual Fund* held that *"once the violation of statutory regulations is established, imposition of penalty becomes sine qua non of violation and the intention of parties committing such violation becomes totally irrelevant. Once the contravention is established then the penalty is to follow"*.
17. The provisions of sections 15A(b) of SEBI Act are reproduced hereunder:
- 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 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.*

18. While determining the quantum of monetary penalty, 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.”*

19. It is noted from the available records, that the quantum of penalty has not been quantified. I observe that from the material available on record it is difficult to quantify the amount of gain or unfair advantage accrued to the Noticees or the extent of loss suffered by the investors as a result of the delay in complying with the aforesaid provisions. Therefore, in view of the abovementioned conclusions and after considering all the factors mentioned under Section 15J of the SEBI Act, I hereby impose a penalty of ₹ 10,00,000 (Rupees Ten Lakh Only) on all the Noticees for the delay in compliance of the provisions of regulations 29(2) read with 29(3), regulation 31(2) read with 31(3) of the SAST Regulations and regulation 13(4A) read with regulation 13(5) of PIT Regulations, under Section 15A (b) of the Securities and Exchange Board of India Act, 1992, which is appropriate in the facts and circumstances of the case.

## **ORDER**

20. In exercise of the powers conferred under Section 15-I of the Securities and Exchange Board of India Act, 1992, and Rule 5 of Securities and Exchange Board of India (Procedure for Holding Inquiry and Imposing Penalties by Adjudicating Officer) Rules, 1995, I hereby impose a penalty of ₹ 10,00,000 (Rupees Ten Lakh Only) on all the Noticees in terms of the provisions of Section 15A (b) of the Securities and Exchange Board of India Act, 1992 for the delay in compliance of the provisions of regulations 29(2) read with 29(3), regulation 31(2) read with 31(3) of the SAST Regulations and regulation 13(4A) read with regulation 13(5) of PIT Regulations. In the facts and circumstances of the case, I am of the view that the said penalty is commensurate with the delayed compliance by the Noticees. The Noticees shall be jointly and severally liable to pay the said monetary penalty.



21. The penalty shall be paid by way of Demand Draft drawn in favour of "SEBI– Penalties Remittable to Government of India" payable at Mumbai within 45 days of receipt of this order. The said demand draft shall be forwarded to General Manager- ISD, Securities and Exchange Board of India, Plot No. C4-A, 'G' Block, Bandra Kurla Complex, Bandra (E), Mumbai – 400051.

22. In terms of the provisions of Rule 6 of the Securities and Exchange Board of India (Procedure for Holding Inquiry and Imposing Penalties by Adjudicating Officer) Rules 1995, copy of this order is being sent to all the Noticees and also to the Securities and Exchange Board of India Mumbai.

**Place: Mumbai**

**Date: March 19, 2014**

**D. RAVI KUMAR  
CHIEF GENERAL MANAGER &  
ADJUDICATING OFFICER**