

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

[ADJUDICATION ORDER NO. EAD-2/DSR/RG/782- 794/2017]

UNDER SECTION 15-I OF SECURITIES AND EXCHANGE BOARD OF INDIA ACT, 1992 READ WITH RULE 5 OF SEBI (PROCEDURE FOR HOLDING INQUIRY AND IMPOSING PENALTIES BY ADJUDICATING OFFICER) RULES, 1995.

In respect of:

- 1. Premier Capital Services Limited (PAN : AAACP6493R)**
- 2. R.G. Agrawal (PAN : ABFPA4632G)**
- 3. R.G. Agrawal HUF (PAN : AAKHR1119P)**
- 4. R.K. Agrawal HUF (PAN : AADHR0901A)**
- 5. Rajesh Agrawal (PAN : ADCPA5339F)**
- 6. Bimla Agrawal (PAN : AEXPA0451N)**
- 7. Sangeeta Agrawal (PAN : ABDPA5797Q)**
- 8. G.L. Agrawal HUF (PAN : Not Available)**
- 9. Yukti Investment Private Limited (PAN : AAACY0228M)**
- 10. Vertex Investment Private Limited (PAN : AAACV5673K)**
- 11. Vastu Commodities Private Limited (PAN: AAACV0897P)**
- 12. Suman Agarwal (PAN: Not Available)**
- 13. Premier Protein Limited (PAN: AABCM3277H)**

In the matter of

PREMIER CAPITAL SERVICES LIMITED

- 1. Securities and Exchange Board of India (hereinafter referred to as the 'SEBI') had examined the alleged irregularities in the dealing in shares of Premier Capital Services Limited (hereinafter referred to as the 'Company' / 'PCSL'), a company listed on the Bombay Stock Exchange Limited (BSE) and into the possible violation of the provisions of the SEBI Act, 1992 and various Rules and Regulations made there under. Upon examination, various non-compliances of the provisions of the SEBI (Substantial Acquisition of Shares and Takeovers) Regulations, 1997(hereinafter referred to as 'SAST Regulations') and SEBI**

(Prohibition of Insider Trading) Regulations, 1992 (hereinafter referred to as 'PIT Regulations') by the Company PCSL, R G Agrawal, R G Agrawal HUF, R K Agrawal HUF, Shri Rajesh Agrawal, Ms. Bimla Agrawal, Ms. Sangeeta Agrawal, G L Agrawal HUF, Yukti Investments Private Limited, Vertex Investments Private Limited, Vastu Commodities Private Limited, Suman Agrawal and Premier Proteins Limited (hereinafter individually referred to with their respective names and collectively referred to as the 'Noticees') were observed in the scrip of PCSL.

2. SEBI has, therefore, initiated adjudication proceedings against the Noticees for the alleged violation of the following provision of law in the matter-

- (a) PCSL for the alleged non-compliance of the provisions of Regulation 8(3) of the SAST Regulations.
- (b) R G Agrawal and R G Agrawal HUF for the alleged non-compliance of the provisions of Regulation 7(1A) and 11 of the SAST Regulations.
- (c) R K Agrawal HUF, Shri Rajesh Agrawal, Ms. Bimla Agrawal, Ms. Sangeeta Agrawal and G L Agrawal HUF for the alleged non-compliance of the provisions of Regulation 7(1A) and 11 of the SAST Regulations and Regulation 13(3) & 13(4) of the PIT Regulations.
- (d) Yukti Investments Private Limited for the alleged non-compliance of the provisions of Regulation 7(1) and 10 of the SAST Regulations and Regulation 13(3) of the PIT Regulations.
- (e) Vertex Investments Private Limited and Vastu Commodities Private Limited for the alleged non-compliance of the provisions of Regulation 7(1), 7(1A), 10 and 11 of the SAST Regulations and Regulation 13(3) of the PIT Regulations.
- (f) Suman Agrawal and Premier Proteins Limited for the alleged non-compliance of the provisions of Regulation 11 of the SAST Regulations.

Appointment of Adjudicating Officer

3. I have been appointed as the Adjudicating Officer, vide order dated November 18, 2015, under Section 15-I of the Securities and Exchange Board of India Act, 1992 (hereinafter referred to as the 'SEBI Act, 1992') 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) and 15H(ii) of the SEBI Act, 1992 against the Noticees for the alleged violation of the provisions of law.

Show Cause Notice, Reply and Personal Hearing

4. A common Show Cause Notice dated August 11, 2016 (hereinafter referred to as 'SCN') was issued to the Noticees in terms of Rule 4 of the Adjudication Rules requiring them to show cause as to why an inquiry should not be held against them for the alleged violation of provisions of law. Vide separate but identical letters dated August 26, 2016, R G Agrawal, R G Agrawal HUF, R K Agrawal HUF, Shri Rajesh Agrawal, Ms. Bimla Agrawal, Ms. Sangeeta Agrawal, Suman Agrawal, G L Agrawal HUF, Yukti Investments Private Limited, Vertex Investments Private Limited, Vastu Commodities Private Limited and Premier Proteins Limited requested for additional time of one month to file their respective replies in the matter. However, no replies have been received from the said Noticees in the matter. Further, the SCN issued to PCSL was duly delivered and the tracking report from the India Post website is available on record. However, no reply has been received from the said Noticee till date.
5. Therefore, in the interest of natural justice and in order to conduct an inquiry as per Rule 4(3) of the Adjudication Rules, vide notice dated August 11, 2017, an opportunity of personal hearing was granted to the Noticees on August 30, 2017. However, vide email and letters dated August 28, 2017, Shri Rajesh Agarwal, Managing Director of Premier Protein Limited sought adjournment of the scheduled personal hearing on behalf of all the Noticees and requested further four weeks' time to file their reply in the matter. The Noticees stated that they are still in the process of gathering necessary information and documents in respect of the matter and are desirous of seeking legal assistance for compiling a reply to the SCN .
6. I note that the SCN dated August 11, 2016 was duly delivered to all noticees. The proof of delivery is available on record. Thereafter, vide letters dated August 26, 2016, all the Noticees had sought additional time of one month to file their replies in the matter. However, no replies were filed by the Noticees in the matter . Now, after the receipt of the hearing notices dated August 11, 2017 ,

the Noticees have once again requested for more time to file their reply and also sought adjournment of the hearing on the pretext of gathering information and taking legal assistance in the matter. I am convinced that ample time and opportunity has been granted to the Noticees to file their replies in the matter. Further, I am also of the view that the Noticees are deliberately procrastinating the adjudication proceedings. Therefore, I am proceeding further ex-parte on the basis of material available on record in the matter.

Consideration of Issues, Evidence and Findings

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

- (a) Whether PCSL has violated the provisions of Regulation 8(3) of the SAST Regulations?***
- (b) Whether R G Agrawal and R G Agrawal HUF have violated the provisions of Regulation 7(1A) and 11 of the SAST Regulations?***
- (c) Whether R K Agrawal HUF, Shri Rajesh Agrawal, Ms. Bimla Agrawal, Ms. Sangeeta Agrawal and G L Agrawal HUF have violated the provisions of Regulation 7(1A) & 11 of the SAST Regulations and Regulation 13(3) & 13(4) of the PIT Regulations?***
- (d) Whether Yukti Investments Private Limited has violated the provisions of Regulation 7(1) & 10 of the SAST Regulations and Regulation 13(3) of the PIT Regulations?***
- (e) Whether Vertex Investments Private Limited and Vastu Commodities Private Limited have violated the provisions of Regulation 7(1), 7(1A), 10 & 11 of the SAST Regulations and Regulation 13(3) of the PIT Regulations?***
- (f) Whether Suman Agrawal and Premier Proteins Limited have violated the provisions of Regulation 11 of the SAST Regulations?***
- (g) Do the violations, if any, on the part of the Noticees attract any penalty under Section 15A(b) and / or Section 15H (ii) of the SEBI Act, 1992?***
- (h) If yes, what should be the quantum of penalty?***

8. Before proceeding further, it will be appropriate to refer to the relevant provisions of the SAST Regulations and PIT Regulations which read as under:

Relevant provisions of the SAST Regulations:

Acquisition of 5% and more shares of a company

7(1) Any acquirer, who acquires shares or voting rights which taken together with shares or voting rights, if any, held by him would entitle him to more than five per cent or ten per cent. or fourteen percent or fifty four per cent. or seventy four per cent shares or voting rights in a company, in any manner whatsoever, shall disclose at every stage the aggregate of his shareholding or voting rights in that company to the company and to the stock exchanges where shares of the target company are listed.

7(1A) Any acquirer who has acquired shares or voting rights of a company under sub-regulation (1) of regulation 11, shall disclose purchase or sale aggregating two percent. or more of the share capital of the target company to the target company, and the stock exchanges where shares of the target company are listed within two days of such purchase or sale along with the aggregate shareholding after such acquisition or sale.

Explanation - for the purposes of sub-regulations (1) and (1A), the term 'acquirer' shall include a pledgee other than a bank or a financial institution and such pledgee shall make disclosure to the target company and the stock exchange within two days of creation of pledge.

Continual disclosures

8(3) Every company whose shares are listed on a stock exchange, shall within 30 days from the financial year ending March 31, as well as the record date of the company for the purposes of declaration of dividend, make yearly disclosures to all the stock exchanges on which the shares of the company are listed, the changes, if any, in respect of the holdings of the persons referred to under sub-regulation (1) and also holdings of promoters or person(s) having control over the company as on 31st March.

Acquisition of fifteen or more of the shares or voting rights of any company.

10. No acquirer shall acquire shares or voting rights which taken together with shares or voting rights, if any, held by him or by persons acting in concert with him, entitle such acquirer to exercise fifteen percent or more of the voting rights in a company, unless such acquirer makes a public announcement to acquire shares of such company in accordance with the Regulations.

Consolidation of holdings

11(1) No acquirer who, together with persons acting in concert with him, has acquired, in accordance with the provisions of law, 15 per cent or more but less than fifty five per cent. (55%) of the shares or voting rights in a company, shall acquire, either by himself or through or with persons acting in concert with him, additional shares or voting rights entitling him to exercise more than 5% of the voting rights, in any financial year ending on 31st March, unless such acquirer makes a public announcement to acquire shares in accordance with the Regulations.

Relevant provisions of PIT Regulations:

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

Continual disclosure.

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(4) Any person who is a director or officer 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 and his dependents (as defined by the company) from the last disclosure made under sub-regulation (2) or under this subregulation, and the change exceeds Rs. 5 lakh in value or 25,000 shares or 1% of total shareholding or voting rights, whichever is lower.

9. I find from the SCN that one of the promoter entities of PCSL viz. R K Agrawal HUF had sold 40000 (i.e. 5.60%) shares of PCSL on March 15, 2008 as a result of which, its shareholding had reduced from 1,96,410 (i.e. 27.49%) to 1,56,410 (i.e. 21.89%). The details of the said transaction are as under:

S. No.	Date of transaction	Pre-transaction shareholding (%)	Shares Sold (%)	Post transaction shareholding (%)
1.	15.03.2008	1,96,410 (27.49)	-40,000 (-5.60)	1,56,410 (21.89)

- 10.** Upon the said sale of shares, R K Agrawal HUF was required to make necessary disclosures under Regulation 7(1A) of the SAST Regulations (due date for compliance - March 17, 2008). However, it was observed that R K Agrawal HUF had made the requisite disclosures belatedly on July 15, 2010 i.e. with a delay of 850 days . Therefore, it was alleged in the SCN that R K Agrawal HUF has violated the provisions of 7(1A) of the SAST Regulations.
- 11.** Further, the existing promoters of PCSL i.e. Shri Rajesh Agrawal, Ms.Bimla Agrawal, R G Agrawal, Ms.Sangeeta Agrawal, R K Agrawal HUF, R G Agrawal HUF and G L Agrawal HUF had sold shares aggregating to 45.41% of the paid up capital of PCSL to Tekriwal & Hisaria Group which had resulted in a decrease in shareholding of the promoters from 68.68% to 23.27% of the paid up capital of PCSL. The details of the same are as under:

S. No.	Date of transaction	Pre-transaction shareholding (%)	Shares Sold (%)	Post transaction shareholding (%)
1.	15.05.2009	4,90,770 (68.68)	3,24,500 (45.41)	166270 (23.27)

- 12.** Upon the said sale of shares, Shri Rajesh Agrawal, Ms.Bimla Agrawal, R G Agrawal, Ms.Sangeeta Agrawal, R K Agrawal HUF, R G Agrawal HUF and G L Agrawal HUF were required to make necessary disclosures under Regulation 7(1A) of the SAST Regulations (due date for compliance – May 17, 2009). However, it was observed that they had made the requisite disclosures belatedly on July 15, 2010.i.e. with a delay of 424 days. Therefore, it was alleged in the SCN that Shri Rajesh Agrawal, Ms.Bimla Agrawal, R G Agrawal, Ms.Sangeeta Agrawal, R K Agrawal HUF, R G Agrawal HUF and G L Agrawal HUF had violated the provisions of 7(1A) of the SAST Regulations.
- 13.** It was observed that on June 30, 2009, Yukti Investment Private Limited had acquired / purchased 1,08,000 shares constituting 15.11% of the paid up capital of PCSL. Upon the said acquisition, Yukti Investment Private Limited was required to make necessary disclosures under Regulation 7(1) of the SAST Regulations and also, was required to make a public announcement as the said

acquisition crossed the threshold limit of 15% as provided under Regulation 10 of the SAST Regulations. The details of the said acquisition are as under:

Sr. No.	Date of transaction	Pre-transaction shareholding (%)	Shares Purchased (%)	Post transaction shareholding (%)
1.	30.06.2009	NIL	1,08,000 (15.11)	1,08,000 (15.11)

14. However, it was alleged that Yukti Investment Private Limited had made the necessary disclosures, as required under Regulation 7(1) of the SAST Regulations belatedly on July 15, 2010 i.e. with a delay of 378 days (due date for compliance – July 02, 2009). It was also alleged that Yukti Investment Private Limited had failed to make a public announcement for the said acquisition as required under Regulation 10 of the SAST Regulations.

15. Further, it was observed that Vertex Investment Private Limited, a promoter entity of PCSL, had acquired / purchased certain shares of PCSL on May 15, 2009 and June 30, 2009. The details of the said acquisitions are as under:

S. No.	Date of transaction	Pre-transaction shareholding (%)	Shares Purchased (%)	Post transaction shareholding (%)
1.	15.05.2009	2600 (0.36)	110000(15.39)	112600 (15.75)
2.	30.06.2009	112600 (15.75)	86500 (12.10)	1,99,100 (27.86)

16. From the above table, it was observed that upon the purchase of 1,10,000 shares(i.e. 15.39%) on May 15, 2009, the shareholding of Vertex Investment Private Limited had increased from 2,600 shares (i.e. 0.36%) to 1,12,600 shares (i.e. 15.75%). Upon the said acquisition Vertex Investment Private Limited was required to make necessary disclosures as prescribed under Regulation 7(1) of the SAST Regulations. However, it was alleged in the SCN that it had made the said disclosures belatedly on July 13, 2010 i.e. with a delay of 422 days (due date of compliance – May 17, 2009). Further, the said acquisition also required Vertex Investment Private Limited to make a public announcement as the said

acquisition crossed the threshold limit of 15% as provided under Regulation 10 of the SAST Regulations. However, it was alleged that it had failed to do the same.

17. In addition, upon the purchase of 86,500 shares (i.e. 12.10%) on June 30, 2009, the shareholding of Vertex Investment Private Limited had further increased from 1,12,600 shares (i.e. 15.75%) to 1,99,100 shares (i.e. 27.86%) which required it to make necessary disclosures under Regulation 7(1A) of the SAST Regulations. However, it was alleged that Vertex Investment Private Limited had made the said disclosures belatedly on July 15, 2010 i.e. with a delay of 378 days (due date of compliance – July 02, 2009).
18. Similarly, it was observed that Vastu Commodities Private Limited, a promoter entity of PCSL, had also acquired / purchased certain shares of PCSL on May 15, 2009 and June 30, 2009. The details of the said acquisitions are as under:

Sr. No.	Date of transaction	Pre-transaction shareholding (%)	Shares Purchased/ (sold) (%)	Post transaction shareholding (%)
1.	15.05.2009	1,00,000 (13.99)	(1,00,000) (-13.99)	NIL
2.	30.06.2009	Nil	1,20,000 (16.79)	1,20,000 (16.79)

19. From the above table, it was noted that upon the sale of 1,00,000 shares (13.99%) on May 15, 2009, the shareholding of Vastu Commodities Private Limited had become NIL which required it to make necessary disclosures under Regulation 7(1A) of the SAST Regulations. However, it was alleged that it had made the said disclosures belatedly on July 29, 2010 i.e. with a delay of 438 days (due date for compliance – May 17, 2009). Further, upon the purchase of 1,20,000 shares (i.e. 16.79%) on June 30, 2009, the shareholding of Vastu Commodities Private Limited had increased from NIL to 16.79% of the paid up capital of PCSL which required it to make necessary disclosures under Regulation 7(1) of the SAST Regulations. However, it was alleged that it had made the said disclosures on July 29, 2010 with a delay of 392 days (due date

for compliance – July 02, 2009). In addition, the said acquisition of shares on June 30, 2009 also required Vastu Commodities Private Limited to make a public announcement as the said acquisition crossed the threshold limit of 15% as provided under Regulation 10 of the SAST Regulations. However, it was alleged that it had failed to do the same.

20. The following entities formed part of the promoter group of PCSL:

1.	Rajesh Agrawal
2.	Bimla Agrawal
3.	R G Agrawal
4.	Sangeeta Agrawal
5.	R K Agrawal-HUF
6.	R G Agrawal- HUF
7.	G L Agrawal- HUF
8.	Suman Agrawal
9.	Vertex Investments Pvt Ltd
10.	Premier Proteins Ltd
11.	Vastu Commodities Private Limited

21. It was observed that the said entities had transacted in the shares of PCSL and the details of the same are as under:

S. No.	Date of transaction	Pre-transaction shareholding (%)	Shares Purchased/ (sold) (%)	Post transaction shareholding (%)
1.	15.05.2009	1,66,270 (23.27)	1,10,000 (15.39)	2,76,270 (38.66)
2.	30.06.2009	2,86,120 (40.04)	2,16,500 (30.30)	5,02,620 (70.34)

22. From the above table, it was observed that on May 15, 2009, the promoter group entities had purchased 1,10,000 shares (i.e.15.39%) of PCSL which increased

their shareholding in the company from 23.27% to 38.66% of the paid up capital. Upon the said acquisition, the said promoter entities were required to make a public announcement for open offer as prescribed under Regulation 11(1) of the SAST Regulations. However, it was alleged that no public announcement was made for the said acquisition. Similarly, on June 30, 2009, the promoter group entities had purchased additional 2,16,500 shares (i.e. 30.30%) of PCSL which resulted in an increase in the shareholding of the said entities from 40.04% to 70.34% of the paid up capital of PCSL. Upon the said acquisition, the said promoter entities were once again required to make a public announcement for open offer as prescribed under Regulation 11(1) of the SAST Regulations. However, it was alleged that no public announcement was made for the said acquisition.

- 23.** I further find from the SCN that it was alleged that PCSL had made the following non-compliances in making disclosures as required under Regulation 8(3) of the SAST Regulations:

Regulation	Due Date of compliance	Actual date of compliance	Delay (in no. of days)
8(3)	30.04.1998	01.03.2004	2132
8(3)	30.04.1999	01.03.2004	1767
8(3)	30.04.2000	01.03.2004	1401
8(3)	30.04.2001	01.03.2004	1036
8(3)	30.04.2002	01.03.2004	671
8(3)	30.04.2003	01.03.2004	306
8(3)	30.04.2004	19.10.2004	172
8(3)	30.04.2007	10.10.2007	163
8(3)	30.04.2009	-	Not complied
8(3)	30.04.2010	-	Not complied
8(3)	30.04.2011	-	Not complied

24. Further, as per the information provided by BSE, the following alleged non-compliances of the provisions of PIT Regulations were noted:

R K Agarwal - HUF:

Date of Transaction	Pre-transaction shareholding (%)	Shares Purchased	Post transaction shareholding (%)	Regulation Triggered	Due date of Compliance	Actual Date of Compliance	Delay
15/03/2008	1,96,410 (27.49)	40,000	21.89	13(3) of SEBI (PIT)	18/03/2008	15/07/2010	849

Rajesh Agrawal, Bimla Agrawal, Sangeeta Agrawal, R K Agrawal-HUF and G L Agrawal- HUF

Name	Date of Transaction	Pre-transaction shareholding (%)	Shares Purchased	Post transaction shareholding (%)	Regulation Triggered	Due date of Compliance	Actual Date of Compliance	Delay
Rajesh Agrawal	15/05/2009	1,49,210 (20.88)	92,600	56,610 (7.92)	13(4) of SEBI (PIT)	18/05/2009	15/07/2010	423
R K Agrawal-HUF	15/05/2009	1,56,410 (21.89)	60,000	96,410 (13.49)	13(4) of SEBI (PIT)	18/05/2009	15/07/2010	423
Bimla Agrawal	15/05/2009	49,590 (6.94)	46,200	3,390 (0.47)	13(3) of SEBI (PIT)	18/05/2009	Not Complied	-
Sangeeta Agrawal	15/05/2009	51,300 (7.18)	47,900	3,400 (0.48)	13(3) of SEBI (PIT)	18/05/2009	Not Complied	-
G L Agrawal-HUF	15/05/2009	51,800 (7.25)	51,800	-	13(3) of SEBI (PIT)	18/05/2009	Not Complied	-

Yukti Investment Pvt. Ltd.:

Date of Transaction	Pre-transaction shareholding (%)	Shares Purchased/ Sold	Post transaction shareholding (%)	Regulation Triggered	Due date of Compliance	Actual Date of Compliance	Delay
30/06/2009	-	1,08,000	1,08,000 (15.11)	13(3) of SEBI (PIT)	01/07/2009	Not Complied	-

14/05/2010	1,08,000 (15.11)	16,000	92,000 (12.87)	13(3) of SEBI (PIT)	17/05/2010	Not Complied	-
18/05/2010	92,000 (12.87)	10,000	82,000 (11.47)	NA	NA	NA	NA
19/05/2010	82,000 (11.47)	500	81,500 (11.40)	NA	NA	NA	NA
20/05/2010	81,500 (11.40)	5,500	76,000 (10.63)	13(3) of SEBI (PIT)	21/05/2010	Not Complied	-
25/05/2010	76,000 (10.63)	10,000	66,000 (9.23)	NA	NA	NA	NA
31/05/2010	66,000 (9.23)	15,000	51,000 (7.13)	13(3) of SEBI (PIT)	01/06/2010	Not Complied	-
03/06/2010	51,000 (7.13)	10,200	40,800 (5.71)	NA	NA	NA	NA
04/06/2010	40,800 (5.71)	18,000	22,800 (3.19)	13(3) of SEBI (PIT)	07/06/2010	Not Complied	-
08/06/2010	22,800 (3.19)	22,000	800 (0.11)	NA	NA	NA	NA

Vertex Investment Pvt. Ltd.:

Date of Transaction	Pre- transaction sharehold ing (%)	Shares Purchased/ Sold	Post transaction sharehold ing (%)	Regulation Triggered	Due date of Compliance	Actual Date of Compliance	Delay
15/05/2009	2,600 (0.36)	1,10,000	1,12,600 (15.76)	13(3) of SEBI (PIT)	18/05/2009	Not Complied	-

30/06/2009	1,12,600 (15.76)	86,500	1,99,100 (27.86)	13(3) of SEBI (PIT)	01/07/2010	Not Complied	-
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Vastu Commodities Pvt. Ltd.:

Date of Transaction	Pre-transaction shareholding (%)	Shares Purchased/ Sold	Post transaction shareholding (%)	Regulation Triggered	Due date of Compliance	Actual Date of Compliance	Delay
15/05/2009	1,00,000 (13.99)	1,00,000	-	13(3) of SEBI (PIT)	18/05/2009	Not Complied	-
30/06/2009	-	1,20,000	1,20,000 (16.79)	13(3) of SEBI (PIT)	01/07/2010	Not Complied	-

25. It was, therefore, alleged that –

- (a) PCSL had violated the provisions of Regulation 8(3) of the SAST Regulations warranting imposition of monetary penalty under Section 15A (b) of the SEBI Act, 1992.
- (b) R K Agrawal HUF had violated the provisions of Regulation 13(3) and 13(4) of the PIT Regulations warranting imposition of monetary penalty under Section 15A (b) of the SEBI Act, 1992.
- (c) Shri Rajesh Agrawal had violated the provisions of Regulation 13(4) of the PIT Regulations warranting imposition of monetary penalty under Section 15A (b) of the SEBI Act, 1992.
- (d) Ms. Bimla Agrawal, Ms. Sangeeta Agrawal and G L Agrawal HUF had violated the provisions of Regulation 13(3) of the PIT Regulations warranting imposition of monetary penalty under Section 15A(b) of the SEBI Act, 1992.
- (e) R K Agrawal HUF, Shri Rajesh Agrawal, Ms. Bimla Agrawal, R G Agrawal, Ms. Sangeeta Agrawal, R G Agrawal HUF and G L Agrawal HUF had violated the provisions of Regulation 7(1A) and 11 of the SAST Regulations warranting imposition of monetary penalty under Section 15A(b) and Section 15H(ii) of the SEBI Act, 1992.

- (f) Yukti Investments Private Limited had violated the provisions of Regulation 7(1) and 10 of the SAST Regulations and Regulation 13(3) of the PIT Regulations warranting imposition of monetary penalty under Section 15A(b) and Section 15H(ii) of the SEBI Act, 1992.
- (g) Vertex Investments Private Limited and Vastu Commodities Private Limited had violated the provisions of Regulation 7(1), 7(1A), 10 and 11 of the SAST Regulations and Regulation 13(3) of the PIT Regulations warranting imposition of monetary penalty under Section 15A(b) and Section 15H(ii) of the SEBI Act, 1992.
- (h) Suman Agrawal and Premier Proteins Limited had violated the provisions of Regulation 11 of the SAST Regulations warranting imposition of monetary penalty under Section 15H(ii) of the SEBI Act, 1992.

26. I note that the Noticees (by choosing not to file any reply to the SCN) have not disputed the allegations so leveled against them. I find that it is a settled principle of law that if the charges are not disputed by the noticee, then, it is presumed that the same are admitted by him. The Hon'ble Securities Appellate Tribunal (SAT) in Appeal No. 68 of 2003 in the matter of **Classic Credit Ltd. Vs. SEBI (decided on December 08, 2006)**, *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”.

27. I note that the purpose of making a Public Announcement is to acquire the specified quantity of shares of the target company, thereby, giving an exit option to the existing shareholders at a specified price during a specified time. The Public Announcement made by the acquirer/s contains vital information relating to the open offer like the offer price, the size of the offer, mode of payment of the consideration, conditions as to minimum level of acceptances, if any, etc. The shareholders may, on the basis of such disclosures made through the Public Announcement, take a decision whether to continue with the target company or decide to exit from it. If the Public Announcement is not made by the acquirer/s within the time frame prescribed under the SAST Regulations, the shareholders would be deprived of the exit option at the relevant point of time.

28. Therefore, it is established beyond any doubt that the Noticees have violated various disclosure provisions of the SAST Regulations and the PIT Regulations on number of occasions during the relevant period. Further, I also find that certain Noticees have failed to make public announcement on certain occasions for the acquisition of shares of PCSL. Thus, I conclude that by violating the abovementioned provisions of SAST Regulations and PIT Regulations, the Noticees are liable for monetary penalty as prescribed under Sections 15A(b) and Section 15H(ii) of the SEBI Act, 1992 which read as under:

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,—*

(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.*

Penalty for non-disclosure of acquisition of shares and takeovers.

15H. *If any person, who is required under this Act or any rules or regulations made thereunder, fails to, -*

(i).....

(ii) *make a public announcement to acquire shares at a minimum price; or*

(iii).....

(iv).....

he shall be liable to a penalty of twenty five crore rupees or three times the amount of profits made out of such failure, whichever is higher.

29. 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."* Further, in the matter of **Ranjan Varghese v. SEBI (Appeal No. 177 of 2009 and Order dated April 08, 2010)**, the Hon'ble SAT had observed *"Once it is established that the mandatory provisions of Takeover Code was violated, the penalty must follow."*

30. At this instant, it is important to quote the observations of the Hon'ble Supreme Court of India in the matter of **SEBI v. Shri Ram Mutual Fund [2006] 68 SCL 216(SC)**, *inter alia*, held: “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.”
31. While determining the quantum of penalty under section 15A(b) and Section 15H(ii) of the SEBI Act, it is important to consider the factors stipulated in section 15J of the SEBI Act, 1992 which reads as under:-

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

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

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

Explanation: *For removal of doubts, it is clarified that the power of an adjudicating officer to adjudge the quantum of penalty under Sections 15A to 15E, Clauses (b) and (c) of Section 15F, 15G, 15H and 15HA shall be and shall always be deemed to have been exercised under the provisions of this section.*

32. I observe that, from the material available on record, any quantifiable gain or unfair advantage accrued to the Noticees or the extent of loss suffered by the investors as a result of the default cannot be computed. I note that the default of the Noticees are repetitive in nature. I note that the Noticees (Rajesh Agrawal & Ors) sold shares aggregating to 45.41% of the paid up capital of the Company PCSL to Tekriwal & Hisaria Group on May 15, 2009. Further, upon perusal of the shareholding pattern from the BSE website for the quarter ending September 2010, it is noted that Rajesh Agrawal, R.K. Agrawal HUF, Bimla Agrawal, Sangeeta Agrawal, R G Agrawal, R G Agrawal HUF, Suman Agrawal, Vertex Investment Pvt. Ltd, Premier Protein Ltd and Vastu Commodities P. Ltd were

appearing as the promoter and promoter group of the Company. It is further noted from the shareholding pattern for the quarter ending December 2010 that Dalip Kumar, Manoj Kasliwal, Sharda Kasliwal, Rashmi Ahuja and Manish Praful Patel were appearing as the promoter and promoter group of the Company. Thus, I find that Rajesh Agrawal, R.K. Agrawal HUF, Bimla Agrawal, Sangeeta Agrawal, R G Agrawal, R G Agrawal HUF, Suman Agrawal, Vertex Investment Pvt. Ltd, Premier Protein Ltd and Vastu Commodities P. Ltd had sold their entire shareholding to the new promoters way back in 2010 itself. It is also noted from the shareholding pattern for the quarter ending June 2017 that Dalip Kumar, Manoj Kasliwal, Sharda Kasliwal, are appearing as the promoter and promoter group of the Company. However, it is pertinent to mention here that proper and timely disclosure is the essence of a vibrant securities market and failure to do so prevents the investors from taking a well-informed investment decision. I am, therefore, of the view that the Noticees by failing to make timely disclosures as required under the SAST Regulations and PIT Regulations and failing to make public announcement as required under the SAST Regulations are liable for monetary penalties under the SEBI Act, 1992.

ORDER

- 33.** 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, 1992 read with Rule 5 of the Adjudication Rules, I hereby impose the following monetary penalties on the Noticees:

Sr. No.	Name of the Noticee	Provisions of law violated	Penal Provisions	Penalty Amount (in ₹)
1.	Premier Capital Services Limited	Regulation 8(3) of the SAST Regulations	15A(b) of the SEBI Act, 1992	5,00,000/-
2.	R.G. Agrawal	Regulation 7(1A) of the SAST Regulations	15A(b) of the SEBI Act, 1992	1,00,000/-
3.	R.G. Agrawal HUF	Regulation 7(1A) of the SAST Regulations	15A(b) of the SEBI Act, 1992	1,00,000/-

4.	R.K. Agrawal HUF	Regulation 7(1A) of the SAST Regulations, Regulation 13(3) & 13(4) of PIT Regulations	15A(b) of the SEBI Act, 1992	1,50,000/-
5.	Rajesh Agarwal	Regulation 7(1A) of the SAST Regulations and Regulation 13(4) of PIT Regulations	15A(b) of the SEBI Act, 1992	1,25,000/-
6.	Bimla Agrawal	Regulation 7(1A) of the SAST Regulations and Regulation 13(3) of PIT Regulations	15A(b) of the SEBI Act, 1992	1,25,000/-
7.	Sangeeta Agarwal	Regulation 7(1A) of the SAST Regulations and Regulation 13(3) of PIT Regulations	15A(b) of the SEBI Act, 1992	1,25,000/-
8.	G.L. Agarwal HUF	Regulation 7(1A) of the SAST Regulations and Regulation 13(3) of PIT Regulations	15A(b) of the SEBI Act, 1992	1,25,000/-
9.	Yukti Investment Private Limited	Regulation 7(1) of the SAST Regulations, 1997 & Regulation 13(3) of the PIT Regulations	15A(b) of the SEBI Act, 1992	1,25,000/-

		Regulation 10 of the SAST Regulations, 1997	15H(ii) of the SEBI Act, 1992	10,00,000/-
10.	Vertex Investment Private Limited	Regulation 7(1) & 7(1A) of the SAST Regulations, 1997 and Regulation 13(3) of the PIT Regulations	15A(b) of the SEBI Act, 1992	1,50,000/-
		Regulation 10 of the SAST Regulations, 1997	15H(ii) of the SEBI Act, 1992	10,00,000/-
11.	Vastu Commodities Private Limited	Regulation 7(1) & 7(1A) of the SAST Regulations, 1997 and Regulation 13(3) of the PIT Regulations	15A(b) of the SEBI Act, 1992	1,50,000/-
		Regulation 10 of the SAST Regulations, 1997	15H(ii) of the SEBI Act, 1992	10,00,000/-

Sr. No.	Name of the Noticee	Provisions of law violated	Penal Provisions	Penalty Amount (in ₹)
1.	R.G. Agrawal	Regulation 11(1) of the SAST Regulations, 1997	15H(ii) of the SEBI Act, 1992	20,00,000/- to be paid jointly & severally
2.	R.G. Agrawal HUF			
3.	R.K. Agrawal HUF			
4.	Rajesh Agarwal			
5.	Bimla Agrawal			
6.	Sangeeta Agarwal			
7.	G.L. Agarwal HUF			
8.	Vertex Investment Private Limited			
9.	Vastu Commodities Private Limited			
10.	Suman Agarwal			
11.	Premier Protein Limited			

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

34. The amount of penalty shall be paid either by way of demand draft in favor of "SEBI - Penalties Remittable to Government of India", payable at Mumbai, or by e-payment in the account of "SEBI - Penalties Remittable to Government of India", A/c No. 31465271959, State Bank of India, Bandra Kurla Complex Branch, RTGS Code SBIN0004380 within 45 days of receipt of this order. The said demand draft or forwarding details and confirmation of e-payment made in the format as given in table below should be forwarded to "The Division Chief (Enforcement Department - DRA-III), Securities and Exchange Board of India, SEBI Bhavan, Plot no. C- 4 A, "G" Block, Bandra Kurla Complex, Bandra (E), Mumbai - 400 052."

1.	Case Name :	
2.	Name of Payee:	
3.	Date of Payment:	
4.	Amount Paid:	
5.	Transaction No:	
6.	Bank details in which payments is made :	
7.	Payment is made for: (like penalties/ disgorgement / recovery/ settlement amount and legal charges along with order details)	

35. In terms of the Rule 6 of the Adjudication Rules, copies of this order are sent to the Noticees and also to Securities and Exchange Board of India.

Date: September 14, 2017
Place: Mumbai

D.SURA REDDY
GENERAL MANAGER &
ADJUDICATING OFFICER