

BEFORE THE ADJUDICATING OFFICER
SECURITIES AND EXCHANGE BOARD OF INDIA
[ADJUDICATION ORDER NO. AK/AO- 118-125/2014]

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

M/s. Yamini Investments Company Limited (PAN: AAACY1580G),

Shri Munjal M. Jayakrishna (PAN: ABBPJ5977F),

Ms. Devyani Rajesh Jayakrishna (PAN ACYPJ6142L),

Ms. Padma Jayakrishna (PAN: ABLPJ6101H),

Shri Gokul M. Jayakrishna (PAN: AAPPJ6914K),

Ms. Shivani R. Jayakrishna (PAN:ADEPJ0479R),

Shri Rajesh Jayakrishna (PAN: ABLPJ6100G),

Shri Narayan Jha (PAN:AEXPJ2053F)

In the matter of

M/s. Yamini Investments Company Limited

FACTS OF THE CASE

1. Securities and Exchange Board of India (hereinafter referred to as '**SEBI**') received a letter of offer from Ms. Vandana Agarwal (hereinafter referred to as '**Acquirer**'), to acquire upto 62,400 fully paid up equity shares of Rs 10/- each representing 26% of the fully paid up equity shares capital for cash at a price of Rs. 15/- per fully paid-up equity share of M/s. Yamini Investments Company Limited (hereinafter referred to as the '**company**'). The public announcement of the same was made on October 05, 2012 and the shares of the company were listed on Bombay Stock Exchange Ltd. (hereinafter referred to as '**BSE**').

2. On perusal of the letter of offer, SEBI observed that the company had violated the provision of Regulation 8(3) of the (Substantial Acquisition of Shares and Takeovers) Regulations, 1997 (hereinafter referred to as '**SAST Regulations, 1997**'). Further that the erstwhile promoters, viz. Ms. Padma Jayakrishna, Shri Munjal M. Jayakrishna, Ms. Shivani R. Jayakrishna and Shri Gokul M. Jayakrishna had violated Regulation 7(1A) read with Regulation 7(2) of the SAST Regulations, 1997 during the financial year 2006-07, the erstwhile promoters viz. Shri Rajesh Jayakrishna, Ms. Devyani Rajesh Jayakrishna and Ms. Shivani R. Jayakrishna had violated the provision of Regulation 29(2) read with Regulation 29(3) of SEBI (Substantial Acquisition of Shares and Takeovers) Regulations, 2011 (hereinafter referred to as '**SAST Regulations, 2011**') during the year 2012 and the erstwhile promoter viz. Shri Narayan Jha had violated Regulation 30(2) read with 30(3) of the SAST Regulations, 2011 during the year 2012.

APPOINTMENT OF ADJUDICATING OFFICER

3. The undersigned was appointed as Adjudicating Officer vide order dated September 02, 2013 under Section 15 I of SEBI Act read with Regulations 44 and 45 of SAST Regulations, 1997, Regulation 35 of SAST Regulations, 2011 and rule 3 of SEBI (Procedure for Holding Inquiry and Imposing Penalties by Adjudicating Officer) Rules, 1995 (hereinafter referred to as '**Rules**') to inquire into and adjudge under Section 15A (b) of the SEBI Act, the alleged violations of SAST Regulations, 1997 and as SAST Regulations, 2011.

SHOW CAUSE NOTICE, HEARING AND REPLY

4. A common Show Cause Notice, Nos. EAD-6/AK/VG/30795/2013, EAD-6/AK/VG/30799/2013, EAD-6/AK/VG/30802/2013, EAD-6/AK/VG/30805/2013, EAD-6/AK/VG/30810/2013, EAD-6/AK/VG/30810/2013, EAD-6/AK/VG/30813/2012 and EAD-6/AK/VG/30813/2013 dated November 29, 2013 (hereinafter referred to as '**SCN**') was issued to M/s. Yamini Investments Company Limited, Shri Gokul M. Jayakrishna, Shri Munjal M. Jayakrishna, Ms. Shivani R. Jayakrishna, Ms. Padma Jayakrishna, Shri Rajesh Jayakrishna, Ms. Devyani Rajesh Jayakrishna and Shri Narayan Jha (hereinafter referred to as '**the Noticees**') under Rule 4 of SEBI (Procedure for Holding Inquiry and Imposing Penalties by Adjudicating Officer) Rules, 1995 (hereinafter referred to as '**the Rules**'). The violations by the Noticees, as set out in the SCN, in brief, are as under:

a. By the Company

Sr. No.	Violation	Due Date for compliance	Actual date of compliance	Delay (in days)
1	Reg.8(3) SAST Regulations, 1997	30.04.2001	13.12.2006	2,053
2	Reg.8(3) SAST Regulations, 1997	30.04.2002	13.12.2006	1,688
3	Reg.8(3) SAST Regulations, 1997	30.04.2003	13.12.2006	1,323
4	Reg.8(3) SAST Regulations, 1997	30.04.2004	13.12.2006	957
5	Reg.8(3) SAST Regulations, 1997	30.04.2005	13.12.2006	592
6	Reg.8(3) SAST Regulations, 1997	30.04.2006	13.12.2006	227
7	Reg.8(3) SAST Regulations, 1997	30.04.2007	04.05.2007	4
8	Reg.8(3) SAST Regulations, 1997	30.04.2008	07.05.2008	7
9	Reg.8(3) SAST Regulations, 1997	30.04.2009	13.09.2011	866
10	Reg.8(3) SAST Regulations, 1997	30.04.2010	13.09.2011	501
11	Reg.8(3) SAST Regulations, 1997	30.04.2011	13.09.2011	136

b. By the erstwhile promoters viz. Ms. Padma Jayakrishna and Shri Munjal M. Jayakrishna

Sr. No.	Violation	Due Date for compliance	Actual date of compliance	Delay (in days)
1	Reg.7(1A) SAST Regulations, 1997	01.01.2007	24.09.2012	2,093

c. By the erstwhile promoters viz. Ms. Shivani R. Jayakrishna and Shri Gokul M. Jayakrishna

Sr. No.	Violation	Due Date for compliance	Actual date of compliance	Delay (in days)
1	Reg.7(1A) SAST Regulations, 1997	27.01.2007	24.09.2012	2,067

d. By the erstwhile promoters viz. Shri Rajesh Jayakrishna, Ms. Devyani Rajesh Jayakrishna and Ms. Shivani R. Jayakrishna

Sr. No.	Violation	Due Date for compliance	Actual date of compliance	Delay (in days)
1	Reg.29(2) SAST Regulations, 2011	22.12.2011	28.03.2012	97

e. By the erstwhile promoter viz. Shri Narayan Jha

Sr. No.	Violation	Due Date for compliance	Actual date of compliance	Delay (in days)
1	Reg.30(2) SAST Regulations, 2011	12.04.2012	20.09.2012	161

- With regard to the aforesaid violations, other additional details of the transactions are as below:

Name of the acquirer/seller	Date of the transaction	Sale(-ve) / purchase		Total promoters shareholding (in %)		Violation
		No. of shares	%	Pre-acquisition	Post-acquisition	
Ms. Padma Jayakrishna	30.12.2006	-2,400	1.00	53.67	40.23	Reg.7(1A) SAST Regulations, 1997
Shri Munjal M. Jayakrishna		-29,850	12.44			
Ms. Shivani R. Jayakrishna	25.01.2007	-10,150	4.23	40.23	23.56	Reg.7(1A) SAST Regulations, 1997
Shri Gokul M. Jayakrishna		-29,850	12.4			
Shri Rajesh Jayakrishna	20.12.2011	-19,900	8.29	23.56	2.92	Reg.29(2) SAST Regulations, 2011
Ms. Devyani Rajesh Jayakrishna		-19,900	8.29			
Ms. Shivani R. Jayakrishna		-9,750	4.06			

- Further, Shri Narayan Jha has not complied with Regulation 30(2) read with 30 (3) of the SAST Regulations, 2011 within the due date during the year 2012.

- The Noticees were called upon to show cause as to why an inquiry should not be initiated against them and penalty be not imposed under Section 15 A(b) of the SEBI Act for the alleged violations.
- The erstwhile promoter Noticees replied to the SCN vide their individual replies dated December 13, 2013. The erstwhile promoters have *inter alia* submitted as under:
 - That they have been submitting disclosures to the company under regulation 8(1)/ 8(2) of the SAST Regulations, 1997 from the time the Regulations were notified in 1997;
 - That since the transactions occurred off market and the scrip was under suspension, the disclosures were not made on time. However, they made the necessary disclosures as soon as the same was pointed out to them;
 - That the delay in disclosure was purely unintentional and occurred due to being unaware of the requirements of the Regulations/ being unaware of the change and the new requirements under the Regulations, as applicable.
- The company replied to the SCN vide its letter dated December 14, 2013. The company has *inter alia* has submitted as under:

- a. That the paid-up capital of the company is only 2,40,000 shares of Rs. 10/- each aggregating to Rs. 24 lacs. The shares of the company were suspended by BSE with effect from February 5, 2001 and the suspension was revoked only on May 29, 2012;
 - b. That the company was making marginal profits/ losses during the years under question and there were no professionals to assist in the operations of the company;
 - c. That there was no malafide intention and that the company had not filed disclosures only due to sheer ignorance and oversight.
8. Thereafter, the Noticees vide hearing notice dated December 26, 2013 were granted an opportunity of personal hearing before me on January 16, 2014. Ms. Shailashri Bhaskar and Mr. Vishnu Agarwal, Authorized Representative (hereinafter referred to as 'ARs') of the Noticees, appeared for the hearing on the scheduled date and reiterated the submissions of the Noticees made in their replies. The ARs *inter alia* submitted that between 2001 and 2006 there was no change in the promoters holding in the company.
9. Thereafter, vide letter dated January 27, 2014, the AR, Ms. Shailashri Bhaskar filed further written submissions. The AR Ms. Shailashri Bhaskar *inter alia* submitted on behalf of the Noticees that the transactions were undertaken by the erstwhile promoters as they were in immediate need of funds and the only alternative available to them was to sell the physical shares held by them in the company through off-market transactions, as the shares of the company were under suspension. The AR further also reiterated that there was no change in the promoters' shareholding in the company from 1997 to November 22, 2006. The details of the transactions such as the dates of the transactions and the names of the buyers, along with the details of payment, wherever available, were also submitted.
10. Vide the said letter, it was further admitted that the erstwhile promoters Shri Rajesh Jayakrishna, Ms. Devyani Rajesh Jayakrishna and Ms. Shivani R. Jayakrishna had filed disclosures under Regulation 13 of the SEBI (Prohibition of Insider Trading) Regulations, 1992 (hereinafter referred to as the '**PIT Regulations**') with a delay on May 05, 2012 for the transactions done on December 20, 2011. Further to the said admission, the undersigned was appointed as the Adjudicating Officer vide Order dated May 19, 2014 under section 15-I read with Section 19 of the SEBI Act and Rule 3 of SEBI (Procedure for Holding Inquiry and Imposing Penalties by

Adjudicating Officer) Rules, 1995 to inquire into and adjudge under Sections 15A(b) of the SEBI Act, the alleged violations/non-compliance of the provisions of SEBI Act and the PIT Regulations.

11. Accordingly, supplementary Show Cause Notices no. EAD6/AK/VG/17499/2014, EAD6/AK/VG/17499/2014 and EAD6/AK/VG/17499/2014 dated June 18, 2014 (hereinafter referred to as the '**Supplementary SCN**') were issued to Shri Rajesh Jayakrishna, Ms. Devyani Rajesh Jayakrishna and Ms. Shivani R. Jayakrishna, for the following non-compliances of the PIT Regulations:

Sr. No.	Name	Date of Sale	No. of Shares Sold (% of shares Capital)	Date of disclosure	Due Date for compliance	Delay (in days)	Alleged Violation of PIT Regulations
1.	Shri Rajesh Jayakrishna	December 20, 2011	19,900 (8.29%)	May 5, 2012	December 22, 2011	135	13(3) and 13(4A) r/w 13(5)
2.	Ms. Devyani Rajesh Jayakrishna	December 20, 2011	19,900 (8.29%)	May 5, 2012	December 22, 2011	135	13(3) and 13(4A) r/w 13(5)
3.	Ms. Shivani R. Jayakrishna	December 20, 2011	9,750 (4.06%)	May 5, 2012	December 22, 2011	135	13 (4A) r/w 13(5)

12. It was, thus, alleged that through the aforesaid actions, the Noticees viz. Shri Rajesh Jayakrishna and Ms. Devyani Rajesh Jayakrishna had violated the provision of Regulation 13(3) and 13(4A) read with Regulation 13(5) of the PIT Regulations. Further, it was alleged that Ms. Shivani R. Jayakrishna had violated Regulation 13(4A) read with 13(5) of the PIT Regulations. Shri Rajesh Jayakrishna, Ms. Devyani Rajesh Jayakrishna and Ms. Shivani R. Jayakrishna were further advised to show cause as to why an inquiry should not be held against them and penalty be not imposed under Section 15A (b) of the SEBI Act for the alleged violations specified in the supplementary SCN.

13. The Noticees replied to the Supplementary SCN vide separate (undated) letters, received by SEBI on July 4, 2014. Shri Rajesh Jayakrishna, Ms. Devyani Rajesh Jayakrishna and Ms. Shivani R. Jayakrishna have all *inter alia* stated that since the shares of the company were under suspension and the transactions were done off market, they were not aware that they had to make disclosure to the exchanges. As soon as the deficiency was pointed out to them, they filed the necessary disclosures under the PIT Regulations on May 5, 2012. It was further *inter alia*

reiterated that the delay in disclosure under the relevant provisions of the PIT Regulations was purely unintentional and occurred due to being unaware of the requirements under the Regulations.

14. Thereafter, an opportunity of personal hearing vide hearing notice dated July 02, 2014 was granted to Shri Rajesh Jayakrishna, Ms. Devyani Rajesh Jayakrishna and Ms. Shivani R. Jayakrishna on July 08, 2014 in respect of the allegations set out in the supplementary SCN. At the request of the AR Ms. Shailashri Bhaskar vide email dated July 2, 2014, the hearing was rescheduled for July 09, 2014. On July 9, 2014, Ms. Shailashri Bhaskar, the AR of the Noticees viz. Shri Rajesh Jayakrishna, Ms. Devyani Rajesh Jayakrishna and Ms. Shivani R. Jayakrishna appeared for the hearing and reiterated the submissions made in their replies to the supplementary SCNs.

CONSIDERATION OF ISSUES AND FINDINGS

15. I have examined the SCNs and the supplementary SCNs, the submissions made by the Noticees in their replies and during the personal hearings and the documents available on record. I observe that the allegation against the Noticees is that they failed to make the relevant disclosures under the SAST Regulations, 1997, SAST Regulations, 2011 and PIT Regulations, as applicable.
16. The issues that, therefore, arise for consideration in the present case are:
 - a. Whether the company has violated the provision of Regulation 8(3) of the SAST Regulations, 1997?
 - b. Whether Ms. Padma Jayakrishna, Shri Munjal M. Jayakrishna, Ms. Shivani R. Jayakrishna and Shri Gokul M. Jayakrishna violated the provisions of Regulation 7(1A) read with Regulation 7(2) of the SAST Regulations, 1997?
 - c. Whether Shri Rajesh Jayakrishna, Ms. Devyani Rajesh Jayakrishna and Ms. Shivani R. Jayakrishna violated the provisions of Regulation 29(2) read with Regulation 29(3) of SAST Regulations, 2011?
 - d. Whether Shri Rajesh Jayakrishna and Ms. Devyani Rajesh Jayakrishna, in addition to the above, violated the provision of Regulation 13(3) and 13(4A) read with Regulation 13(5) of the PIT Regulations. Further, whether Ms. Shivani R.

Jayakrishna, in addition to the above, violated the provisions of Regulation 13(4A) read with 13(5) of the PIT Regulations?

- e. Whether Shri Narayan Jha violated the provisions of Regulation 30(2) read with 30 (3) of the SAST Regulations, 2011 within the due date during the year 2012?
- f. Do the violations, if any, attract monetary penalty under Section 15 A(b) of SEBI Act?
- g. If so, what would be the monetary penalty that can be imposed taking into consideration the factors mentioned in Section 15J of SEBI Act?

FINDINGS

17. Before moving forward, it is pertinent to refer to the relevant provisions of the SAST Regulation, 1997, the SAST Regulations, 2011 and the PIT Regulations, which read as under:

Regulation 7 (1A), 7 (2) and 8 (3) of the SAST Regulations, 2011

Acquisition of 5 per cent and more shares or voting rights of a company.

7.(1)...

(1A) Any acquirer who has acquired shares or voting rights of a company under sub-regulation (1) of regulation 11, ¹[or under second proviso to sub-regulation 2 of regulation 11] shall disclose purchase or sale aggregating two per cent 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.

(2) The disclosures mentioned in sub-regulations (1) and (1A) shall be made within two 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.

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 ²[fifty five per cent (55%)]

¹ Inserted by the SEBI (Substantial Acquisition of Shares and Takeovers) (Third Amendment) Regulations, 2009, w.e.f. 6-11-2009.

² Substituted for "75%" by the SEBI (Substantial Acquisition of Shares and Takeovers) (Amendment) Regulations, 2005, w.e.f. 3-1-2005.

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 ³[5% of the voting rights], ⁴[with post acquisition shareholding or voting rights not exceeding fifty five per cent.], ⁵[in any financial year ending on 31st March] unless such acquirer makes a public announcement to acquire shares in accordance with the regulations.

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.

Regulation 29 (2), 29 (3) and regulation 30(2) and 30 (3) of the SAST Regulations, 2011

Disclosure of acquisition and disposal.

29. (1) ...

(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.

Continual disclosures.

30(1) ...

(2) The promoter of every target company shall together with persons acting in concert with him, disclose their aggregate shareholding and voting rights as of the thirty-first day of March, in such target company in such form as may be specified.

³ Substituted for "10% of the voting rights" by the SEBI (Substantial Acquisition of Shares and Takeovers) (Second Amendment) Regulations, 2002, w.e.f. 1-10-2002. Earlier it was substituted for "5% of the voting rights" by the SEBI (Substantial Acquisition of Shares and Takeovers) (Third Amendment) Regulations, 2001, w.e.f. 24-10-2001.

⁴ Inserted by the SEBI (Substantial Acquisition of Shares and Takeovers) (Third Amendment) Regulations, 2009, w.e.f. 6-11-2009.

⁵ Substituted for the words "in any period of 12 months" by the SEBI (Substantial Acquisition of Shares and Takeovers) (Second Amendment) Regulations, 2002, w.e.f. 9-9-2002.

(3) The disclosures required under sub-regulation (1) and sub-regulation (2) shall be made within seven working days from the end of each financial year to,—

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

(b) the target company at its registered office.

SEBI (Prohibition of Insider Trading) Regulations, 1992

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

13.

...

Continual disclosure

(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.

...

(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 of intimation of allotment of shares, or

(b) the acquisition or sale of shares or voting rights, as the case may be.

18. The first issue for consideration is whether the Company has violated the provision of Regulation 8(3) of the SAST Regulations, 1997. As per Regulation 8(3) of the SAST Regulations, 1997, the Company was required to make yearly disclosures within 30 days from the financial year ending March 31, to 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. With regard to the aforesaid compliances, the Company in its submission has stated that the lapses/delay in making disclosures under Regulation 8(3) of SAST Regulations, 1997 have occurred due to sheer ignorance and oversight. Thus, I note that the company has admitted to the delay in complying with the provisions of Regulation 8(3) of the SAST Regulations, 1997 within the

stipulated time for the financial years 2000-01 to 2010-2011. The respective number of days of non-compliance in respect of each financial year has been enumerated in the table at Para 4(a) above.

19. The next issue for consideration is whether Ms. Padma Jayakrishna, Shri Munjal M. Jayakrishna, Ms. Shivani R. Jayakrishna and Shri Gokul M. Jayakrishna violated the provisions of Regulation 7(1A) read with Regulation 7(2) of the SAST Regulations, 1997. Regulation 7(1A) states that any acquirer who has acquired shares or voting rights of a company under sub-regulation (1) of regulation 11, or under second proviso to sub-regulation 2 of regulation 11 shall disclose purchase or sale aggregating two per cent 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. Regulation 7(2) states that the disclosures should be made within two days of the receipt of intimation of allotment of shares or the acquisition of shares or voting rights, as the case may be. The acquirer includes persons acting in concert. As per the additional details mentioned in the table under Para 4 above, I observe that Ms. Padma Jayakrishna and Shri Munjal M. Jayakrishna sold 2,400 and 29,850 shares of the company respectively on December 30, 2006. Prior to the sale, the shareholding of the Promoter group stood at 53.67% and fell to 40.23% post the sale of shares. Since the cumulative holding of the promoters was between 15% and 55% of the paid-up capital of the company, it fell within the ambit of Regulation 11(1). Ms. Padma Jayakrishna and Shri Munjal M. Jayakrishna had acted in concert with each other as regards the said sale. The sale was of 13.44 % of the shares of the company, and hence disclosures ought to have been made under Regulation 7(1A) read with 7(2) within two days. However, no disclosure was made by Ms. Padma Jayakrishna and Shri Munjal M. Jayakrishna with respect to the aforesaid sale of shares. Likewise, Ms. Shivani R. Jayakrishna and Shri Gokul M. Jayakrishna sold 10,150 and 29,850 shares of the company respectively on January 25, 2007, when the cumulative shareholding of the promoters fell from 40.23% to 23.56%, i.e. a decrease of nearly 16.63%. Hence, Ms. Shivani R. Jayakrishna and Shri Gokul M. Jayakrishna were required to make disclosures under Regulation 7(1A) of SAST Regulations, 1997, which was not done. With regard to the aforesaid compliances, Ms. Padma Jayakrishna, Shri Munjal M. Jayakrishna, Ms. Shivani R. Jayakrishna and Shri Gokul M. Jayakrishna in their submissions have stated that the lapses/delay in compliance of making disclosures was purely unintentional and occurred due to being unaware of the requirements of

the Regulations. Thus, I note that they have admitted to the delay in complying with the provisions of Regulation 7(1A) read with Regulation 7(2) of the SAST Regulations, 1997 within the stipulated time for the transactions referred to above. The numbers of days of non-compliance in respect of the same have been enumerated in the table at Para 4(b) and 4(c) above.

20. The third issue for consideration is whether Shri Rajesh Jayakrishna, Ms. Devyani Rajesh Jayakrishna and Ms. Shivani R. Jayakrishna violated the provisions of Regulation 29(2) read with Regulation 29(3) of SAST Regulations, 2011. I note that on December 20, 2011 Shri Rajesh Jayakrishna sold 19,900 shares, Ms. Devyani Rajesh Jayakrishna sold 19,900 shares, and Ms. Shivani R. Jayakrishna sold 9,750 shares of the Company. As a result of these transactions, the cumulative shareholding of the promoters reduced from 23.56% to 2.92%, a reduction of nearly 20.64%. Regulation 29(2) read with 29(3) of SAST Regulations, 2011 stipulates that when an 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 company, acquires or disposes two per cent or more of the shares or voting rights of such company the same must be disclosed within two working days of the receipt of intimation of allotment of shares, or the acquisition of shares or voting rights in the company to every stock exchange where the shares of the company are listed as well as to the company at its registered office. Thus, Shri Rajesh Jayakrishna, Ms. Devyani Rajesh Jayakrishna and Ms. Shivani R. Jayakrishna were required to file the disclosures under Regulation 29(2) read with 29(3) of SAST Regulations, 2011 by December 22, 2011, however, the same was filed only on March 28, 2012, i.e. after a delay of 97 days. For the same transaction, since Shri Rajesh Jayakrishna and Ms. Devyani Rajesh Jayakrishna, who each held 8.29% of the shares of the company and had sold their entire holding, hence, were required to make disclosures regarding the same under Regulation 13(3) of the PIT Regulations as well. Under Regulation 13(3) of the PIT Regulations, any person who holds more than 5% shares or voting rights in any listed company has to disclose to the company any change of more than 2% in shareholding or voting rights, even if such change results in shareholding falling below 5%. As per their replies, Shri Rajesh Jayakrishna and Ms. Devyani Rajesh Jayakrishna made disclosures under regulation 13(3) of PIT Regulations only on May 05, 2012 for the transactions done on December 20, 2011, i.e. after a delay of 135 days. Further, the sale made on December 20, 2011 also required Shri Rajesh Jayakrishna, Ms. Devyani Rajesh Jayakrishna and Ms. Shivani R. Jayakrishna to make disclosures under Regulation 13(4A) of the PIT Regulations, since they

were promoters of the company and had sold more than 1% of the total shareholding. Disclosure under regulation 13(4A) of the PIT Regulations was also filed only on May 5, 2012, i.e. after a delay of 135 days. In their submissions, these Noticees have admitted the lapses while stating that the delay in disclosure under the relevant provisions of the PIT Regulations was purely unintentional and occurred due to being unaware of the requirements under the Regulations.

21. We now move to the next issue before us, that is, whether Shri Narayan Jha did not comply with Regulation 30(2) read with 30 (3) of the SAST Regulations, 2011 within the due date during the year 2012. I note that Regulation 30(2) read with 30 (3) of the SAST Regulations, 2011 relate to continual disclosures. It has been prescribed that promoter of every company, together with persons acting in concert with him, must disclose their aggregate shareholding and voting rights as of the thirty-first day of March, in such company within seven working days from the end of each financial year to every stock exchange where the shares of the target company are listed and the target company at its registered office. From the details at Para 4(e) above, I observe that while Shri Narayan Jha ought to have made the necessary disclosure on April 12, 2012, he actually made the compliance only on September 20, 2012, i.e. after a delay of 161 days. I note that Shri Narayan Jha has also admitted to the lapse in filing of the disclosure under Regulation 30(2) read with 30 (3) of the SAST Regulations, 2011 by stating that the delay in disclosure was purely unintentional and occurred due to being unaware of the change and the new requirements under the Regulations.
22. The Hon'ble Supreme Court of India in the matter of *SEBI Vs. Shri Ram Mutual Fund* [2006] 68 SCL 216(SC) held that *"In our considered opinion, penalty is attracted as soon as the contravention of the statutory obligation as contemplated by the Act and the Regulations is established and hence the intention of the parties committing such violation becomes wholly irrelevant..."*. 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."*
23. In view of the foregoing, I am convinced that it is a fit case to impose monetary penalty under Section 15A(b) of the SEBI Act, which reads 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,—*

(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.

24. While determining the quantum of monetary penalty under Section 15 A(b), I have considered the factors stipulated in Section 15-J 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.”

25. In view of the charges as established, the facts and circumstances of the case and the judgments referred to and mentioned hereinabove, the quantum of penalty would depend on the factors referred in Section 15-J of SEBI Act and stated as above. It is noted that no quantifiable figures are available to assess the disproportionate gain or unfair advantage made as a result of such default by the Noticees. Further from the material available on record, it may not be possible to ascertain the exact monetary loss to the investors on account of default by the Noticees. However, the main objective of the Takeover Regulations is to afford fair treatment for shareholders who may be affected by the change in control. 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 change in control. The disclosures under Regulation 13 of the PIT Regulations aims to make insider trading transparent by facilitating exposure of any illegal trade, and, thereby serving as a deterrent. 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. Thus, the cornerstone of the Takeover regulations and PIT Regulations is investor protection.

26. As per Section 15A(b) of the SEBI Act, the Noticees are liable to a penalty of one lakh rupees for each day during which such failure continues or one crore rupees, whichever is less. Further, under Section 15-J of the SEBI Act, the adjudicating officer has to give due regard to certain factors which have been stated as above while adjudging the quantum of penalty. It is noted that no quantifiable figures are available to assess the disproportionate gain or unfair advantage made as a result of such non-compliance by the Noticees. Further from the material available on record, it is not possible to ascertain the exact monetary loss to the investors on account of non-compliance by the Noticees.
27. In addition to the aforesaid, I am also inclined to consider the following mitigating factors while adjudging the quantum of penalty: a) the paid-up capital/ market capitalization of the Company at the relevant point of time; b) the trading volumes of the Company's shares on the exchange, where the shares were listed during the relevant period; c) the number of occasions in the instant proceeding that the Noticees have violated the relevant provisions of the Takeover Regulations; and (iv) the percentage holding that was disposed of by the Noticee promoters for which delayed disclosure was made.
28. The paid up capital of the Company was 2,40,000 shares of Rs. 10/- each aggregating Rs. 24,00,000/-. Further, as per the BSE website there were less than 25 public shareholders in the company. I also note from the letter of offer that that the trading in equity shares of the Company was suspended by BSE with effect from February 05, 2001 due to non compliance of listing agreement. Further, the Company received an In-Principle approval from BSE for revocation of suspension in trading of equity shares of the company vide its letter dated April 02, 2012 and thereafter the suspension in trading of equity shares was revoked by BSE with effect from May 29, 2012. I, thus, note that it was due to delinquency on the part of the company in complying with the provisions of the listing agreement that resulted in non-trading of the company's shares on BSE, and thus, cannot support the Noticees case for non-disclosure. I find that the Company did not comply with the provisions of Regulation 8(3) of the SAST Regulations, 1997 for the years 2001-2011 within the stipulated time on eleven (11) occasions. Ms. Padma Jayakrishna, Shri Munjal M. Jayakrishna and Shri Gokul M. Jayakrishna made delayed disclosures under the provisions of Regulation 7(1A) of the SAST Regulations, 1997 on one occasion each. However, it is

noted that while Ms. Padma Jayakrishna had sold 1% of the total paid up capital of the company, Shri Munjal M. Jayakrishna and Shri Gokul M. Jayakrishna had each disposed of 12.4% thereof. Further, Shri Rajesh Jayakrishna and Ms. Devyani Rajesh Jayakrishna had made delayed disclosure under the provisions of Regulation 29(2) SAST Regulations, 2011 on one occasion each and under the provision of Regulation 13(3) and 13(4A) read with Regulation 13(5) of the PIT Regulations on one occasion each, when they had disposed of 8.29% of their shareholding in the company. Similarly, Ms. Shivani R. Jayakrishna made delayed disclosures under the provisions of Regulation 7(1A) of the SAST Regulations, 1997 on one occasion when she sold 4.23% of the paid up capital of the company, further made delayed disclosure under Regulation 29(2) of SAST Regulations, 2011 on one occasion and under Regulation 13(4A) read with 13(5) of the PIT Regulations within the prescribed time on one occasion, when she disposed of 4.06% of her shareholding in the company. Shri Narayan Jha did not comply with Regulation 30(2) read with 30 (3) of the SAST Regulations, 2011 within the due date during the year 2012, i.e. on one occasion.

29. I note that the Noticees have all claimed ignorance of the law as the reason for not making disclosures under the relevant provisions of SAST Regulations/ PIT Regulations, as applicable. However, those who bear the responsibility cannot take shelter under lack of knowledge, as ignorance of law cannot be a defense to get exemption from liability arising under law due to such non-compliance. As a listed company and as promoters of the listed company, the Noticees had a responsibility to comply with the disclosure requirements under the SAST Regulations and/ or PIT Regulations, as applicable, in accordance with their spirit, intention and purpose. Non-compliance/ Delayed compliance with the disclosure requirements by a listed company and/ or its promoters undermines the regulatory objectives and jeopardizes the achievement of the underlying policy goals.

ORDER

30. After taking into consideration all the facts and circumstances of the case, I impose the following penalties under Section 15A (b) of SEBI Act which will be commensurate with the violations committed by the Noticees:

NAME OF THE NOTICEE	REGULATION VIOLATED	PENALTY (RS.)
M/s. Yamini Investments Company Limited	8(3) SAST Regulations, 1997	6,00,000 (Rupees Six Lac Only)
Shri Munjal M. Jayakrishna	7(1A) r/w 7(2) of the SAST Regulations, 1997	6,00,000 (Rupees Six Lac Only)
Ms. Devyani Rajesh Jayakrishna	29(2) r/w 29(3) SAST Regulations, 2011	2,00,000 (Rupees Two Lac Only)
	13(3)r/w 13(5) of the PIT Regulations	2,00,000 (Rupees Two Lac Only)
	13(4A) r/w 13(5) of the PIT Regulations	2,00,000 (Rupees Two Lac Only)
	Total	6,00,000 (Rupees Six Lac Only)
Ms. Padma Jayakrishna	7(1A) r/w 7(2) of the SAST Regulations, 1997	2,00,000 (Rupees Two Lac Only)
Shri Gokul M. Jayakrishna	7(1A) r/w 7(2) of the SAST Regulations, 1997	6,00,000 (Rupees Six Lac Only)
Ms. Shivani R. Jayakrishna	7(1A) r/w 7(2) of the SAST Regulations, 1997	2,50,000 (Rupees Two Lac Fifty Thousand Only)
	29(2) r/w 29(3) SAST Regulations, 2011	2,00,000 (Rupees Two Lac Only)
	13(4A) r/w 13(5) of the PIT Regulations	2,00,000 (Rupees Two Lac Only)
	Total	6,50,000 (Rupees Six Lac Fifty Thousand Only)
Shri Rajesh Jayakrishna	29(2) r/w 29(3) SAST Regulations, 2011	2,00,000 (Rupees Two Lac Only)
	13(3) r/w 13(5) of the PIT Regulations	2,00,000 (Rupees Two Lac Only)
	13(4A) r/w 13(5) of the PIT Regulations	2,00,000 (Rupees Two Lac Only)
	Total	6,00,000 (Rupees Six Lac Only)
Shri Narayan Jha	30(2) r/w 30 (3) of the SAST Regulations, 2011	2,00,000 (Rupees Two Lac Only)

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

Date: July 31, 2014

Place: Mumbai

Anita Kenkare
Adjudicating Officer