

**BEFORE THE ADJUDICATING OFFICER**

**SECURITIES AND EXCHANGE BOARD OF INDIA**

**[ADJUDICATION ORDER NO. ORDER/GR/AE/2019-20/3888]**

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

**In respect of:**

**Real Realty Management Company Limited (*presently known as Real Eco-Energy Limited*) [PAN: AAACH3865P]**

**In the matter of Real Realty Management Company Limited**

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**BACKGROUND**

1. Securities and Exchange Board of India (hereinafter referred to as '**SEBI**') received a draft letter of offer (DLO) filed by Corporate Professionals Capital Pvt Ltd, manager to the offer, on behalf of Mr. Dharm Swetank Patel (Acquirer) vide letter dated December 01, 2015. It was observed that previously there had been a scheme of arrangement covering *inter alia* the merger of Real Realty Management Company Private Limited into Hillock Agro Foods (I) Ltd which became effective on February 07, 2013. In regards to the same, the name of the transferee company was changed from Hillock Agro Foods (I) Ltd to Real Realty Management Company Limited (*hereinafter referred to as "Noticee / RRML / company"*). Pursuant to the aforesaid scheme, 19 entities comprising the promoters group, namely, Rajesh Rajyaguru, Paresh Joshi, Darshan Dashani, Haresh Tank, Harish Rajyaguru, Tushar Rajyaguru, Shilpa Rajyaguru, Preeti Rajyaguru, Bindu Rajyaguru, Deepti Rajyaguru, Madhusudan Rajyaguru, Nilesh Joshi,
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Jayshree Joshi, Urvashi Joshi, Samir Dashani, Hasit Dashani, Bindu Tank, Manoj Tank, and Bhanumatiben M Rajyaguru acquired 36,00,000 shares of RRML comprising 74.95% of the share capital. It is alleged that RRML received disclosures under the provisions of SEBI (Prohibition of Insider Trading) Regulations, 1992 (*hereinafter referred to as “PIT Regulations, 1992”*) from the aforesaid promoter group entities, however it failed to make the requisite disclosures to the stock exchanges, and thus violated Regulation 13(6) of PIT Regulations, 1992.

2. It may be noted that RRML had changed its name to Real News & Views Ltd. Subsequently the name of the company was changed to Real Eco-Energy Limited on October 06, 2018.

#### **APPOINTMENT OF ADJUDICATING OFFICER**

3. Initially, Shri Satya Ranjan Prasad, Chief General Manager, was appointed as the Adjudicating Officer (**AO**) in the matter to inquire into and adjudge under Section 15A(b) of the SEBI Act, 1992, the aforesaid violation alleged to have been committed by the Noticee, and the same was communicated to the AO vide communique dated September 06, 2018. Pursuant to the transfer of Shri Satya Ranjan Prasad, the undersigned has been appointed as the AO in the matter by SEBI and the same was communicated to the undersigned vide communique dated May 22, 2019. These proceedings are therefore been carried forward from where they had been left off by the previous AO, and an opportunity of personal hearing was granted as detailed hereinafter.

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

4. A Show Cause Notice no. SEBI/EAD-4/ADJ/SRP/MCS/OW/28189/1/2018 dated October 08, 2018 (*hereinafter referred to as ‘SCN’*) was issued to the Noticee in terms of Section 15I of the SEBI Act, 1992 read with Rule 4 of SEBI (Procedure for Holding Inquiry and Imposing Penalties) Rules, 1995 (*hereinafter referred to as “Rules”*) for the violations as specified in the SCN.

5. The Noticee submitted written submissions in the matter vide letter dated March 05, 2019. The main contentions made therein are reproduced as below –

*“We refer to your above Notice SEBI/EAD-4/ADJ/SRP/MCS/OW/281891/2018 dated October 08, 2018 in the matter of Real Realty management Company Ltd. Which is now known as Real Eco-Energy Limited. At the outset, we express our deep regrets for delay in replying the above Notice due to the fact that the Company was earlier taken over by Mr. Rajesh Rajyaguru & Association through a scheme of Amalgamation during May 2013 and subsequently again taken over by Mr. Dharm Patel during March 2016 through an Open offer under SEBI (SAST) Regulations, 2011 and it took us time to lay hand at the earlier records and find out the relevant documents. We sincerely apologise for such delay and request you to condone the same.*

*We reiterate to what is stated in Paragraph 2 of your Notice and state that the copies of the disclosure made by the Allottees were sent to the Bombay Stock Exchange Ltd. (BSE). However, it appears that the same is not available in the records of the BSE. We have now found some other documents in this regard, and now submit the following documents:*

<i>Sr.</i>	<i>Annexure</i>	<i>Particulars of Documents</i>
<i>1</i>	<i>A</i>	<i>Copies of disclosure made by the Allottes under Form A under Regulation 13 (6) of the SEBI (PIT) Regulations, 1992 with a copy of the letter dated May 20, 2013 sent by the Company to the Ahmedabad Stock Exchange Ltd. (ASE) duly acknowledged by the ASE on 20 May, 2013.</i>
<i>2</i>	<i>B</i>	<i>Copies of disclosure made by the Allottes under Form B under Regulation 13 (2A) of the SEBI (PIT) Regulations, 1992 with a copy of the letter dated May 20, 2013 sent by the Company to the Ahmedabad Stock Exchange Ltd. (ASE) duly acknowledged by the ASE on 20 May, 2013.</i>
<i>3</i>	<i>C</i>	<i>Copies of the disclosure made by the Company under Regulation 29(1) of SEBI (SAST) regulations, 2011 with a copy of the letter dated May 18, 2013 sent by the company the Ahmedabad Stock Exchange Ltd. (ASE) duly acknowledged by the ASE on 18 May, 2013.</i>
<i>4</i>	<i>D</i>	<i>Copy of the receipt issued by Professionals Courier evidencing despatch of the above documents to BSE on May 20, 2013.</i>

*We therefore request you to appreciate that the company had complied with the provisions of the applicability SEBI regulations. We request to drop the proceedings initiated on account of non-availability of the relevant disclosure in the records of BSE.*

*We also wish to inform that we would like to avail an opportunity for person appearance in any hearing if fixed in the matter. ”*

6. In its aforesaid reply, the Noticee has enclosed the following documents –
  - i. Copy of disclosures it received from the promoter group entities under the PIT Regulations, 1992, and copy of its letter dated May 20, 2013 sent to the Ahmedabad Stock Exchange Ltd.
  - ii. Copy of disclosures under Regulation 29(1) of SAST Regulations, 2011, and copy of its letter dated May 20, 2013 to the Ahmedabad Stock Exchange Ltd.
  - iii. Copy of the receipt issued by Professional Courier evidencing dispatch of the above documents to BSE on May 20, 2013.
7. Pursuant to the appointment of the undersigned as AO, in terms of Rule 4 (3) of the Rules and as per the Noticee's request, an opportunity of personal hearing was granted to the Noticee on July 11, 2019. In the said hearing, the authorized representative appeared on behalf of the Noticee and reiterated the written submissions made earlier in the matter by the Noticee vide its reply dated March 05, 2019.

#### **CONSIDERATION OF ISSUES AND FINDINGS**

8. I have carefully examined the material available on record, and the submissions made by the Noticee. The issues that arise for consideration in the present case are :
  - I. Whether the Noticee has violated the provisions of Regulation 13(6) of PIT Regulations, 1992?
  - II. Does the violation, if established, attract monetary penalty under Section 15A(b) of SEBI Act, 1992?
  - III. Quantum of penalty.

## **FINDINGS**

9. Before I proceed with the matter, it is pertinent to mention the relevant legal provisions alleged to have been violated by the Noticee and the same is reproduced below:

### ***PIT Regulations, 1992***

#### ***Disclosure by company to stock exchanges.***

*13(6) Every listed company, within two working days of receipt, shall disclose to all stock exchanges on which the company is listed, the information received under sub-regulations (1), (2), (2A), (3), (4) and (4A) in the respective formats specified in Schedule III.*

#### **Issue I) Whether the Noticee has violated the provisions of Regulation 13(6) of PIT Regulations, 1992?**

10. As per the material available on record, I note that 19 entities comprising the promoters group of the Noticee, namely, Rajesh Rajyaguru, Paresh Joshi, Darshan Dashani, Haresh Tank, Harish Rajyaguru, Tushar Rajyaguru, Shilpa Rajyaguru, Preeti Rajyaguru, Bindu Rajyaguru, Deepti Rajyaguru, Madhusudan Rajyaguru, Nilesh Joshi, Jayshree Joshi, Urvashi Joshi, Samir Dashani, Hasit Dashani, Bindu Tank, Manoj Tank, and Bhanumatiben M Rajyaguru acquired 36,00,000 shares of the Noticee comprising 74.95% of the share capital, pursuant to a scheme of arrangement which became effective on February 07, 2013.
11. It has been alleged in the SCN that the Noticee failed to make the requisite disclosures to the stock exchanges under Regulation 13(6) of PIT Regulations, 1992 with regards to the disclosures it received from the aforementioned promoter group entities under the PIT Regulations, 1992.
12. I note that the Noticee has enclosed copies of various disclosures made by the promoter group entities under PIT Regulations, 1992 in its reply to the SCN, and on perusal of the same, I note that the Noticee has stated to have received the following

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- i. Disclosures under Regulation 13(1) of PIT Regulations, 1992 from Bindu Tank, Urvashi Joshi, Rajesh Rajyaguru, Jayshri Joshi, and Manoj Tank, on May 18, 2013.
  - ii. Disclosures under Regulation 13(2A) of PIT Regulations, 1992 from Bindu Tank, Urvashi Joshi, Rajesh Rajyaguru, Darshan Dashani, Jayshri Joshi, Manoj Tank, Deepjeet Rajyaguru, Madhusudanbhai Rajguru, Hasit Dashani, Harish Rajyaguru, Preetiben rajyaguru, Haresh Tank, Paresh Joshi, Binduben Rajyaguru, Bhanumati Rajyaguru, Nilesh Joshi, Tushar Rajyaguru, Shilpaben Rajyaguru, and Samir Dasani on May 18, 2013.
13. I further note that in reply to the SCN, the Noticee has submitted that it had made disclosures under Regulation 13(6) of the PIT Regulations, 1992 to the Ahmedabad Stock Exchange. In this regard, I note that the provisions of the aforesaid regulation states that the listed company has to file the disclosures it has received to “all stock exchanges on which the company is listed”. From the aforesaid, it is clear that the Noticee had to file disclosures to all stock exchanges (including BSE) where the Noticee was also listed. From the material available on record, I note that BSE vide its email dated April 08, 2016 has informed SEBI that they have not received the requisite disclosures under Regulation 13(6) of PIT Regulations, 1992 from the Noticee. Accordingly, I find no merit in the above submission of the Noticee.
14. I have also perused the documents viz. copy of courier receipt furnished by the Noticee to substantiate its claim of disclosures having been made to BSE on May 20, 2013. On perusal, I am of the view that the unsigned and unstamped courier receipts with a mention of BSE as addressee which have been submitted by the Noticee do not establish that disclosures were indeed made to the BSE in the required format mandated under Regulation 13(6) of the PIT Regulations. In fact from the said courier receipt, even the contents of the documents purportedly sent through the said courier is also not evident.

15. I also find it relevant to mention that the Hon'ble Securities Appellate Tribunal (hereinafter be referred to as, the "**Hon'ble SAT**") in the matter of **Mega Resources Ltd. v. SEBI** (Appeal No. 49/2001 dated March 19, 2002) had observed that, *"....the regulation is not simply on sending the information, it requires disclosure. Mere dispatch of the information is short of the said requirement..... Regulation 7(1) requires the acquirer to disclose the aggregate of this holding... Thus the requirement is that the information should reach the person to whom it is meant. The obligation does not end by simply posting the information in a letterbox... I am not inclined to view that by posting a letter under certificate of posting, stating the shareholding by itself is sufficient compliance of regulation 7(1). In my view the Appellant has failed to comply with the requirement of regulation 7(1), for the reason that it has failed to make the disclosure of the requisite information"*.
16. As already noted above, BSE has confirmed to SEBI that are not in receipt of the requisite disclosures in the instant matter from the Noticee. At this juncture, I also find it relevant to mention that the Hon'ble SAT, in the matter of **Kalindee Rail Nirman (Engineers) Limited v. Securities and Exchange Board of India** (Appeal No. 97 of 2010 dated July 19, 2010) had observed that, *".. the agency through which the document is sent acts as the agent of the sender and if a dispute were to arise whether the said document has been received by the addressee or not, the onus would be on the sender to establish the fact by clear and cogent evidence in this regard. Admittedly, the appellant has not placed on record any acknowledgment received from BSE in regard to the mails that were allegedly sent containing the compliance reports. On the other hand, we have on record a letter from BSE specifically stating that it had not received the compliance reports for the aforesaid quarters from the appellant. ... In this view of the matter, no fault can be found with the impugned order..."*.
17. In view of the above, I hold that the Noticee has violated the provisions of Regulation 13(6) of the PIT Regulations, 1992.

**Issue II) Does the violation, if established, attract monetary penalty under Section 15A(b) of SEBI Act, 1992?**

18. I note that 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."*
19. In the context of disclosure related violations, I observe that Hon'ble SAT has consistently held that the obligation to make disclosure within the stipulated time is a mandatory obligation and penalty is imposed for non-compliance of the mandatory obligation. The Hon'ble SAT in its Order dated September 30, 2014, in the matter of **Akriti Global Traders Ltd. Vs SEBI** had observed that -

*"Obligation to make disclosures under the provisions contained in SAST Regulations, 2011 as also under PIT Regulations, 1992 would arise as soon as there is acquisition of shares by a person in excess of the limits prescribed under the respective regulations and it is immaterial as to how the shares are acquired. Therefore, irrespective of the fact as to whether the shares were purchased from open market or shares were received on account of amalgamation or by way of bonus shares, if, as a result of such acquisition/receipt, percentage of shares held by that person exceeds the limits prescribed under the respective regulations, then, it is mandatory to make disclosures under those regulations."*

20. Thus, the violation of Regulation 13(6) of PIT Regulations, 1992 makes the Noticee liable for penalty under Section 15A(b) of the SEBI Act, 1992, which reads as under –

**SEBI Act, 1992**

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

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



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

**Issue III) Quantum of penalty.**

21. In this regard, the provisions of Section 15J of the SEBI Act and Rule 5 of the Rules, require that while adjudging the quantum of penalty, 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.
22. With regard to the above factors to be considered while determining the quantum of penalty, it is noted that no quantifiable figures or data are available on record to assess the disproportionate gain or unfair advantage and amount of loss caused to an investor or group of investors as a result of the default committed by the Noticee. I also note that no prior default of the Noticee is available on record. I note that securities market is based on free and open access to information, and that protection of the interests of the investors is the prime objective of SEBI. Disclosures in respect of the vital information of any company has been made mandatory for the protection of the investors so as to enable them to take suitable informed investment decisions. The objective behind such requirement is that, the investing public shall not be deprived of any vital information in respect of their investments in the securities market. If any person who is to make such disclosures doesn't make it and are depriving the investing public the statutory rights available to them, then SEBI is duty bound to ensure that the investing public are not deprived of any statutory rights available to them. As a result of the violation committed by the Noticee, the investors were deprived of valuable
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information which would have enabled them to take well informed decisions regarding their investments in the company. In the present matter, I note that Noticee has received several disclosures under the PIT Regulations, 1992 from the promoter group entities with regards to their acquisition but it has failed to make the disclosures to BSE and has thus violated Regulation 13(6) of PIT Regulations, 1992.

### **ORDER**

23. Accordingly, taking into account the aforesaid observations and in exercise of power conferred upon me under section 15 I of the SEBI Act read with rule 5 of the Rules, I hereby impose a penalty of Rs. 2,00,000/- (Rupees Two Lakh Only) on the Noticee viz. Real Realty Management Company Limited (presently known as Real Eco-Energy Limited) under Section 15A(b) of SEBI Act, 1992 for the violations of the provisions of Regulation 13(6) of PIT Regulations, 1992.
24. The Noticee shall remit / pay the said amount of penalty within 45 days of receipt of this order either by way of Demand Draft in favour of “SEBI - Penalties Remittable to Government of India”, payable at Mumbai, OR through online payment facility available on the website of SEBI, i.e. [www.sebi.gov.in](http://www.sebi.gov.in) on the following path, by clicking on the payment link:

**ENFORCEMENT → Orders → Orders of AO → PAY NOW.**

25. The Noticee shall forward said Demand Draft or the details / confirmation of penalty so paid 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 – 400 051.”. The Noticee shall also provide the following details while forwarding DD / payment information:
- a) Name and PAN of the Noticee
  - b) Name of the case / matter
  - c) Purpose of Payment – Payment of penalty under AO proceedings
  - d) Bank Name and Account Number
  - e) Transaction Number

26. In the event of failure to pay the said amount of penalty within 45 days of the receipt of this Order, SEBI may initiate consequential actions including but not limited to recovery proceedings under section 28A of the SEBI Act, 1992 for realization of the said amount of penalty along with interest thereon, *inter alia*, by attachment and sale of movable and immovable properties.
27. In terms of rule 6 of the Rules, copy of this order is sent to the Noticee and also to Securities and Exchange Board of India.

**Date: August 06, 2019**

**Place: Mumbai**

**G Ramar**  
**Adjudicating Officer**