

BEFORE THE ADJUDICATING OFFICER

SECURITIES AND EXCHANGE BOARD OF INDIA

[ADJUDICATION ORDER NO. Order/BS/AE/2017-18/1145]

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 AND SECTION 23 I OF SECURITIES CONTRACTS (REGULATION) ACT, 1956 READ WITH RULE 5 OF THE SECURITIES CONTRACTS (REGULATION) (PROCEDURE FOR HOLDING INQUIRY AND IMPOSING PENALTIES BY ADJUDICATING OFFICER) RULES, 2005

In respect of:

1. Varun Industries Limited (PAN : AAACV2069F)
2. Shri Kiran Kumar Mehta (PAN : ADUPM1326J)
3. Shri Kailash S. Agarwal (PAN : AACPA6833F)
4. Shri Varun Kirankumar Mehta (PAN : AMUPM8063F)
5. Shri Kiran N Bade (PAN : AHYPB0384K)

In the matter of Varun Industries Ltd.

BACKGROUND

1. Securities and Exchange Board of India (*hereinafter referred to as “SEBI”*) conducted investigation in the scrip of Varun Industries Ltd. (*hereinafter referred to as “VIL / the Company”*) and into the possible violation of the provisions of Clauses 22(d), 36(7), 41(III) (a) and (b) of the Listing Agreement read with Section 21 of Securities Contracts (Regulation) Act, 1956 (*hereinafter referred to as “SCR Act, 1956”*), Clauses 2.1, 3.2 and 7.0(ii) of Code of Corporate Disclosure Practices for prevention of Insider Trading

specified in Schedule II (*hereinafter referred to as “Code of Corporate Disclosure”*) read with Regulation 12(2) of (Prohibition of Insider Trading) Regulations, 1992 (*hereinafter referred to as “PIT Regulations, 1992”*) and SEBI (Substantial Acquisition of Shares and Takeover) Regulations, 2011 (*hereinafter referred to as “SAST Regulations, 2011”*) by i) Varun Industries Limited (**Noticee No.1 / the company**), ii) Shri Kiran Kumar Mehta (**Noticee No.2**), iii) Shri Kailash S. Agarwal (**Noticee No.3**), iv) Shri Varun Kirankumar Mehta (**Noticee No.4**) and v) Shri Kiran N Bade (**Noticee No.5**) (*hereinafter referred to collectively as “Noticees”*).

2. VIL is a company listed in the Bombay Stock Exchange (“**BSE**”) and the National Stock Exchange (“**NSE**”). Noticee No. 2, 3, 4 and 5 held the following positions in the company –

Name	Designation	Date of Appointment	Date of Resignation
Kiran Kumar Mehta	Chairman & Managing director	01.04.2006	
Kailash S. Agarwal	Managing director	01.04.2006	
Varun Kirankumar Mehta	Whole time Director	31.10.2009	
Kiran N Bade	Company Secretary and Compliance Officer	02.05.2008	14.06.2012

3. It is alleged that VIL had conducted its board meeting on May 14, 2012 wherein it approved financial results of the company for the quarter and year ended March 2012, without any prior intimation of at least seven clear calendar days and therefore it is alleged that the Noticees violated Clause 41(III)(a) and (b) of Listing Agreement read with Section 21 of SCR Act, 1956.
4. It was observed that VIL had issued a press release dated December 27, 2011 titled *“Varun Group to get USD 150 Million as upfront payment for ceding 51% stake in its onshore oil block 3101 at Madagascar for which joint venture co-operation agreement is signed with Sure King Varun Hong Kong Ltd. as SPV between Varun Group and Da Qing Oil Field Company, China.”* On May 15th and 16th, 2012, VIL informed BSE and

NSE respectively that the deal was cancelled. Vide letter dated June 22, 2012, VIL submitted to SEBI a copy of the agreement dated December 20, 2011 with Sure King Varun Hong Kong Ltd. (SKVHL) and MoU dated March 18, 2011 along with the minutes of Board Meeting held on May 14, 2012 and stated that, *"the deal was discussed and called off in the Board Meeting held on May 14, 2012"*. The MoU dated March 18, 2011 was signed by Noticee No.2 as Director of Varun Petroleum Limited (which is 100% owned subsidiary of Noticee No.1) and the agreement dated December 20, 2011 was also signed by Noticee No.2 as Chairman of Varun Group. While the agreement dated December 20, 2011 was disclosed to the stock exchanges, the MoU dated March 18, 2011 was not disclosed. It is, therefore, alleged that the Noticees violated Clause 36(7) of Listing Agreement read with Section 21 of SCR Act, 1956 by not disclosing the MoU signed on March 18, 2011 to the stock exchanges. It was also observed that while the agreement dated December 20, 2011 had expired on March 31, 2012, the said fact was disclosed to the exchanges only after the Board Meeting held on May 14, 2012. Further, the outcome of board meeting dated May 14, 2012 which took on record the non-materialization of Joint venture agreement was not informed by the company to the stock exchanges on an immediate basis but was done with a delay of 2 days. It is, therefore, alleged that the Noticees violated Clause 22(d) of Listing Agreement read with Section 21 of SCR Act, 1956. It was also observed that Varun Group was to receive upfront \$150 million as per the MoU March 18, 2011 and subsequent agreement December 20, 2011, hence it was a price sensitive information. Since, the company failed to disclose the MoU dated March 18, 2011, the expiry of the said MoU and the cancellation of agreement dated December 20, 2011 to the stock exchange, it is alleged that the Noticees failed to provide price sensitive information in accordance with Clause 2.1, 3.2 & 7.0(ii) of Code of Corporate Disclosure read with Regulation 12(2) of PIT Regulations, 1992.

5. It was observed that the shareholding of Noticee No. 2 (Kiran Kumar Mehta) reduced from 1,11,81,142 shares to 63,62,591 shares between the quarter ended December 31, 2011 and June 30, 2012. It is alleged that the Noticee No. 2 did not make disclosures to the company and stock exchanges within the prescribed time limit,

regarding the encumbrances made on his shares of VIL and release/invocation of such encumbrances, as stipulated under Regulation 31(1) and 31(2) read with Regulation 31(3) of SAST Regulations, 2011 and thus violated the said provisions. It is also alleged that the Noticee No.2 did not make disclosures (on three occasions) to the company and stock exchanges with respect to the change in his shareholding by more than 2%, as stipulated under Regulation 29(2) read with regulation 29(3) of SAST Regulations, 2011, and thus violated the said provisions. It is further alleged that Noticee No. 2, being promoter and Chairman & Managing Director of the company has on several occasions, by not making disclosures to the company and the stock exchanges with respect to the changes in his shareholding within the stipulated time limit, violated Regulations 13(3), 13(4) and 13 (4A) read with regulation 13(5) of PIT Regulations,1992.

6. It is alleged that Noticee No.3 (Kailash S Agarwal) pledged shares of VIL on January 09, 2012 however, he did not make any disclosure to the company and stock exchanges as stipulated under Regulation 31(1) read with Regulation 31(3) of SAST Regulations, 2011, and thus breached the said provisions. The Noticee No.3 again pledged shares of VIL on February 24, 2012, March 12, 2012 & March 16, 2012, however, he made delayed disclosures under Regulation 31(1) read with Regulation 31(3) of SAST Regulations, 2011, to the company and stock exchanges and thus violated the said provisions. It is also observed that the Noticee No. 3, who was the Managing Director of the Company, had transferred 1,50,000 shares of VIL on loan on March 16, 2012. In this regard, it is alleged that he had made disclosure to the company and stock exchanges under Regulation 13(4) and 13(4A) read with Regulation 13(5) of PIT Regulations,1992, with a delay of 10 days and had thus violated the said provisions.
7. As regard to the company (Noticee No. 1), it is alleged that it did not make any disclosure to the stock exchanges under Regulation 13(6) of PIT Regulations, 1992 regarding the information received by it from Noticee no. 2 and 3 under Regulations

13(3), 13(4) & 13(4A) of PIT Regulations, 1992. In view of the same, it is alleged that Noticee no.1 violated Regulation 13(6) of PIT Regulations, 1992.

APPOINTMENT OF ADJUDICATING OFFICER

8. Shri S.V. Krishnamohan, Chief General Manager was appointed as Adjudicating Officer (**AO**) vide order dated July 08, 2015 to inquire into and adjudge under Section 23A(a) OF SCRA, 1956 and Section 15A(b) of the SEBI Act, 1992, the aforesaid violations alleged to have been committed by the Noticees. Subsequently, the undersigned was appointed as the Adjudicating Officer vide order dated September 15, 2017 in the place of Shri S. V. Krishnamohan in the present matter.

SHOW CAUSE NOTICE, REPLY AND PERSONAL HEARING

9. A common Show Cause Notice dated January 19, 2016 (*hereinafter referred to as 'SCN'*) was issued to the Noticees in terms of Rule 4 of SEBI (Procedure for Holding Inquiry and Imposing Penalties by Adjudicating Officer) Rules, 1995 ("**SEBI Adjudication Rules**") read with Section 15I of SEBI Act, 1992 and Rule 4 of Securities Contracts (Regulation) (Procedure for Holding Inquiry and Imposing Penalties by Adjudicating Officer) Rules, 2005 ("**SCR Adjudication Rules**") read with Section 23I of SC(R) Act, 1956 for the violations as specified in the SCN.
10. The said SCN sent to Noticee No. 1 at its registered address returned undelivered with the endorsement "office locked". It is noted that Noticee Nos. 2 and 4 shared common address as per the records and as per the details available in the MCA website. The SCN sent to the addresses of Noticee Nos. 2 and 3, also returned undelivered with the endorsement "consignee shifted". Thereafter, in terms of Rule 7 of the SEBI (Procedure for Holding Inquiry and Imposing Penalties by Adjudicating Officer) Rules, 1995, copy of the said SCN was affixed at the last known addresses of the Noticee Nos. 1 to 4 and report of the affixture is available on record. However no reply to the SCN was submitted by the Noticee Nos. 1 to 4.

11. Thereafter, Noticee Nos. 1 to 4 were given an opportunity of personal hearing on August 30, 2016 vide notice dated August 22, 2016, by affixing the notice on their last known address available on records. However, the Noticees neither replied to the SCN nor attended the personal hearing.
12. Subsequent to the appointment of the undersigned as AO, the Noticee Nos. 1 to 4 were granted one more opportunity of personal hearing on October 16, 2017 vide Notice dated October 03, 2017 by affixing notice on their last known addresses. However, neither the Noticee Nos. 1 to 4 nor their representatives attended the personal hearing. It is noted that the Noticee Nos. 1 to 4 were provided with ample opportunities to reply to the allegations made in the SCN as well as for personal hearing in the matter. Considering the same, I am proceeding with the inquiry taking into account the material available on record.
13. Noticee No. 5 vide letter dated February 04, 2016 submitted reply to the SCN and following are his main submissions –
 - i. *I was working as the Company Secretary of Varun Industries Limited ("VIL") during the period 2nd May, 2008 to 14th June, 2012 and it may kindly be noted that during this period, I had ensured religiously, that whatever information was brought to my knowledge, which required disclosures or filings, was disclosed to the concerned authorities diligently.*
 - ii. *The Accounts of VIL were maintained by a Chief Accountant, who was reporting to the Chief Financial Officer ("CFO"), who controlled the Finance and Accounts function, under the direct supervision of the Executive Directors. Being a listed company, VIL had an Audit Committee comprising of eminent and competent Independent Directors. Thus, sufficient number of competent and responsible persons was taking care of compliances pertaining to Accounts, Finance and related matters.*
 - iii. *In the months of March / April, 2012, all the Independent professional Directors of VIL resigned in quick succession. Around April / May, 2012, it was realized*

that the remaining directors were not keen on legal compliances and hence, shortly thereafter, at my age of 54, I resigned from the services of VIL, even though I did not have a job in my hand! I am still paying my EMIs of housing loan, hut thought it better to exit from VIL, which was becoming a non-compliant company!

- iv. I wish to humbly submit that at the beginning of May, 2012, the CFO of VIL enquired with me about the legal position as regards extension of accounting year and presentation of audited results for the entire year, instead of presenting un-audited results for the last quarter. Vide my note dated 5th May, 2012, I described him the legal position in this regard and pointed that the un-audited / audited accounts were required to be published within 45 days / 60 days respectively, from the end of the accounting year. Sensing that compliances are at stake, I retained an acknowledgement from the CFO (a scanned copy of which is enclosed for your ready reference). I had also marked a copy of my note to the Chairman & Managing Director, Shri Kiran Kumar Mehta.*
- v. During this time, there was no instruction or information received by me about the holding of the Board meeting for consideration of accounts. Suddenly, without any prior notice, the Management decided to hold a Board meeting on 14th May, 2012 and invited me for the same. Thus, there was no opportunity to give notice of the meeting to the Stock Exchanges. I pointed out at the beginning of the meeting that a minimum seven days' notice was required to be given to the Stock Exchanges before consideration of un-audited results and that the meeting could not be held without that, as it constituted a breach of tire Listing Agreement, but my protests were disregarded. The Board announced un-audited results for the quarter and year ended 31st March, 2012 and instructed me to submit them to the Stock Exchanges.*
- vi. In the above circumstances, a prior notice about the date of the meeting to the Stock Exchanges pursuant to clause 41 of the Listing Agreement was not possible, as I was never informed about it, nor given that opportunity. It was on*

this background that I realized that the Directors were not interested in compliances with legal provisions and resigned shortly thereafter even though I did not have a job in hand.

- vii. As regards the transaction between VIL and offshore entities, my role was limited to communicate the disclosures, if any, to the stock exchanges, as and when given by the Management, i.e. by the Executive Directors. As mentioned by you in your Notice dated 19th January, 2016, the MOU / Agreement were executed abroad by the Shri Kiran Kumar Mehta, Chairman & Managing Director and those matters were kept very confidential by him. I had no personal or direct knowledge or information of these developments. To the best of my memory, the Board meeting dated 14th May, 2012 was the last VIL Board meeting during my tenure. I did not draft the minutes of that meeting. I am not able to recall whether the matter of cancellation of the MOU / Agreement with the party "Sure King Varun Hong Kong Ltd" was ever discussed at that meeting. The un-audited financial results were communicated on 14th May, 2012, however, as mentioned by you, the fact of cancellation of the deal must have been communicated by the Chairman & Managing Director on 15th / 16th May, 2012, which was without my knowledge.*
- viii. I have no knowledge whatsoever, the details and copy of the Agreement were communicated by to SEBI on 22nd June, 2012. These facts never came to my knowledge and hence, the question of making necessary disclosures by me could not arise.*
- ix. During my tenure with VIL from 2nd May, 2008 to 14th June, 2012, all the compliances were carried out as per law within the prescribed time. There were no instances of non-compliances or even delayed filings. In view of the above, I most sincerely and humbly pray that I have not committed any breach of any of the Regulations and the Listing Agreement and hence, the Notice against me deserves to be withdrawn.*

14. Considering the reply filed by Noticee No. 5, he was given an opportunity for personal hearing on August 30, 2016. Vide email dated August 25, 2016, Noticee No. 5 requested for adjournment of the hearing to another date. Accordingly, hearing for Noticee No. 5 was scheduled on September 09, 2016. In the said personal hearing held on September 09, 2016, Noticee no. 5 made the following submissions –
- i. *As regards the charge of failure to give prior notice of 7 days about the date of board of meeting dated May 14, 2012 to the stock exchange, it was submitted that despite his protests, the management went ahead with the said board-meeting without any notice to stock exchange as required under the Listing Agreement.*
 - ii. *The agreement dated December 20, 2011 regarding sale of stake in oil block of Varun Petroleum Limited, wholly owned subsidiary of VIL, the matter was informed to stock exchange through a press release as instructed from the chairman's office and he was not aware of the contents of the agreement.*
 - iii. *The MOU dated March 18, 2011, which was signed outside India by one of the directors, was not known to him and therefore, it could not be disclosed to the stock exchange.*
 - iv. *As regards the cancellation of the agreement dated December 20, 2011, which was informed to the stock exchange after the Board meeting dated May 14, 2012, it was submitted that the matter was not even discussed in the said board meeting. There was no adjourned board meeting thereafter till his resignation on 14/06/2012. As regards the delay in the communication of the said cancellation, it was submitted by referring to the Annexure II of the show cause notice dated January 19, 2016, the said communication was signed by his successor in the VIL and communication on June 22, 2012 while he had resigned on June 14, 2012. In fact there is no clause regarding expiry of the agreement as can be seen from the copy of the agreement annexed to the SCN.*

15. Vide letter dated September 15, 2016, Noticee No. 5 made additional submissions as follows –

- i. *I mostly humbly submit that I was never 'hand in glove' with the Management as regards their dealings and in fact, I myself am a big victim of their deeds.*
- ii. *I submit that that I was working with the company since 2nd May 2008 and, till the year 2011 or early 2012 all the compliance were in order. The actual power would always be with the Chairman & managing Director and as such, the Company Secretary would be subject to orders from the top Management. As a consequence, the information as regards business plans and developments would come to his knowledge, only if the Management decides to share them.*
- iii. *I submit that I had taken all possible precautions in the matter of consideration of the financial results for the quarter ended March 31, 2012. However, the Management did not consider my suggestions and in fact, ignored my objections for holding the board meeting dated 14th May, 2012 without giving due notice to the stock exchanges. I submit that I could not go beyond my limits and was rendered helpless before Management's powers.*
- iv. *I submit that the information regarding the MOU and Agreement signed by some entities with Sure King Varun Hong Kong Ltd was a closely guarded secret by the Chairman of the company. As stated in your notice, he had signed those documents abroad and I was not aware of any information relating thereto, except whatever was disclosed by the Chairman for being communicated to the stock exchanges. I was instrumental in only communicating the press release to the stock exchanges, as and when the Chairman instructed me to do so. Apart from that, I had no direct or indirect information or knowledge of the developments relating to those matters.*
- v. *I specifically state that the fact of cancellation / expiry of the MOU and / or Agreement was not discussed at the meeting and was clearly an afterthought. The fact that the said so-called 'discussion' was not reported to the stock*

exchanges along with the financial results clearly proves that. In any circumstances, the matter was not discussed in my presence and I was never aware of the same.

vi. *I further submit that the Joint Venture Agreement dated 20th December, 2011, which forms part of Annexure II of your Notice, did not contain any expiry clause and hence, the certified extract as submitted by the company wrongly states that the Agreement had expired.*

16. Noticee No. 5 was also granted an opportunity of hearing on October 16, 2017, however the same was not availed by him.

CONSIDERATION OF ISSUES AND FINDINGS

17. I have carefully examined the material available on record. The issues that arise for consideration in the present case are :

la) Whether the Noticees have violated Clauses 22(d), 36(7), 41(III)(a) and (b) of Listing Agreement read with Section 21 of SCR Act, 1956, and Clause 2.1, 3.2 & 7.0(ii) of Code of Corporate Disclosure read with Regulation 12(2) of PIT Regulations, 1992?

lb) Whether the Noticee No. 2 has violated - i) Regulation 29(2) read with Regulation 29(3), Regulations 31(1) and 31(2) read with Regulation 31(3) of SAST Regulations, 2011, and ii) Regulations 13(3), 13(4) and 13(4A) read with Regulation 13(5) of PIT Regulations, 1992?

lc) Whether the Noticee No. 3 has violated - i) Regulations 31(1) and 31(2) read with Regulation 31(3) of SAST Regulations, 2011, and ii) Regulations 13(4) and 13(4A) read with Regulation 13(5) of PIT Regulations, 1992?

ld) Whether the Noticee No. 1 has violated Regulation 13(6) of PIT Regulations, 1992?

II) Does the violations mentioned in sl. Ia, Ib, Ic and Id above, if established, attract monetary penalty under Section 23A(a) of SCRA, 1956, and Section 15A(b) of SEBI Act, 1992?

III) If yes, then what should be the quantum of penalty?

FINDINGS

18. Before I proceed with the matter, it is pertinent to mention the relevant provisions which are reproduced below:

As the violations alleged in the SCN had taken place prior to the promulgation of the SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015, the relevant provisions of the Listing Agreement and the SC(R) Act, 1956, which are applicable in the present matter read as under:

Listing Agreement

22. *The Company will, immediately on the date of the meeting of its Board of Directors held to consider or decide the same, intimate to the Exchange within 15 minutes of the closure of the Board Meetings by Letter/fax (or, if the meeting be held outside the City of Mumbai, by fax/ telegram) –*

....

(d) any other information necessary to enable the holders of the listed securities of the Company to appraise its position and to avoid the establishment of a false market in such listed securities.

36. *...The Company will also immediately inform the Exchange of all the events, which will have bearing on the performance/ operations of the company as well as price sensitive information. The material events may be events such as:*

....

(7) Any other information having bearing on the operation/performance of the company as well as price sensitive information which includes but not restricted to:...,

The above information should be made public immediately.”

41. The company agrees to comply with the following provisions:

III) Intimation of Board Meeting

a) The company shall give prior intimation of the date and purpose of meetings of the Board or Committee in which the financial results will be considered under sub-clause (II)(a) or (II)(e), as the case may be, at least seven clear calendar days prior to the meeting (excluding the date of the intimation and date of the meeting).

b) The company shall also simultaneously issue a public notice in at least in one English daily newspaper circulating in the whole or substantially the whole of India and in one daily newspaper published in the language of the region, where the registered office of the company is situated.

SCR Act, 1956

Conditions for listing.

21. *Where securities are listed on the application of any person in any recognised stock exchange, such person shall comply with the conditions of the listing agreement with that stock exchange.*

The provisions of the Listing Agreement have now been rescinded and the provisions of SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015 has been promulgated and Regulation 103 of the said Regulations read as follows -

SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015

Repeal and Savings

103.(1) *On and from the commencement of these regulations, all circulars stipulating or modifying the provisions of the listing agreements including those specified in Schedule X, shall stand rescinded.*

(2) *Notwithstanding such rescission, anything done or any action taken or purported to have been done or taken including any enquiry or investigation*

commenced or show cause notice issued in respect of the circulars specified in sub-regulation (1) or the Listing Agreements, entered into between stock exchange(s) and listed entity, in force prior to the commencement of these regulations, shall be deemed to have been done or taken under the corresponding provisions of these regulations.

SAST Regulations, 2011

Disclosure of acquisition and disposal.

29.(1)..

(2) Any person, 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 the number of shares or voting rights held and change in shareholding or voting rights, even if such change results in shareholding falling below five per cent, 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 two per cent of total shareholding or voting rights in the target company, in such form as may be specified.

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

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

Disclosure of encumbered shares.

31(1) The promoter of every target company shall disclose details of shares in such target company encumbered by him or by persons acting in concert with him in such form as may be specified.

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

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

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

(b) the target company at its registered office.

PIT Regulations

“13. Disclosure of interest or holding in listed companies by certain persons.

Continual disclosure. Continual disclosure

(1)...

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

(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 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.

(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.

Disclosure by company to stock exchanges.

(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.

CODE OF CORPORATE DISCLOSURE PRACTICES FOR PREVENTION OF INSIDER TRADING

2.1 Price sensitive information shall be given by listed companies to stock exchanges and disseminated on a continuous and immediate basis

3.2 This official shall be responsible for ensuring that the company complies with continuous disclosure requirements. Overseeing and co-ordinating disclosure of price sensitive information to stock exchanges, analysts, shareholders and media and educating staff on disclosure policies and procedure.

7.0 Medium of disclosure/dissemination

(ii) Corporates shall ensure that disclosure to stock exchanges is made promptly.

Issue Ia): Violation of Clauses 22(d), 36(7), 41(III)(a) and (b) of Listing Agreement read with Section 21 of SCR Act, 1956, and Clause 2.1, 3.2 & 7.0(ii) of Code of Corporate Disclosure read with Regulation 12(2) of PIT Regulations, 1992 by the Noticees

19. From the materials/facts on record, I observe that VIL held a board meeting on May 14, 2012 wherein financial results of the company for the quarter and year ended March 2012 were approved and the same was informed to BSE on May 14, 2012 at 5:41 P.M. The same is evidenced by the copy of the disclosure made by VIL to BSE. In this regard, I note that Clause 41(III) (a) and (b) of the Listing Agreement requires that prior intimation of the meeting has to be given to the stock exchanges, at least seven clear calendar days prior to the meeting (excluding the date of the intimation and date of meeting), as well as simultaneously issue a public notice in at least in one English daily newspaper and in one daily newspaper published in the language of the region of the company's registered address. However, there is no material available on record that shows that any public notice was issued. From the material/facts available, I find that regarding the board meeting held on May 14, 2012, no prior intimation was given to the stock exchanges or any public notice was issued by the Noticees. The fact that no intimation was given to the stock exchanges or any public notice was issued is not refuted by the Noticees. In view of the above, I find that the Noticees have violated of Clause 41(III) (a) and (b) of the Listing Agreement read with Section 21 of SCRA, 1956.

20. I observe that VIL had issued the following Press Release on December 27, 2011 -

"Varun Industries Limited has informed the Exchange regarding a Press Release dated December 27, 2011, titled Varun Group to get USD 150 Million as upfront payment for ceding 51% stake in its onshore oil block 3101 at Madagascar for which joint venture co-operation agreement is signed with Sure King Varun Hong Kong Ltd. as SPV between Varun Group and Da Qing Oil Field Company, China".

21. I find that on May 15th and 16th, 2012, VIL had informed the stock exchanges that the deal was cancelled. I note that VIL vide letter dated June 22, 2012 submitted to SEBI the copy of agreement dated December 20, 2011 with Sure King Varun Hong Kong Ltd. (**SKVHL**) and Memorandum of Understanding ("**MoU**") dated March 18, 2011 along with the minutes of Board Meeting held on May 14, 2012 and stated that, *"the deal was discussed and called off in the Board Meeting held on May 14, 2012"*.
22. On perusal of the MoU dated March 18, 2011, it is seen that the said MOU was signed by Noticee No.2 as Director of Varun Petroleum Limited (which is 100% owned subsidiary of Noticee No.1) and the agreement dated December 20, 2011 was also signed by Noticee No.2 as Chairman of Varun Group. The agreement as well as MoU were executed outside India. From the record/materials made available, I find that while the agreement dated December 20, 2011 was disclosed to the stock exchanges, the MoU dated March 18, 2011 was not disclosed to the stock exchanges. In this regard, I note that Clause 36(7) of Listing Agreement requires companies to immediately inform the Exchange of all the events, which will have bearing on the performance/operations of the company as well as price sensitive information. The fact that no disclosure was given to the stock exchanges is not refuted by the Noticees. In view of the above, by not disclosing the MoU signed on March 18, 2011 to the stock exchanges, the Noticees have violated Clause 36(7) of Listing Agreement read with Section 21 of SCRA, 1956.
23. I also find that while the agreement dated December 20, 2011 had expired on March 31, 2012, the said fact was disclosed to the exchanges only after the Board Meeting held on May 14, 2012. The extract of the minutes of the adjourned meeting of the board of directors of VIL held on May 14, 2012 as submitted to SEBI reads as follows—

"The meeting was informed that Varun Petroleum Ltd., Mauritius, a wholly-owned subsidiary of the Company had entered into an MOU with Sure King International Ltd. to cede 51% stake in a Special Purpose Vehicle company viz., Sure King Varun International Ltd. In favour of Sure King International Ltd. at a consideration of US\$ 150 million. Further, on 20th December 2011, the said

parties entered into a Joint Venture Cooperation Agreement, which expired on 31st March 2012. Efforts were made to discuss, negotiate and arrive at a logical conclusion of the said matter in the best interests of the Company. However, the said transaction cannot be proceeded with as per the MOU and Joint venture co-operation agreement and hence the same could not materialize.”

I further note that the outcome of board meeting dated May 14, 2012 which took on record the non-materialization of joint venture agreement was not informed by the company to the stock exchanges on an immediate basis but was done with a delay of 2 days. In this regard, I note that Clause 22(d) of Listing Agreement requires companies to, immediately on the date of the meeting of its Board of Directors held to consider or decide the same, intimate to the Exchange within 15 minutes of the closure of the Board by letter/fax any other information necessary to enable the holders of the listed securities of the Company to appraise its position and to avoid the establishment of a false market in such listed securities. I note that the fact there was a delay in informing the outcome of the said board meeting held on May 14, 2012 which recorded the non-materialization of the joint venture agreement is not refuted by the Noticees. Therefore, I hold that by not intimating the information regarding the expiry of the joint venture agreement on March 31, 2012 and the non-materialization of joint venture agreement recorded on the board meeting held on May 14, 2012, immediately to the stock exchanges, the Noticees have violated Clause 22(d) of Listing Agreement read with Section 21 of SCR Act, 1956.

24. I further observe from the records/materials that the Varun Group was to receive upfront \$150 million as per the MoU March 18, 2011 and subsequent agreement dated December 20, 2011, hence it was a price sensitive information. In this regard, I note that Clause 2.0 and 7.0(ii) of the Code of Corporate Disclosure Practices for Prevention of Insider Trading specified in Schedule II read with Regulation 12 of PIT Regulations, 1992 requires that such price sensitive information shall be given by the companies to the stock exchanges and disseminated on a continuous and immediate basis, and that corporate shall ensure that disclosure to stock exchanges is made

promptly. I find that the company had failed to disclose the MoU dated March 18, 2011, the expiry of the said MoU (which had a validity of a period of six months) and the cancellation of agreement dated December 20, 2011 to the stock exchange. I note that the fact that no disclosures were given to the stock exchanges, is not refuted by the Noticees. Therefore, I hold that Clause 2.0 and 7.0(ii) of the Code of Corporate Disclosure Practices for Prevention of Insider Trading specified in Schedule II read with Regulation 12 of PIT Regulations, 1992, has been violated by the Noticees.

25. I note that Noticee No. 5 is alleged to have violated Clause 3.2 of the Code of Corporate Disclosure alongwith violation of Clauses 22(d), 36(7), 41(III)(a) and (b) of Listing Agreement read with Section 21 of SCR Act, 1956 and Clauses 2.1, and 7.0(ii) of Code of Corporate Disclosure. I have considered the submissions made by Noticee No. 5 in his replies and personal hearing. The Noticee No. 5 has contended that he as the Company Secretary was subject to orders from the top management. In view of the submissions made by Noticee No. 5, I note that he was an employee of the company and did not hold the position of a director. I note from his submissions that he had brought to the notice of the management the timelines for publishing the audited and un-audited financial results in accordance with the provisions of the Listing Agreement. There is no evidence to the contrary available on record to refute such claim. I also note that he has resigned shortly afterwards from the company citing issues of non-compliances by the company. Taking these factors into account, I am inclined to take a lenient view in respect of Noticee No. 5 in respect of the violations alleged to have been committed by him.

Issue Ib : Violation of - i) Regulation 29(2) read with Regulation 29(3), Regulations 31(1) and 31(2) read with Regulation 31(3) of SAST Regulations, 2011, and ii) Regulations 13(3), 13(4) and 13(4A) read with Regulation 13(5) of PIT Regulations, 1992 by Noticee No. 2

26. The following table mentions the details of shareholding of Noticee no. 2 in the company for the quarter ended December 31, 2011, March 31, 2012 and June 30, 2012 -

Name	31-Dec-2011		31-March-2012		30-June-2012	
	No. of shares	% of total share capital	No. of shares	% of total share capital	No. of shares	% of total share capital
Kiran Kumar Mehta	1,11,81,142	38.40	92,88,142*	31.90	63,62,591*	21.85

* 150,000 shares given on loan by Kailash Shriram Agarwal to Kiran Mehta on 16.03.2012

27. I find the reduction in shareholding of Noticee No. 2 was due to invocation of his pledged shares by pledgee/s. The following table mentions the day-wise details of pledge creation, release and invocation as per demat account statement of Noticee No. 2 (as received from NSDL vide email dated March 25, 2015) and the disclosures made to the company and stock exchanges, for the period from January 01, 2012 to June 30, 2012 :

S. No	Date	Pledged Shares	Released Shares	No. Of shares invoked	Disclosure requirement under Reg. 31 of SAST Regulations 2011	Date of Disclosure to company	Date of Disclosure to Exchanges
1.	02.01.12	300000			Reg 31(1) r/w Reg 31(3)	Not made	Not made
2.	03.01.12	92000	175000		Reg 31(1) & 31(2) r/w Reg 31(3)	Not made	Not made
3.	10.01.12		202600		Reg 31(2) r/w Reg 31(3)	Not made	Not made
4.	06.02.12*	1110000			Reg 31(1) r/w Reg 31(3)	04.02.12 *	14.02.12
5.	15.02.12		258000		Reg 31(2) r/w Reg 31(3)	21.02.12	23.02.12
6.	17.02.12	473000			Reg 31(1) r/w Reg 31(3)	21.02.12	23.02.12
7.	18.02.12	65000			Reg 31(1) r/w Reg 31(3)	21.02.12	23.02.12
8.	25.02.12	951000			Reg 31(1) r/w Reg 31(3)	Not made	Not made
9.	28.02.12	1000			Reg 31(1) r/w Reg 31(3)	01.03.12	09.03.12
10.	01.03.12	110000			Reg 31(1) r/w Reg 31(3)	07.03.12	13.03.12
11.	02.03.12	440000			Reg 31(1) r/w Reg 31(3)	07.03.12	13.03.12
12.	06.03.12	45000			Reg 31(1) r/w Reg 31(3)	07.03.12	13.03.12
13.	09.03.12	98000			Reg 31(1) r/w Reg 31(3)	15.03.12	22.03.12
14.	16.03.12	70000			Reg 31(1) r/w Reg 31(3)	30.03.12	03.04.12
15.	17.03.12	33000			Reg 31(1) r/w Reg 31(3)	30.03.12	03.04.12
16.	19.03.12	49500			Reg 31(1) r/w Reg 31(3)	30.03.12	03.04.12
17.	21.03.12			75000	Reg 31(2) r/w Reg 31(3)	29.03.12	03.04.12
18.	22.03.12			1968000	Reg 31(2) r/w Reg 31(3)	29.03.12	03.04.12

19.	02.04.12			2533	Reg 31(2) r/w Reg 31(3)	09.04.12	13.04.12
20.	10.04.12			7413	Reg 31(2) r/w Reg 31(3)	13.04.12	19.04.12
21.	12.04.12			850000	Reg 31(2) r/w Reg 31(3)	13.04.12	19.04.12
22.	13.04.12			290054	Reg 31(2) r/w Reg 31(3)	17.04.12	20.04.12
23.	17.04.12			5551	Reg 31(2) r/w Reg 31(3)	23.04.12	28.04.12
24.	20.04.12			200000	Reg 31(2) r/w Reg 31(3)	23.04.12	28.04.12
25.	04.05.12			100000	Reg 31(2) r/w Reg 31(3)	Not made	Not made
26.	05.05.12			245000	Reg 31(2) r/w Reg 31(3)	09.05.12	17.05.12
27.	12.06.12			850000	Reg 31(2) r/w Reg 31(3)	Not made	Not made
28.	14.06.12			375000	Reg 31(2) r/w Reg 31(3)	16.06.12	22.06.12

28. In this regard, I note that under Regulation 31(1) read with 31(3) of SAST Regulations, 2011, the promoters of a target company have to disclose the details of shares encumbered by him to the stock exchanges and the target company within seven working days of creation of such encumbrance. Further, under Regulation 31(2) read with 31(3) of SAST Regulations, 2011, the promoters have to disclose the details of invocation or release of shares encumbered by him, to the stock exchanges and the target company within seven working days of invocation or release of such encumbrance. I find that the Noticee no. 2, who is a promoter of the company at the relevant time, did not make the any disclosures with regard to encumbrances made and release/invocation of such encumbrances as stipulated under Regulations 31(1) and 31(2) read with Regulation 31(3) of SAST Regulations, 2011 to the company and stock exchanges for transactions at Sr. No. 1, 2, 3, 8, 25 & 27 as mentioned in the table at paragraph 27 above. I further find that Noticee no. 2 made delayed disclosures to the stock exchanges for transactions at Sr. No. 10, 11, 13 to 20, 23 & 26 in the table at paragraph 27 above. The fact regarding no disclosures and delayed disclosures has not been refuted by the Noticee No.2. In view of the above, I hold that Noticee No. 2 has violated Regulations 31(1) and 31(2) read with 31(3) of SAST Regulations, 2011.
29. I observe that the shareholding of Noticee No. 2 has changed by more than 2% on 3 occasions i.e i) on 22.03.2012 when his shareholding changed by 6.76% due to pledge invocation of 19,68,000 shares, ii) on 12.04.2012 when his shareholding changed by 2.92% due to pledge invocation of 8,50,000 shares and iii) on 12.06.2012 when his shareholding changed by 2.92% due to pledge invocation of 8,50,000 shares. In this

regard, I note that Noticee No. 2 was required to make disclosures of such changes of his shareholdings in accordance with the provisions of Regulation 29(2) read with Regulation 29(3) of SAST Regulations, 2011 i.e. within two working days from the date of transaction i.e by 26.03.2012, by 16.04.2012 and by 14.06.2012 respectively. However, I find that Noticee No. 2 did not make the required disclosure to the company and the stock exchanges. The fact regarding the non-disclosures is not refuted by the Noticee No.2. In view of the above, I hold that Noticee no. 2 has violated Regulation 29(2) read with regulation 29(3) of SAST Regulations, 2011.

30. The following table gives the day wise change of shareholding of Noticee No. 2 in the company and details of disclosures under Regulation 13 of PIT Regulations, 1992 made by him –

Opening Shareholding as on 01.01.2012 - 11181142 shares (38.40%)

S. No.	Date	No. Of shares invoked	Shares taken on loan	Closing Shareholding	% Change	Disclosure to be made under Reg. 13 of PIT regulations by date	Disclosure made to company on date	Disclosure made to Exchanges on date
1	16.03.12		150000	11331142	0.52	20.03.12*	30.03.12	02.04.12
2	21.03.12	75000		11256142	0.26	23.03.12*	29.03.12	15.05.12
3	22.03.12	1968000		9288142	6.76	26.03.12**	29.03.12	15.05.12
4	02.04.12	2533		9285609	0.01	-----	-----	-----
5	10.04.12	7413		9278196	0.03	-----	-----	-----
6	12.04.12	850000		8428196	2.92	16.04.12**	13.04.12	15.05.12
7	13.04.12	290054		8138142	1.00	17.04.12*	17.04.12	15.05.12
8	17.04.12	5551		8132591	0.02	-----	-----	-----
9	20.04.12	200000		7932591	0.69	24.04.12*	23.04.12	15.05.12
10	04.05.12	100000		7832591	0.34	07.05.12*	08.05.12	15.05.12
11	05.05.12	245000		7587591	0.84	08.05.12*	09.05.12	18.05.12
12	12.06.12	850000		6737591	2.92	14.06.12**	Not made	Not made
13	14.06.12	375000		6362591	1.29	18.06.12*	Not made	Not made

* Disclosure requirement under Reg. 13(4) and 13(4A) of PIT Regulations, 1992.

** Disclosure requirement under Reg. 13(3), 13(4) and 13(4A) of PIT Regulations, 1992.

31. I note that Noticee No. 2 as the promoter and Chairman & Managing Director of the company, was required to make disclosures under Regulations 13(4) and 13 (4A) read with regulation 13(5) of PIT Regulations, 1992, to the company and stock exchange within two working days, if the change in his shareholding exceeded Rs. 5 lakh in value or 25,000 shares or 1% of total shareholding of the company. Noticee No. 2, who was holding more than 5% of shares of the company, was also required to make

disclosures under Regulations 13 (3) read with regulation 13(5) of PIT Regulations, 1992 to the company within two working days, if the change in his shareholding exceeded 2% of the total shareholding in the company. In the present case, I find that Noticee No. 2 made delayed disclosures to the company for the transactions at Sr. No. 1, 2, 3, 10 & 11 of the above table and made delayed disclosures to the stock exchanges for the transactions at Sr. No. 1, 2, 3, 6, 7, 9, 10 & 11 of the table above. Further, Noticee no. 2 did not make any disclosures for transactions at S. No. 12 & 13 to the company and stock exchanges. In view of the above, I hold that Noticee no. 2 violated Regulations 13(3), 13(4) & 13(4A) read with Regulation 13(5) of PIT Regulations, 1992.

Issue Ic : Violation of - i) Regulations 31(1) and 31(2) read with Regulation 31(3) of SAST Regulations, 2011, and ii) Regulations 13(4) and 13(4A) read with Regulation 13(5) of PIT Regulations, 1992 by Noticee No. 3

32. The following table gives the day-wise change in the shareholding of the Noticee no. 3 as per Demat account statement of Noticee No.3 (received from CDSL vide email dated March 26, 2015) during the period January 01, 2012 to June 30, 2012 –

S. No.	Date	No. of shares pledged	No. Of shares released	Shares given on loan	Closing Shareholding	% Change	Disclosure made to company on date	Disclosure made to Exchanges on date
1.	09/01/12	1430000			7720327	NIL	Not made	Not made to BSE
2.	24/02/12	90000			7720327	NIL	01/03/12	09/03/12
3	10/03/12		90000		7720327	NIL	15/03/12	22/03/12
4	12/03/12	174000			7720327	NIL	30/03/12	03/04/12
5	16/03/12	16500		150000	7570327	0.51	30/03/12	03/04/12

33. I find that Noticee No. 3 pledged shares of the company on January 09, 2012, February 24, 2012, March 12, 2012 & March 16, 2012. Accordingly, Noticee No. 3 was required to make disclosures to the company and stock exchanges within seven working days from the creation of pledge as stipulated under Regulation 31(1) read with Regulation 31(3) of SAST regulations, 2011. I also observe that 90,000 shares of company pledged by the noticee no. 3 were released from the pledge on March 10, 2012.

Accordingly, Noticee No. 3 was required to make disclosures to the company and stock exchanges within seven working days from the creation of as stipulated under Regulation 31(2) read with Regulation 31(3) of SAST regulations, 2011. However, from the replies of stock exchanges (Email dated March 26, 2015 from NSE and Email dated March 26, 2015 from BSE), I find that the Noticee No. 3 did not disclose the pledge dated January 09, 2012 to BSE while it was not disclosed within time to NSE. Further, the other instances of pledge as per the above table were not disclosed to the stock exchanges within the stipulated time. In view of the above, I hold that Noticee no. 3 violated Regulations 31(1) and 31(2) read with Regulation 31(3) of SAST Regulations, 2011.

34. I observe that 1,50,000 shares were transferred (given on loan) by Notice No. 3 to Noticee No. 2 on March 16, 2012. In this regard, I note that Noticee No. 3 who was the Managing Director of the company, was required to make disclosures under Regulations 13(4) and 13 (4A) read with regulation 13(5) of PIT Regulations, 1992, to the company and stock exchange within two working days i.e. by March 20, 2012, as the change in his shareholding exceeded 25,000 shares. However, I find that Noticee no. 3 made disclosure to both the company and stock exchanges on March 30, 2012 i.e with a delay of 10 days. In view of the above, I hold that Noticee No. 3 violated Regulation 13(4) & 13(4A) read with Regulation 13(5) of PIT Regulations, 1992.

Issue Id) : Violation of Regulation 13(6) of PIT Regulations, 1992 by Noticee No. 1

35. I note that Noticee No. 1, as company, was required to disclose to the stock exchanges the information received under sub-regulations (1), (2), (2A), (3), (4) and (4A) in the prescribed formats. In the present case, from the replies of the stock exchanges, I find that Noticee No. 1 did not make any disclosure to the stock exchanges under Regulation 13(6) of PIT Regulations, 1992 regarding the information received by it from Noticee Nos. 2 and 3 under Regulations 13(3), 13(4) & 13(4A) of PIT Regulations, 1992. In view of the above, I hold that Noticee No. 1 violated Regulation 13(6) of PIT Regulations, 1992.

Issue II) Does the violations mentioned in sl. Ia, Ib, Ic and Id above, if established, attract monetary penalty under Section 23A(a) of SCRA, 1956, and Section 15A(b) of SEBI Act, 1992?

36. 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."*
37. I note that Noticee No. 2 was the Chairman and Managing Director of the company, Noticee No. 3 was a director of the company and Noticee No. 4 was the whole time director of the company. In this regard, I note that the Hon'ble Securities Appellate Tribunal (**SAT**) in the case of N. Narayanan v. The Adjudicating Officer, SEBI (Appeal No. 29 of 2012 decided on October 05, 2012), while commenting on the role of directors, had observed that: *"With the changing scenario in the corporate world, the concept of corporate responsibilities is also rapidly changing day by day. The director of a company cannot confine himself to lending his name to the company, but, taking light responsibility for its day to day management. While functions may be delegated to professionals, the duty of care, diligence, verification of critical points by directors cannot be abdicated. The directors are expected to have a hands on approach in the running of the company and take up responsibility not only for the achievements of the company, but, also the failings thereto."*
38. 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 with 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.”

39. Thus the violations of Clauses 22(d), 36(7), 41(III)(a) and (b) of Listing Agreement read with Section 21 of SCR Act, 1956 makes the Noticee Nos. 1 to 4 liable for penalty under Section 23A(a) of the SCR Act, 1956 and the violation of Clauses 2.1, and 7.0(ii) of Code of Corporate Disclosure read with Regulation 12(2) of PIT Regulations, 1992 by Noticee Nos. 1 to 4, makes them liable for penalty under Section 15A(b) of the SEBI Act, 1992. Further, the violations of Regulations 29(2) read with Regulation 29 (3), and 31(1) and 31(2) read with 31(3) of the SAST Regulations, 2011 and Regulations 13(3), 13(4) and 13 (4A) read with 13 (5) of the PIT Regulations, 1992 by Noticee No. 2; violations of Regulations 31(1) and 31(2) read with 31(3) of the SAST Regulations, 2011 and Regulations 13(4) and 13 (4A) read with 13 (5) of the PIT Regulations, 1992, by Noticee No. 3; and violations of Regulation 13(6) of the PIT Regulations, 1992 by Noticee No. 1, makes the Noticee Nos. 1,2,and 3 liable for monetary penalty under Section 15A(b) of the SEBI Act, 1992. The provisions of Section 23A(a) of the SCR Act, 1956 and Section 15A(b) of the SEBI Act, 1992 read as under :

SCR Act, 1956

Penalty for failure to furnish information, return, etc.

23A. Any person, who is required under this Act or any rules made thereunder, -
(a) to furnish any information, document, books, returns or report to a recognised stock exchange, fails to furnish the same within the time specified therefor in the listing agreement or conditions or bye-laws of the recognised stock exchange, 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 for each such failure;

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) : If yes, then what should be the quantum of penalty?

40. In this regard, the provisions of Section 23J of the SCR Act, 1956 and Rule 5 of SCR Adjudication Rules and Section 15J of the SEBI Act, 1992 and Rule 5 of SEBI Adjudication 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.

41. With regard to the above factors to be considered while determining the quantum of penalty, it may be noted that no quantifiable figures or data are made 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 of the Noticees. I note that securities market is based on free and open access to information and the integrity of market is predicated on the quality and the manner in which information regarding the company is made available to the market. An informed investor is always in an advantageous position and can always make wise and

balanced decisions while investing. The Noticee Nos. 1 to 4, by their default have deprived the investors of important information at the relevant point of time. In the present case, I note that VIL had conducted a board meeting where it approved the financial results, without giving prior intimation to the public regarding the schedule of the said meeting. I also note that VIL had not disclosed the signing of a MoU, the expiry of the MoU, and the cancellation of the Joint Venture Agreement. I also note that the Varun Group was to receive upfront \$150 million as per the MoU March 18, 2011 and subsequent agreement December 20, 2011, hence it was a price sensitive information. Further, VIL did not immediately disclose the outcome of the board meeting to the stock exchanges which took on record the non-materialization of the Joint Venture Agreement, but did so with a delay. I also observe that the Noticees 2 and 3 had failed to make disclosures under SAST Regulations, 2011 and PIT Regulations, 1992 regarding their transactions in the shares of VIL, on several occasions. Noticee No. 1 did not make disclosures to the stock exchanges under Regulation 13(6) of PIT Regulations, 1992 regarding the disclosures it received from Noticee No. 2 and 3. In view of the above, I note that investors were deprived of valuable information by the omissions on the part of Noticee Nos. 1 to 4.

ORDER

42. 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 SEBI Adjudication Rules, and under Section 23I of the SCR Act, 1956 read with Rule 5 of the SCR Adjudication Rules, hereby impose the following penalties on Noticees 1 to 4 under Section 23A(a) of SCR Act, 1956 and Section 15A(b) of SEBI Act, 1992 –

Violation	Penalty
Clauses 22(d), 36(7), 41(III)(a) and (b) of Listing Agreement read with Section 21 of SCR Act, 1956 Clauses 2.1, and 7.0(ii) of Code of Corporate Disclosure	Rs. 1,00,000/- (Rupees One Lakh only) on Noticee Nos. 1 to 4 to be paid jointly and severally

Regulations 13(3), 13(4) and 13(4A) read with Regulation 13(5) of PIT Regulations, 1992 and Regulation 29(2) read with Regulation 29(3), Regulations 31(1) and 31(2) read with Regulation 31(3) of SAST Regulations, 2011	Rs. 1,00,000/- (Rupees One Lakh only) on Noticee No. 2
Regulations 13(4) and 13(4A) read with Regulation 13(5) of PIT Regulations, 1992 and Regulations 31(1) and 31(2) read with Regulation 31(3) of SAST Regulations, 2011	Rs. 1,00,000/- (Rupees One Lakh only) on Noticee No. 3
Regulation 13(6) of PIT Regulations, 1992	Rs. 1,00,000/- (Rupees One Lakh only) on Noticee No. 1

43. 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 confirmations of e-payments made (in the format as given in table below) should be forwarded to “The Division Chief (Enforcement Department - DRA-II), Securities and Exchange Board of India, SEBI Bhavan, Plot No. C – 4 A, “G” Block, Bandra Kurla Complex, Bandra (E), Mumbai – 400 051.”

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)	

44. In terms of Rule 6 of the SEBI Adjudication Rules, 1995, and Rule 6 of the SCR Adjudication Rules, 2005, copy of this order is sent to the Noticees and also to Securities and Exchange Board of India.

Place: Mumbai

DATE: 08.11.2017

BIJU S

ADJUDICATING OFFICER