

**BEFORE THE ADJUDICATING OFFICER**  
**SECURITIES AND EXCHANGE BOARD OF INDIA**  
**[ADJUDICATION ORDER NO. Order/SR/PP/2020-21/9323]**

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

**In respect of**

**Anita Ravichandran**  
Address: Chandramani Bldg.,  
1101 & 1102, Telang Crossroad No.3,  
Swami Jain Acharya Marg,  
Matunga (E)  
Mumbai 400019

**PAN: AAHPR0973N**  
**In the matter of KLG Capital Services Ltd.**

**BACKGROUND OF THE CASE IN BRIEF**

1. A department (in short **OD**) of Securities and Exchange Board of India (in short **SEBI**) pursuant to receipt of alerts in its IMSS system in the scrip of KLG Capital Services Ltd. (hereinafter referred to as '**KLG**' / '**Company**') appointed Investigating Authority (**IA**). Investigation revealed that during the period February 22, 2008 to February 27, 2008, Awaita Properties Pvt. Ltd. (hereinafter referred to as '**APPL**') had acquired 17,11,287 equity shares of KLG through market transactions. Such acquisition had increased the shareholding of APPL in KLG to 60.46% and the same was disclosed by KLG to Bombay Stock Exchange Limited (**BSE**) on February 28, 2008. Thereafter, APPL made a public announcement dated March 03, 2008 to acquire another 20% shares of KLG. The investigation revealed that certain entities, namely Hemant Patel (HUF) (whose karta is Mr. Hemant R. Patel), Ms. Priyanka Singhvi and Ms. Anita Ravichandran had bought substantial number of equity shares of KLG, based on

unpublished price sensitive information (**UPSI**), relating to the impending acquisition of KLG by APPL. Based on the findings of the IA, OD observed certain non-compliances with regard to Securities and Exchange Board of India (Prohibition of Insider Trading) Regulations, 1992 (hereinafter referred to as **PIT Regulations**) in the matter of KLG.

2. OD initiated adjudication proceedings in the matter of KLG. The adjudication proceedings were approved by the Competent Authority and Adjudicating Officer (in short AO), was appointed under section 15-I of The Securities and Exchange Board of India Act, 1992 (hereinafter referred to as **the SEBI Act**) r/w rule 3 of Securities and Exchange Board of India (Procedure for Holding Inquiry and Imposing Penalties by Adjudicating Officer) Rules, 1995 (hereinafter referred to as **Adjudication Rules**), to inquire into and adjudge, under section 15G of the SEBI Act, the alleged violation of regulations 3(i) and 3(ii) of PIT Regulations by Ms. Anita Ravichandran (hereinafter referred to as '**Noticee**').

### **APPOINTMENT OF ADJUDICATING OFFICER**

3. OD appointed Shri V S Sundaresan as the Adjudicating Officer (**AO**) vide order dated October 20, 2008 to inquire into and adjudge, under section 15G of the Securities and Exchange Board of India Act, 1992 (hereinafter referred to as '**the SEBI Act**'), the alleged violation of regulations 3(i) and 3(ii) of PIT Regulations. The previous AO issued the Show Cause Notice (**SCN**) dated March 31, 2009. The matter was then transferred to Shri Piyoosh Gupta, who was appointed as the AO. Noticee requested the previous AO to keep the matter in abeyance as the Noticee had filed an appeal before Hon'ble Securities Appellate Tribunal against the order dated September 22, 2009 passed by Whole Time Member of SEBI in a parallel 11B proceedings in the

matter of KLG. Further, the Noticee sought cross-examination of certain persons whose statements were relied upon in the SCN. Acceding to the request, previous AO had granted an opportunity of cross examination to the Noticee. The matter was then transferred to Shri A Sunil Kumar, who was appointed as the AO. The previous AO issued the supplementary SCN dated September 04, 2014. The Noticee sought inspection of documents and the same was provided to her on March 10, 2015 and April 08, 2015. The matter was then transferred to Shri S V Krishnamohan vide order dated June 17, 2015. The previous AO conducted the personal hearing on September 04, 2015. The matter was thereafter transferred to Shri Nagendraa Parakh vide order dated December 15, 2015. Matter was then transferred to Ms. Sangeeta Rathod (undersigned). Undersigned was appointed AO in this matter, which was communicated vide order dated July 10, 2017.

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

4. Show cause notice no. EAD-5/VSS/TZ/159075/2009 dated March 31, 2009 and supplementary show cause notice no. EAD-05/ADJ/ASK/SPV/OW/26000/2014 dated September 04, 2014 respectively (hereinafter referred to as **SCNs**) were issued by the previous AOs to the Noticee under rule 4 of the AO Rules to show cause as to why an inquiry should not be held against the Noticee and why penalty under section 15G of SEBI Act be not imposed on the Noticee for the violations alleged and specified in the said SCNs. The aforementioned SCNs were sent to the Noticee through hand delivery. Proof of service of the SCNs upon the Noticee is available on record.

5. Details of the violations alleged in the SCN dated March 31, 2009 are as follows:

1. *It is observed that the earlier promoters of KLG Capital Services Ltd. (KLG / Company) had exited and Awaita Properties Pvt. Ltd. (APPL) took a stake in KLG aggregating to 60.46% of the total share capital of the company. From February 22, 2008 to February 27, 2008 through transactions carried out at BSE. The impending*

acquisition of KLG by APPL was communicated to BSE in February 28, 2008. BSE subsequently published the said communication on its website on the same day. Therefore, till February 27, 2008, the said information remained unpublished price sensitive (UPSI).

The order to purchase 1,80,000 shares of KLG at a price of Rs. 32.65 was placed by APPL on February 22, 2008 at 14:31:43 hrs. The price was amended at 14:52:52 hrs to make it Rs. 32.70, at 15:21:28 hrs to make it Rs. 32.85 and at 15:22:41 hrs to make it Rs. 33.00, at which price the first trade of APPL towards acquisition of shares of KLG took place.

2. APPL made a public announcement on March 03, 2008 for acquisition of up to 6,40,480 shares constituting 20% of the total share capital of the company as per SAST Regulations. Further, Network Stock Broking Ltd. (NSBL) was the manager to the open offer for acquisition of 6,40,480 shares.

It is observed from the Draft Letter of Offer in respect of Rights Issue of Horizon Infrastructure Ltd. (HIL) that SKIL Infrastructure Ltd. (SKIL) and APPL are both promoter group entities of HIL.

3. The corporate announcements made by the company during the relevant period:

Date	Announcements
28-Feb-2008	KLG Capital Services Ltd has informed BSE that the Company's Existing Promoter Group has sold through open market on February 27, 2008 15,80,607 shares comprising of 49.35% of the paid up share capital of Company. Awaita Properties Pvt Ltd has informed the Company vide their letter dated February 28, 2008 that they have acquired above said quantity. As a result the control and management of the KLG Capital Services Ltd (Target Company) shall be transferred to the acquirer after successful completion of Open Offer formalities under the SEBI Takeover Code 1997. The Company has further informed BSE that M/s Awaita Properties Pvt Ltd has informed the Company that they have purchased 17,11,287 (Seventeen Lac Eleven Thousand Two Hundred Eighty Seven only) of Equity shares of KLG Capital Services Ltd comprising of 53.44% of the existing paid up share Capital of the Company from the open market as per their letter dated February 28, 2008. With the above, their aggregate shareholding reaches to 60.46% (19,36,075 share)
28-Feb-2008	KLG Capital Services Ltd has informed BSE that M/s. Awaita Properties Pvt Ltd has informed the Company that they have purchased 224788 (Two Lacs Twenty Four Thousand Seven Hundred Eighty Eight only) of Equity shares of KLG Capital Services Ltd Company comprising of 7.02% of the existing paid up share Capital of the Company from the open market as per their letter dated February 26, 2008.
05-Mar-2008	Network Stock Broking Ltd ("Manager to the Offer") on behalf of Awaita Properties Pvt Ltd ("Acquirer") has issued this Public Announcement to the equity shareholders of KLG Capital Services Ltd ("Target Company"), pursuant to and in compliance with among others, Regulation 10 read with Regulation 12 of Chapter II of the Securities & Exchange Board of India (Substantial Acquisition of Shares & Takeovers) Regulations, 1997 and subsequent amendments thereto ("SEBI (SAST) Regulations, 1997"). The Offer The Acquirer is hereby making a public announcement of the Offer to acquire upto 640,480 equity shares of Rs 10/- each, representing 20.00% of the issued, subscribed & paid-up equity share capital of the Target Company, from the public shareholders of the Target Company, at a price of Rs 37.50/- per share ("Offer Price") payable in cash subject to the terms & conditions mentioned in PA. Equity shares that would be tendered in the valid form in terms of this Offer will be transferred in favour of the Acquirer upon the closure of the Open Offer. Due to the Operation of Regulation 2(1 )(e) of SEBI Takeover Regulations, there may be persons who could be deemed to be persons acting in concert. However, they are not acting in concert with the Acquirer for the purpose of this Offer. Schedule of Activities: Specified Date - March 28, 2008 Date of Opening of the Offer - April 25, 2008 Date of Closing of the Offer - May 16, 2008

08-Apr-2008	KLG Capital Services Ltd has informed BSE that the Audited Financial Results for the year 2007-2008 will be published within three months from the close of the accounting year i.e. March 31, 2008 instead of publishing the unaudited results.
04-June-2008	Networth Stock Broking Ltd ("Manager to the Offer") on behalf of Awaita Properties Pvt Ltd ("Acquirer") has issued this Post Offer Public Announcement to the shareholders of KLG Capital Services Ltd ("Target Company"), which is in continuation of & should be read in conjunction with the Public Announcement ("PA") dated March 03, 2008, Letter of Offer Dated April 30, 2008 and Corrigendum to the PA dated May 08, 2008, pursuant to and in compliance with among others, Regulations 10 and 12 of Chapter III of the Securities and Exchange Board of India (Substantial Acquisition of Shares and Takeovers) Regulations, 1997 and subsequent amendments thereto ['SEBI Takeover Regulations' / 'Regulations']
20-June-2008	KLG Capital Services Ltd has informed BSE that consequent to the takeover (as per the norms of SEBI) there has been a change in the constituents of the Board of Directors. The following changes have been made in the Board Meeting held on June 19, 2008: Appointments: 1. Mr. Nikhil Gandhi : Chairman (Non Executive), Promoter Director 2. Mr. S S Thakur : Independent Director 3. Mr. B C Daga : Independent Director 4. Mr. Jitendra B Sanghavi : Independent Director 5. Mr. Praveen Mohnot : Director 6. Mr. Hemant Patel : Whole Time Director Resignations: 1. Mrs. Sushila Garg : Resigned from Directorship 2. Mr. Narinder Pal : Resigned from Directorship 3. Mr. Pawan Aggarwal : Resigned from Directorship.

4. The findings of the investigation relevant to you are as follows:

a. Trading details in the scrip of KLG- Noticee has traded through broker Kaynet Capital Limited (KCL) and bought 80,000 shares of KLG, which constitutes around 2.59% of the share capital of the company, before the acquisition was made by APPL and sold afterwards for Rs. 80,77,127.85 making a profit of Rs. 54,61,127. Details of purchase transactions in the scrip are as under:

Date	Volume	Price	Value
22/2/2008	76,444	32.70	24,99,718.80
22/2/2008	3,556	32.70	1,16,281.00

b. Financing of purchases

- (i) The perusal of your KYC (as annexed at Annexure 2 of the SCN) details with Kaynet Capital Limited reveals that you have declared your income to be less than Rs. 1 lakh per annum.
- (ii) Noticees total financial obligation towards purchases of 80,000 shares of KLG was Rs.26,16,000. Noticee has two bank accounts bearing nos. 00601000126155 and 00162100001840. The perusal of bank account statements reveal that an amount of Rs. 26.5 lakh was transferred from the account of M/s Starwort Engineers Private Limited (SEPL) associate company of APPL to your account no. 00162100001840 on February 23, 2008. Subsequently, an amount of Rs. 26.25 lakh was transferred from your account no. 00162100001840 to your other account no. 00601000126155 on February 25, 2008. The payment was made to Noticee's broker for the aforesaid purchase from your account no. 00601000126155. Thus, SEPL financed your total trading in KLG.
- (iii) As per Noticee's statement regarding funding for the purchases, Noticee had stated "I borrowed funds for the purchase of the shares from Chetan Kothari of Starwort Engg. Pvt. Ltd. My husband had arranged for the loan as he knew Chetan Kothari. The broker never asked for funds from me for any purchase. I have never done any monetary transactions with my broker. Such things are dealt with, by my husband."

- c. *Relationship with Mr. N Ravichandran- The residential address of the Noticee as per KYC details is 1/13, Sanjivani, K.A. Subramaniam Road, Matunga, Mumbai. The KYC details available with Noticee's depository participant, HDFC Bank Ltd., indicates a mobile number as 9820021323. This number is registered in the name of Shri N Ravichandran, husband to the Noticee, who has been found to be using this number as observed by the call details. This number is registered in the name of Shri N Ravichandran, Noticee's husband, who has been found to be using this number as observed by the call details. Moreover the KYC details of Shri N Ravichandran with Action Fin Serv (I) Ltd. Mentions the mobile number as 9820021323, which is same as Noticee's. CD containing soft copy of call records of N Ravichandran is enclosed as Annexure 4 to the SCN.*
- d. *Possession of UPSI by Mr. N. Ravichandran-*
- (i) *Shri N. Ravichandran was a director in the Board of Horizon Infrastructure Limited (HIL) from April 15, 2006 and he resigned on February 16, 2008. He is currently Deputy Chairman of SKIL and is also a director on the board of various group/associate companies of HIL/APPL/SKIL.*
  - (ii) *Shri Hemant Patel, Shri Praveen Mohnot and Shri N. Ravichandran have talked to each other on various occasions during the period 15.01.08 to 15.06.08 through calls and SMSs. Shri Praveen Mohnot and Shri Ravichandran have contacted each other at least 50 times as revealed by the phone records of the two during the period (Mobile phone no. 9833993505 belonging to Shri Praveen Mohnot and 9820021323 belonging to Shri N. Ravichandran). Shri Ravichandran (9820021323) has also talked/SMS to Shri Hemant Patel (9820286203) at least 4 times during the aforesaid period.*
  - (iii) *Shri Ravichandran, while giving reply to a question- How were you aware about the impending takeover of KLG Capital Services Ltd. by Awaita Properties Pvt. Ltd. (APPL)? has answered that - "I was not aware of the impending takeover of KLG by APPL. However some casual discussions were going on during lunch with the senior executives of SKIL group that the company KLG Capital was an NBFC with all compliances in order. Shri Hemant Patel and Shri Praveen Mohnot were also party to this discussion. I don't remember the exact date/time of discussion since the discussion was casual but it probably may have been in January/ February, 2008." Copy of statement dated August 14, 2008 given by Shri Ravichandran is enclosed as Annexure 5 to the SCN.*
  - (iv) *Both Shri Hemant Patel and Shri Praveen Mohnot were completely aware of the impending takeover of KLG by APPL as discussed earlier. This fact was also known to Shri N. Ravichandran. This is further supported by the statement of Shri Hemant Patel who in his statement ,when asked - When have you spoken to Shri K.L. Garg, erstwhile promoter director of KLG Capital Services Ltd. prior to the acquisition of KLG Capital Services Ltd. by APPL? If yes, then in what context?, replied "I have spoken to Shri K L Garg prior to the acquisition of KLG. by APPL. Shri Garg told me that he is looking for some investor for his stake in KLG. In this way I got the information regarding stake sale in KLG. from Shri Garg and based on this information I, together with Praveen Mohnot and N Ravichandran, made purchases in KLG." Copy of statement dated August 14, 2008 given by Shri Ravichandran is enclosed as Annexure 6 to the SCN.*
  - (v) *It is also observed that Shri Ravichandran has been in touch with Shri Devichand Nimbade, who is designated as authorized person by APPL in its KYC documents filed with NSBL. Copy of the KYC document is attached as Annexure 7 to the SCN.*
  - (vi) *In response to the query -How did you know that you will be able to buy 80,000 shares of KLG Capital Services Ltd. when the number of shares available for purchase were very less prior to 22 February 2008?, Noticee replied "My dealer Shanker Mane told me that the volume was available on 22 February 2008. I told him to buy shares of about Rs. 25 lakh. So I made the purchases on that day."*
- e. *Link amongst Noticee, N Ravichandran, Priyanka Singhvi, Praveen Mohnot and Hemant Patel-*
- (i) *Hemant R Patel HUF, Mrs. Priyanka Singhvi and the Noticee. The following table shows the order book (buy-side) at 15:02:57 hrs as per price-time priority:*

Broker	Order Price (Rs.)	Client name/code	Order entry Time (hrs)	Value (Rs.)	Volume (No. of shares)	Remarks
Bonanza Portfolio Limited	32.7	Priyanka Singhvi	14:16:59	26,16,000	80,000	Original price was Rs. 32.65. Amended at 14:49:27 hrs to make it to Rs. 32.70
Kaynet Capital Limited	32.7	Anita Ravichandran	14:28:38	26,16,000	80,000	Original price was Rs. 32.65. Amended at 14:50:25 hrs to make it to Rs. 32.70
K. G. Vora Securities Limited	32.7	Hemant Patel HUF	14:37:58	16,35,000	50,000	Original price was Rs. 32.65. Amended at 14:51:40 hrs to make it to Rs. 32.70
K. G. Vora Securities Limited	32.7	Hemant Patel HUF	14:38:27	9,81,000	30,000	Original price was Rs. 32.65. Amended at 14:51:43 hrs to make it to Rs. 32.70
Networth Stock Broking Limited	32.7	APPL	14:31:43	58,86,000	1,80,000	Original price was Rs. 32.65. Amended at 14:52:52 hrs to make it to Rs. 32.70
ICICI Securities Limited	32.65	8501250782	13:14:26	3167.05	97	
Pioneer TCP Stock Brokers Limited	32.65	SS01	14:31:42	163250	5,000	
Pioneer TCP Stock Brokers Limited	32.65	SS01	14:37:41	163250	5,000	

(ii) The table given above reveals that both Mrs. Priyanka Singhvi and the Noticee have placed buy orders just before placement of buy orders by APPL. Moreover, Hemant R Patel HUF has placed buy order just after the placement of buy order by APPL. However, Noticee has amended her buy orders to Rs. 32.70 before amendment of buy orders by APPL at 14:52:52 hrs to the same price. This is the reason that orders of the Noticee got priority for execution over orders of APPL as per price time priority and got executed ahead of execution of buy orders of APPL. APPL subsequently amended its price to higher levels of Rs. 32.85 at 15:21:28 hrs, Rs. 33.00 at 15:22:41 hrs and Rs. 33.50 at 15:24:36 hrs.

Further, Noticee and other clients placed one buy order of 80,000 each while Shri Hemant Patel through his HUF account placed two buy orders of 50,000 shares and 30,000 shares.

- (iii) Further, the Noticee, Mrs. Priyanka Singhvi and Shri Hemant R Patel HUF have placed buy orders prior to the placement of sell orders of the erstwhile promoter group of KLG/other erstwhile large shareholders who offloaded their shares on February 22, 2008.
- (iv) The Noticee and aforesaid other two clients have also placed buy orders at same price i.e. Rs. 32.65 and subsequently amended their orders to Rs. 32.70 within three minutes to match the sell orders which were placed subsequently at Rs.32.70. An analysis of the order book position prior to February 22, 2008 reveals that the maximum size of a buy as well as sell order placed in the scrip since January 1, 2008 to February 21, 2008 is for 5,000 shares. Thus placement of these huge buy orders on February 22, 2008 and February 27, 2008 by the Noticee and the other two clients is clearly a deviation from the past trading pattern in the scrip.
- (v) It is observed that a similar financing of transactions by the Noticee, Priyanka Singhvi and Hemant Patel by another entity- SEPL, which is an associate company of APPL, seems to connect the clients. Following table provides information about the finance arranged by these clients:

Date	Cheque Number	Amount (Rs.)	Financier	Beneficiary	Remarks
23.02.08	71189	26,50,000	SEPL	Anita Ravichandran	
23.02.08	71190	16,50,000	SEPL	Hemant Patel HUF	
25.02.08	71191	26,30,000	SEPL	Priyanka Singhvi	Cheque directly issued by SEPL to HDFC bank for making banker's cheque in favour of Bonanza Portfolio Limited, broker of Mrs. Priyanka Singhvi
01.03.08	Fund transfer	11,20,000	SEPL	Priyanka Singhvi	

- (vi) It may be seen from the above table that three successive cheques have been issued to finance the KLG purchases of these clients and all these cheques have been signed by Shri Chetan Kothari, who is also a director on the board of HIL, a group company of APPL. It is also pertinent to note that the entire purchase cost of these three clients including the Noticee has been financed by SEPL.

## 6. Details of the Supplementary Show Cause Notice are as follows:

- (i) This supplementary SCN has to be read in conjunction with the original SCN. It was inter alia mentioned in the original SCN that you were the wife of Shri N Ravichandran, who was a director on the Board of Horizon Infrastructure Ltd., (**HIL**) from April 15, 2006 and resigned on February 16, 2008. Mr N Ravichandran was also the then Deputy Chairman of SKIL Infrastructure Limited (**SKIL**) and was also a director on the board of various group/associate companies of HIL/APPL/SKIL. It was also mentioned that your husband was in touch with Shri Devichand Nimbade, who was designated as authorized person by APPL in its KYC documents filed with



Networth Stock Brokers Limited. Your husband had arranged loan from Starwort Engineers Pvt. Limited (**SEPL**) to you for specifically purchasing shares of the KLG. It was also mentioned that SEPL was an associate company of APPL.

- (ii) In addition to whatever stated in the original SCN, the following further observations are now made:
- a. The addresses of APPL, SKIL, HIL and SEPL are same/similar. Further, APPL, HIL and SKIL have common promoters/directors. Both APPL and SKIL are group companies of HIL.
  - b. In APPL and SKIL, Mr. Nikhil P. Gandhi, Mr. Bhavesh P. Gandhi and Mr. Prataprai Gandhi together have majority shareholding of 100% and 60.09% respectively. Mr. Nikhil P. Gandhi and Mr. Bhavesh P. Gandhi are promoters/directors in APPL and SKIL. Further, Mr. Nikhil P. Gandhi, Mr. Bhavesh P. Gandhi and Mr. Prataprai Gandhi together have 13.04% in HIL and are also promoters of HIL.
  - c. The directors of SEPL namely Manoj Mehta and Chetan Kothari are directors in APPL and HIL respectively.
  - d. In SKIL, the companies namely Montana Valves and Compressor Limited and Ashwini Infrastructure Pvt Ltd together have shareholding of 39.9%. In these companies Mr. Chetan Kothari, who is director in SEPL, is a director.
  - e. In SEPL, Neptune Industries (Through Sanjay M Doshi) held 99.80% shareholding. Mr. Sanjay M Doshi is also observed to be a promoter of HIL
  - f. From the Draft Letter of Offer of HIL it is observed that:  
-On February 15, 2008, Sanjay Doshi transferred 4,00,000 shares of HIL to Nikhil Gandhi.- Off Market transfer data of the same day ( February 15, 2008 ) indicate that Sanjay Doshi (PAN : ADZPD1057C ) transferred— 4,00,000 shares of HIL to Nikhil Gandhi.-CA Bharat Shah ( Chartered Accountant of Sanjay M. Doshi), vide email dated April 2, 2012 stated that Sanjay M. Doshi ( PAN : ADZPD1057C ) is partner in Neptune Industries. It shows that Sanjay M Doshi, Partner in Neptune Industries, is same as Sanjay Doshi, Promoter in HIL. Email ids of APPL and SKIL viz. skil@skilgroup.co.in and company.secretory@skilgroup.co.in contain reference to SKIL group.

From the above, it is observed that APPL, SKIL, HIL and SEPL belong to SKIL group.

- (iii) It is further observed that your husband N Ravichandran belonged to SKIL group as is evident from the fact that as he was Deputy Chairman of SKIL and his email id (n.ravichandran@skilgroup.co.in provided to Money Matters Securities Pvt Ltd., contained reference to SKIL group. The statement of Mr. Chetan Kothari (administration manager in APPL and director in HIL and SEPL) also indicates that your husband belonged to SKIL group.
- (iv) Thus, it is observed that APPL, SKIL, HIL and SEPL belong to SKIL group and you also belong to SKIL group. It is also observed that your husband was a connected person to the company as defined in Regulation 2(c)(ii) of SEBI (Prohibition of Insider Trading) Regulations, 1992 and had access to the unpublished price sensitive information, hence an insider of the company according to Regulation 2(e) of SEBI (Prohibition of Insider Trading) Regulations, 1992.

- (v) *In view of the above, it is also observed that you are deemed to be connected to the company as defined in regulation 2(h)(viii) of SEBI(Prohibition of Insider Trading) Regulations, 1992 and had access to the unpublished price sensitive information, hence an insider of the company according to Regulation 2(e) of SEBI (Prohibition of Insider Trading) Regulations, 1992.*
- (vi) *In view of what is stated in the original SCN and in this supplementary SCN, it is thus alleged that you being an insider have dealt in the shares of the company while in possession of unpublished price sensitive information. It is, therefore, alleged that you have violated regulations 3 (i) and (ii) of PIT Regulations.*
- (vii) *The relevant provisions of PIT Regulations are under:*  
*PIT Regulations, 1992.*  
*2. In these regulations, unless the context otherwise requires:—*  
*(c) Connected person means any person who -*  
*(ii) occupies the position as an officer or an employee of the company or holds a position involving a professional or business relationship between himself and the company whether temporary or permanent and who may reasonably be expected to have an access to unpublished price sensitive information in relation to that company.*  
*Explanation: For the purpose of clause (c), the -words "connected person" shall mean any person who is a connected person six months prior to an act of insider trading.*  
*(h) "person deemed to be a connected person:; if such person -*  
*(viii) relatives of the connected person.*  
*Prohibition on dealing, communicating or counseling on matters relating to*  
*insider trading.*  
*3. No insider shall—*  
*(viii) either on his own behalf or on behalf of any other person, deal in securities of a company listed on any stock exchange when in possession of any unpublished price sensitive information; or*  
*(ix) communicate counsel or procure directly or indirectly any unpublished price sensitive information to any person who while in possession of such unpublished price sensitive information shall not deal in securities.*

7. (i) Pursuant to the appointment of undersigned AO, vide letter dated December 08, 2017, Noticee was granted hearing on January 10, 2018. Acceding to the request of Noticee vide email dated January 08, 2018, hearing was rescheduled for January 11, 2018. Authorised Representative (AR) of the Noticee appeared on January 11, 2018. Noticee sought list of witnesses whose statements are relied upon in the SCNs for the purpose of cross examination. Hearing Minutes are on record. Vide letter dated January 24, 2018, Noticee was informed that *"in addition to the statements of the Noticees, the statements of Amit Singh, Ganesh Hadvale and Girish Dave is relied*

*upon in the matter. It is observed from records that vide letter dated March 09, 2011, you have already requested for cross examination of three persons viz. Mr. Amit Singh, Mr. Ganesh Hadvale and Girish Dev and also that cross examination of Ganesh Hadvale has been completed ”.*

*Vide letter dated August 14, 2018 Noticee was interalia informed that “ It is observed from records that vide letter dated March 09, 2011, you have already requested for cross examination of three persons viz, Amit Singh, Ganesh Hadvale and Girish Dev. Subsequently, the cross examination of Ganesh Hadvale has been completed before the previous AO. The undersigned had received an intimation from EFD, SEBI that the Noticee have completed cross examination of two witnesses viz, Ganesh Hadvale and Amit Singh under 11B proceedings in the subject matter on July 12, 2018. In this regard, you may intimate to the undersigned, if you would require cross examination of the same witnesses independently for the instant AO proceedings”. Noticee vide letter dated September 05, 2018 stated that “the 11B proceedings under WTM and the AO proceedings are two separate and distinct proceedings that are initiated by SEBI. Both the proceedings serve two well-defined functions of SEBI and have different authoritative hierarchy, procedure, methodology and outcome....In such circumstance, these two separate proceedings cannot be clubbed together for the purpose of cross-examination. Nor can SEBI assume that the said letter is not responded the rights of the Noticee will be forgone with respect to the cross-examination of the witnesses viz. Girish Dev and Amit Singh....Further, it is requested that liberty be granted to conduct the cross examination of Ganesh Hadvale again. This request emanates from the fact that Ganesh Hadvale was cross examined by previous AO who is no longer connected to the proceedings. Since, you will be the authority passing orders in the captioned matter, it would be in the interests of justice that witness Ganesh Hadvale be cross examined again in your presence.”* Acceding

to the request for cross examination, vide letter dated January 16, 2020 Noticee was granted an opportunity to take cross-examination of the abovementioned entities on January 30, 2020. Separate letters were sent to Girish Dev, Ganesh Hadvale and Amit Singh to appear before the AO on the said date. Vide email dated January 29, 2020, Noticee requested for adjournment of cross examination scheduled on January 30, 2020. Additionally, Noticee requested for cross examination of two more persons viz. Hemant Patel and K L Garg stating SCN relies upon conversation between Hemant Patel and K L Garg. Acceding to the request, vide letter dated Feb 20, 2020 Noticee was granted an opportunity to take cross-examination of the abovementioned five entities on March 04, 2020. Accordingly, the said five entities were called for the cross examination as scheduled. However, none of the witnesses appeared. Further, Hemant Patel and K L Garg requested for a further date for cross examination. Authorized Representatives (**ARs**) on behalf of the Noticee appeared before the undersigned on the specified date. They submitted copies of record of cross examination of Girish Dev and Amit Singh conducted before Whole Time Member of SEBI and the cross examination of Ganesh Hadvale in the instant adjudication proceedings conducted before the previous Adjudicating Officer, and further submitted that the same may be taken on record for the instant adjudication proceedings also. Minutes of the cross examination held on March 04, 2020 is on record. Vide hearing notice dated June 02, 2020 Noticee was granted an opportunity of personal hearing on July 09, 2020 and Noticee was also advised to send all written submissions before July 09, 2020. AR vide email dated July 02, 2020 interalia stated that *“none of the witnesses were present during the Adjudication Proceeding held on 4<sup>th</sup> March, 2020 and to avoid further delays to the proceedings, our client has instructed us to submit that they will not cross-examine Mr. Hemant Patel and Mr. K. L. Garg. Further, stated that due to pandemic of COVID-19 and lockdown declared*

*by the government of Maharashtra, all the offices are closed and all of us are working from home. Hence, neither our client nor we are in a position to attend the personal hearing scheduled on July 09, 2020. In view of what is stated above and situation aroused due to pandemic of COVID-19, we on behalf of our client, kindly request you to postpone the personal hearing scheduled on 9<sup>th</sup> July, 2020 until the situation is under control".* Vide email dated July 02, 2020, Noticee was informed that all other submissions of email have been taken on record and the hearing is as scheduled and in case Noticee would like to avail of the same may kindly confirm availability. Vide email dated July 04, 2020 AR stated that *"the Counsel appearing on behalf of Anita Ravichandran is not attending any proceeding where physical presence is required. All of us are working from home and will not be able to attend the personal hearing scheduled on 9<sup>th</sup> July, 2020. Kindly, postpone the personal hearing scheduled on 9<sup>th</sup> July, 2020 until the current curfew and lockdown rules are eased and the situation is normalized".* Vide email dated July 06, 2020 AR stated that *"Noticee is a senior citizen. In view of the situation aroused due to pandemic of COVID-19, the Government of India from time to time has directed and urged the senior citizen to stay at home at all costs. Since we do not have access to the physical files in relation to the matter, so far as the reply to be filed by our client to the Show Cause Notice is concerned, we reserve our right to deal with the same on or before the personal hearing. Kindly postpone the personal hearing scheduled on July 09<sup>th</sup>, 2020 until the current curfew and lockdown rules are eased and the situation is normalized".* Vide email dated July 06, 2020, AR was informed that the hearing can be decided upon receipt of replies to SCNs. In absence of replies, AO will be constrained to proceed as per material on record. Vide email dated July 07, 2020 AR *interalia* requested *"reasonable time until the pandemic of COVID-19 is under control, so that we can get access to the papers in relation to the matter and inform you*

regarding the reply if any to be filed on behalf of our clients to the Show Cause Notice". Vide email dated July 15, 2020, Noticee was informed that enough time has elapsed since the time SCNs were issued on March 31, 2009 and September 04, 2014 by the previous Adjudicating Officers however, Noticee did not file replies to the SCNs regarding charges levelled by OD. Consequent upon appointment of the undersigned as Adjudicating Officer in the matter, Noticee was given opportunities to file reply to the SCNs and avail cross examination vide email dated March 04, 2020. AR appeared for cross examination before the undersigned on March 04, 2020 and record of proceedings of cross examination is on record. Further, Noticee was granted opportunities to file reply to the SCNs and avail personal hearing, Noticee failed to reply to the SCNs. Thus, Noticee was informed vide said email that in view of the enough opportunities granted for the replies and hearing, still in case Noticee wishes to submit her replies, may submit before July 22, 2020 otherwise the matter will be proceeded on the basis of material available on record. AR vide email dated July 22, 2020 requested time till August 15, 2020 for submission of reply and an opportunity of personal hearing by way of a virtual hearing on a suitable online platform. Vide email dated July 23, 2020 Noticee was advised to file reply to the SCNs latest by August 15, 2020. Accordingly, Noticee was granted an opportunity of hearing on August 18, 2020 through telecom. Noticee was also informed that this is the last opportunity in the matter and no further delays shall be entertained and the matter shall be proceeded upon with the material on record. Vide email dated August 17, 2020 submitted reply to the SCN. Reply is summarised as under-

*(1) All the contentions raised, pleadings advanced before the Ld. WTM should be considered as a part of present reply and are not repeated herein for the sake brevity. The Noticees crave leave to file a detailed reply once the current situation spread due to the pandemic of COVID-19 is normalized and the Noticees are able to travel back to their abodes and provide details in relation to the matter.*

- (2) *It is submitted that the Noticee has already suffered tremendously due to the instant proceedings for the last more than 10 years. The Noticee has sacrificed a large period at the peak of productive career and have already suffered considerable damage and financial impacts due to the same. Hence, putting further penalty upon the Noticee only for the reason that there is a technical breach or venial breach of the provisions of the SEBI Act, 1992 is against the provisions of law.*
- (3) *It is further submitted that the discretion to the Adjudicating officer provided by Section 15-I of the SEBI Act, 1992 is to be exercised judicially and penalty if any imposed by the Adjudicating officer must not be due to a technical breach or venial breach of the provisions of SEBI Act, 1992. The said principle is observed by Hon'ble Supreme Court in Hindustan Steel Ltd. v. State of Orissa. The aforesaid judgment of Hindustan Steel Ltd. v. State of Orissa is reiterated in the case of Bajrang Oil Mills vs. Income Tax Officer [2007]. The observations by the Hon'ble Supreme Court in the matters above clearly holds that in cases where an individual is in breach of any law, and such breach results from a bona-fide error as happened in the present case, the relevant authority need not impose penalty even if it is prescribed to do so. Noticee has also placed reliance upon Kensington Investment Ltd. Vs. SEBI and Brentfield Holdings Ltd. Vs. The Chairman, Adjudicating Officer, SEBI Appeal Nos. 27, 28, 30 and 31/2002.*

AR attended the hearing scheduled on August 18, 2020 and reiterated the submissions made in the Noticee's reply. Also requested another hearing on August 21, 2020 for the counsel to speak on the matter. Hearing minutes are on record. AR vide email dated August 19, 2020 stated that the reply filed in the matter is a limited reply as the Noticee does not have a copy of the SCN. Another hearing was conducted on August 21, 2020, senior counsel attended the hearing on behalf of the Noticee and reiterated the earlier submissions. Noticee was granted time till August 28, 2020 for additional submissions. Hearing minutes are on record. Copy of the SCNs alongwith the annexures were resent to the Noticee vide email dated August 21, 2020. Noticee was granted time till August 28, 2020 for additional submissions. Hearing minutes are on record. Noticee vide email dated August 23, 2020 stated that "our counsel requested your good offices to provide us with all the necessary pleadings in relation to the matter before your good offices and before the Ld. WTM. We are aware that the proceedings before Ld. WTM and that before your good self are separate and

distinct, however, as the facts in relation to the matter are almost similar, we would, solely for the purpose to prepare for the matter would also want to peruse the pleadings before the WTM". Vide email dated August 26, 2020, AR was informed that the records of adjudication proceedings available with the Office of Adjudicating Officer and relied upon in the Show Cause Notices have already been resent to AR on August 21, 2020. Noticee has also requested for the documents pertaining to SCN issued by Whole Time Member, SEBI and the reply / written submissions filed by the Noticee before the WTM which are separate proceedings. In this regard, Noticee was advised that record of the said proceedings in front of Hon'ble WTM, SEBI has not been relied upon by Adjudicating Officer in the instant matter. The documents which have not been relied upon nor are part of record of adjudication proceedings are extraneous to current proceedings, and Adjudicating Officer has no access to such documents. Further, Noticee sought time for filing of submissions in the subject matter. Accordingly, vide email dated August 21, 2020 additional time till August 28, 2020 was granted for filing submissions in the matter, failing which the matter shall be proceeded upon with the material on record. However, Noticee has not submitted additional submissions. It is noted from record that multiple opportunities for reply, hearings, cross etc were given to the Noticee by previous AOs and undersigned AO. I note that the requests for repetitive adjournments of personal hearings, without making any submissions in defense of their case but on vague and frivolous reasons is merely delaying tactic on the part of all the Noticee. Proof of delivery of all the outgoing e-mails mentioned herein from the Adjudicating Officer, is available on record.

8. After taking into account, the allegations levelled in the SCN, reply received and material on record, I hereby proceed to decide the case on merit.



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

9. I have carefully perused the charges levelled against the Noticee in the SCNs and other material on record. In the instant matter, the following issues arise for consideration and determination:-

***a. Whether there was UPSI in the matter of KLG Capital Services Limited?***

***Whether Noticee had access to UPSI?***

***b. Whether Noticee was an insider and while in possession of UPSI had traded in the shares in violation of regulations 3(i) and 3(ii) of PIT Regulations?***

***c. Do the violations, if any, on the part of the Noticee attract monetary penalty under section 15G of the SEBI Act for the alleged violations by the Noticee?***

***d. If yes, then what would be the monetary penalty that can be imposed upon the Noticee, taking into consideration the factors mentioned in section 15J of the SEBI Act r/w rule 5(2) of the AO Rules?***

10. Before proceeding further, I would like to refer to the relevant provisions of PIT Regulations:

### **PIT REGULATIONS**

**Definitions.**

*2. In these regulations, unless the context otherwise requires :—*

*(c) “connected person” means any person who—*

*(i) .....*

*(ii) occupies the position as an officer or an employee of the company or holds a position involving a professional or business relationship between himself and the company whether temporary or permanent and who may reasonably be expected to have an access to unpublished price sensitive information in relation to that company:*

*Explanation :—For the purpose of clause (c), the words “connected person” shall mean any person who is a connected person six months prior to an act of insider trading;*

*(ha) price sensitive information means any information which relates directly or indirectly to a company and which if published is likely to materially affect the price of securities of company.*

Explanation - The following shall be deemed to be price sensitive information:-

1. Periodical financial results of the company;
2. Intended declaration of dividends (both interim and final);
3. Issue of securities or buy-back of securities;
4. Any major expansion plans or execution of new projects;
5. Amalgamation, mergers or takeovers;
6. Disposal of the whole or substantial part of the undertaking; and
7. Significant changes in policies, plans or operations of the company.

(h) "person deemed to be a connected person";, if such person –  
(viii) relatives of the connected person.

Chapter II. Prohibition on dealing, communicating or counseling on matters relating to insider trading.

3. No insider shall—

- (i) either on his own behalf or on behalf of any other person, deal in securities of a company listed on any stock exchange when in possession of any unpublished price sensitive information; or
- (ii) communicate counsel or procure directly or indirectly any unpublished price sensitive information to any person who while in possession of such unpublished price sensitive information shall not deal in securities

11. On perusal of the material on record and giving regard to the facts and circumstances of the case, I hereby record my findings as under.

**Issue a: *Whether there was UPSI in the matter of KLG Capital Services Limited?***

***Whether Noticee had access to UPSI?***

(A) There is no reply on merit to the SCNs from Noticee on record, therefore, I find it pertinent to refer to the judgment dated December 08, 2006 of Hon'ble Securities Appellate Tribunal in the matter of Classic Credit Ltd. v SEBI (Appeal No. 68 of 2003) wherein, it observed, "*... the appellants did not file any reply to the second show-cause notice. This being so, it has to be presumed that the charges alleged against them in the show cause notice were admitted by them*". I also observe that the Hon'ble Securities Appellate Tribunal in the matter of Sanjay Kumar Tayal & Ors. v SEBI (Appeal 68 of 2013 dated February 11, 2014) had inter alia observed that, "*...As rightly contended by Mr. Rustomjee, learned senior counsel for respondents, appellants have neither filed reply to show cause notices issued to them nor availed opportunity of personal hearing offered to them in the adjudication proceedings and, therefore, appellants are presumed to have*

*admitted charges levelled against them in the show cause notices...*” However, I will still consider all issues, as per record available, on merit.

(B) I find that the allegations in SCN are:

- (i) The earlier promoters of KLG had exited and APPL took a stake in KLG aggregating to 60.46% of the total share capital of the company, from February 22, 2008 to February 27, 2008 through on market transactions carried out at BSE. The impending acquisition of KLG by APPL was unpublished price sensitive information till February 27, 2008 and intimation was made to BSE and published on its website on February 28, 2008.
- (ii) APPL made a public announcement on March 03, 2008 for acquisition of up to 6,40,480 shares constituting 20% of the total share capital of the company as per Securities and Exchange Board of India (Substantial Acquisition of Shares and Takeovers) Regulations, 1997. Further, NSBL was the manager to the open offer for acquisition of 6,40,480 shares. (a) Noticee’s husband, N Ravichandran was a director on the Board of HIL from April 15, 2006 and resigned on February 16, 2008. It is observed from the Draft Letter of Offer in respect of Rights Issue of HIL that SKIL and APPL are both promoter group entities of HIL. N Ravichandran was also the then Deputy Chairman of SKIL and was also a director on the board of various group/associate companies of HIL/APPL/SKIL. It was also mentioned that Noticee’s husband was in touch with Shri Devichand Nimbade, who was designated as authorized person by APPL in its KYC documents filed with NSBL. The addresses of APPL, SKIL, HIL and SEPL are same/similar. Further, APPL, HIL and SKIL have common promoters/directors. Both APPL and SKIL are group companies of HIL. (b) Hemant Patel, Shri Praveen Mohnot and N. Ravichandran have talked to each other on various occasions during the period 15.01.08 to

15.06.08 through calls and SMSs. Praveen Mohnot and Ravichandran have contacted each other at least 50 times as revealed by the phone records of the two during the period (Mobile phone no. 9833993505 belonging to Shri Praveen Mohnot and 9820021323 belonging to Shri N. Ravichandran). Shri Ravichandran (9820021323) has also talked/SMS to Shri Hemant Patel (9820286203) at least 4 times during the aforesaid period. (c) Also, N Ravichandran in his statement dated August 14, 2008, while giving reply to a question- How were you aware about the impending takeover of KLG Capital Services Ltd. by Awaita Properties Pvt. Ltd. (APPL)? has answered that - *"I was not aware of the impending takeover of KLG by APPL. However some casual discussions were going on during lunch with the senior executives of SKIL group that the KLG was an NBFC with all compliances in order. Shri Hemant Patel and Shri Praveen Mohnot were also party to this discussion. I don't remember the exact date/time of discussion since the discussion was casual but it probably may have been in January/ February, 2008."*

- (iii) The perusal of Noticee's KYC details with Kaynet Capital Limited reveals that Noticee had declared her income to be less than Rs. 1 lakh per annum. Noticee's total financial obligation towards purchases of 80,000 shares of KLG was Rs. 26,16,000. Noticee has two bank accounts bearing nos. 00601000126155 and 00162100001840. The perusal of bank account statements reveal that an amount of Rs. 26.5 lakh was transferred from the account of M/s Starwort Engineers Private Limited (SEPL) associate company of APPL to Noticee's account no. 00162100001840 on February 23, 2008. Subsequently, an amount of Rs. 26.25 lakh was transferred from Noticee's account no. 00162100001840 to Noticee's other account no. 00601000126155 on February 25, 2008. The payment was made to Noticee's broker for the aforesaid purchase from Noticee's account no.

00601000126155. Thus, SEPL financed Noticee's total trading in KLG. Further, Noticee's statement regarding funding for the said purchases, Noticee had stated *"I borrowed funds for the purchase of the shares from Chetan Kothari of SEPL. My husband had arranged for the loan as he knew Chetan Kothari. The broker never asked for funds from me for any purchase. I have never done any monetary transactions with my broker. Such things are dealt with, by my husband."*

(C)(i) I observe from SCN and annexures that the happening of takeover and its being PSI is not disputed by the Noticee. The information regarding the takeover of KLG by APPL is deemed to be price sensitive information(PSI) by virtue of regulation 2(ha) of PIT Regulations and the same was unpublished in terms of regulation 2(k) of PIT Regulations till the time it was published on BSE's website on February 28, 2008, thus there was UPSI in the instant matter.

(ii) As regards, whether the Noticee had access to UPSI, I note that the information pertaining to acquisition of KLG by APPL was UPSI till February 27, 2008. Noticee's husband, who was the then Deputy Chairman of SKIL and was also a director on the Board of various group/associate companies of HIL/APPL/SKIL. Also he was in touch with persons who were in possession of the said UPSI viz. Hemant Patel and Praveen Mohnot, who had access to the UPSI. Thus, Noticee's husband was in possession of the UPSI and consequently, he falls within the ambit of the term 'insider' as defined under regulation 2(e) of PIT Regulation. Thus, Noticee by virtue of her relationship with N Ravichandran and her statement with regards to trading in the shares of KLG, having the same residential address as her husband, is evident of her being a person deemed to be a connected person in terms of regulation 2(h) of PIT Regulations. Thus, Noticee had access to UPSI through her husband and traded in the shares of KLG while in possession of the UPSI. In this regard, I would like to refer to the orders

of Hon'ble Securities Appellate Tribunal in the matter of Shri E Sudhir Reddy Vs. SEBI decided on 16.12.2011 wherein the Hon'ble Securities Appellate Tribunal has observed as follows: *"...The directors of the company or for that matter even professionals like Chartered Accountants and Advocates advising the company on its business related activities are privy to the performance of the company and come in possession of information which is not in public domain. Knowledge of such unpublished price sensitive information in the hands of persons connected to the company puts them in an advantageous position over the ordinary shareholders and the general public. Such information can be used to make gains by buying shares anticipating rise in the price of the scrip or it can also be used to protect themselves against losses by selling the shares before the price falls. Such trading by the insider is not based on level playing field and is detrimental to the interest of the ordinary shareholders of the company and general public. It is with a view to curb such practices that section 12A of the Sebi Act makes provisions for prohibiting insider trading and the Board also framed the Insider Trading Regulations to curb such practice..."*.

(iii) I would like to refer to the order of Hon'ble Securities Appellate Tribunal in the matter of V K Kaul vs. Adjudicating Officer in its order dated October 08, 2012 held that, *"We are also of the view that the adjudicating officer has rightly relied on the observations of U. S. Court in Rajaratnam case (supra) on the relevance of circumstantial evidence in para 38 of the impugned order which reads as under :- "38. Regarding the issue of relevance of circumstantial evidence, the Hon'ble District Court Southern District of New York in the matter of United States of America V Raj Rajaratnam 09 Cr. 1184 (RJH) decided on 11.08.2011 has observed as follows: 14 "...Moreover, several other Courts of Appeals have sustained insider trading convictions based on circumstantial evidence in considering such factors as (1) access to information; (2) relationship between the tipper and the tippee; (3) timing of contact between the tipper and the tippee; (4) timing of the trades; (5) pattern of the trades; and (6) attempts to conceal either the trades or the relationship between the tipper and the tippee." United States v. Larrabee,*

*240 F.3d 18, 21-22 (1st Cir. 2001)..." The above principles are not in conflict with the regulatory framework prescribed by the Board and can be looked into while deciding case of insider trading under the Indian regulatory framework."*

(iv) In this regard, I would like to refer to order of Hon'ble SAT in this regard, in the matter of Dilip S. Pendse Vs. SEBI (Appeal No. 80 of 2009) has observed as follows: *"... the charge of insider trading is one of the most serious charges in relation to the securities market and having regard to the gravity of this wrong doing higher must be the preponderance of probabilities in establishing the same..."*

(D) In view of the above para 11 (B), (C), I am of considered opinion that there was UPSI and Noticee had access to it.

**12. Issue b: *Whether Noticee was an insider and while in possession of UPSI had traded in the shares in violation of regulations 3(i) and 3(ii) of PIT Regulations?***

(i) As regards, the allegations of trading while in possession of UPSI, the Noticee has not disputed the allegations, but also have not given any specific response, further Noticee made multiple requests for record of proceedings which are not on record of the instant AO proceedings, thereby meting out treatment to the office of the undersigned AO, of a liaison office and also creating a probable issue of principles of natural justice where none exists by using the garb of lock-down etc while being digitally connected. It is noted from record that multiple opportunities for reply, hearings, cross etc were given to the Noticee by previous AOs and undersigned AO. I note that the requests for repetitive adjournments of personal hearings, without making any submissions in defense of their case but on vague and frivolous reasons is merely delaying tactic on the part of all the Noticee. In this regard, I place reliance upon order of Hon'ble Securities Appellate Tribunal decision dated 17.7.2020 in the matter of Anant R. Sathe vs SEBI (Appeal No.150

of 2020) held that “7....we are of the opinion that the controversy involved in the present appeal is squarely covered by the decision of this Tribunal in Shruti Vora’s (supra) wherein the Tribunal held that: “In the light of the aforesaid, we are of the opinion that concept of fairness and principles of natural *justice are in-built in Rule 4 of the Rules of 1995 and that the AO is required to supply the documents relied upon while serving the show cause notice. This is essential for the person to file an efficacious reply in his defence.*” 8. *The said principle elucidated in Shruti Vora’s judgement is squarely applicable in the instant case. The authority is required to supply the documents that they rely upon while serving the show cause notice which in the instant case has been done and which is sufficient for the purpose of filing an efficacious reply in his defence.*”

- (ii) The various allegations in the SCN are not disputed by the Noticee. It is established that Noticee had access to UPSI through her husband and consequently falls within the ambit of the term ‘insider’ as defined under regulation 2(e) of PIT Regulations, which states that, two categories of persons can qualify as an insider. They are: (a) any person who, is or was connected with the company or is deemed to have been connected with the company, and who is reasonably expected to have access to unpublished price sensitive information in respect of securities of a company; or (b) who has received or has had access to such unpublished price sensitive information. Hence, for any person to be qualified as insider, it is sufficient if just one of the two conditions stated above is met. I find that mere access to UPSI pertaining to KLG was sufficient to render Noticee an insider of KLG. In this regard, it is pertinent to refer to the judgments of the Hon'ble SAT in the matter of :



Dr. Anjali Beke Vs. SEBI (Appeal no. 148 of 2005, Date of Decision: 26.10.2006) wherein it was held that *“when a person receives UPSI, he becomes an insider, even when he is not connected to the company to which the UPSI pertains”*.

Hon’ble Securities Appellate Tribunal in the matter of Utsav Pathak vs. SEBI decision dated 12.06.2020 (Misc. Application No.138 of 2020 And Appeal No.430 of 2019) held that-

*“19. The contention of the learned counsel for the appellant that the inference of providing sensitive information by the appellant to the Tippees was not inferred from any foundational facts is patently erroneous. In this regard, we may note that it is a fundamental principle of law that proving of an allegation levelled against a person can be derived either from direct substantive evidence or can be inferred by a logical process of reasoning from the totality of attending facts and circumstances surrounding the allegations made and levelled. The Supreme Court in SEBI vs. Kishore Ajmera( 2016) 6 SCC 368 held that in the absence of direct evidence, the court cannot become helpless and that the court can take notice of immediate and proximate facts and circumstances surrounding the events and reach to a reasonable conclusion. The Supreme Court held that the test would always be as to what inferential process that a reasonable/prudent man would adopt to arrive at a conclusion.*

*20. In this regard, the decision in Raj Ratnam’s case is relevant wherein the relevance of circumstantial evidence relating to an insider has been culled out as under:- “...Moreover, several other Courts of Appeals have sustained insider trading convictions based on circumstantial evidence in considering such factors as “(1) access to information; (2) relationship between the tipper and the tippee; (3) timing of contact between the tipper and the tippee; (4) timing of the trades; (5) pattern of the trades; and (6) attempts to conceal either the trades or the*

*relationship between the tipper and the tippee.” United States v. Larrabee, 240 F.3d 18, 21-22 (1st Cir. 2001)...*”

21. Taking a cue from the decision in Ajmera’s case and Raj Ratnam’s case, we find the foundational facts as under:- A. The appellant was a connected person and was an insider as per the PIT Regulations and was privy to the price sensitive information and was directly involved with the activities pertaining to the open offer. B. The appellant had close relationship with the Tippees. C. During the investigation, the appellant made attempts to conceal his relationship with the Tippees, as well as tried to dilute his role in the open offer process. D. The trading pattern of the Tippees makes it apparently clear that the Tippees had prior information with regard to the open offer. To elaborate, we find that the Tippee-1 i.e., the sister of the appellant purchased 4000 shares of CRISIL on 31/5/2013 and sold it on the day when the open offer announcement was made on 3/6/2013. Similarly, Tippee-2 purchased 15000 shares on 14/5/2013, 20/5/2013, 21/5/2013 and 24/5/2013 and sold it on 4/6/2013. E. The Tippees only traded in the shares of CRISIL and did not trade in any other shares. F. Tippee 2 had borrowed large amount [Rs. 1 cr] and sold off existing holdings etc to finance the buy orders of CRISIL shares thereby effectively putting all her eggs in one basket which is a highly abnormal investment behavior. G. Purchase of large chunks of shares and selling it immediately after announcement of the open offer without any plausible cause is suspicious. H. The Tippees were also charged for insider trading and violation of the PIT Regulations....”

22. From the aforesaid foundational facts, the circumstantial evidence or on a preponderance of probability by a logical process of reasoning from the totality of the attending facts and circumstances as stated aforesaid, an irresistible inference can be drawn that the appellant had passed on the price sensitive -16-

*information regarding the open offer to the Tippees. Such inference taken from the immediate and proximate facts and circumstances surrounding the events is reasonable and logical which any prudent man would arrive at such a conclusion. The Supreme Court in Kanhaiyalal Patel (supra) held that an inferential conclusion from proved and admitted facts would be permissible and legally justified so long as the same is reasonable."*

(iii) It is noted that Noticee's total financial obligation towards purchases of 80,000 shares of KLG was Rs. 26,16,000. Noticee has two bank accounts bearing nos. 00601000126155 and 00162100001840. The perusal of bank account statements reveal that an amount of Rs. 26.5 lakh was transferred from the account of M/s SEPL associate company of APPL to Noticee's account no. 00162100001840 on February 23, 2008. Subsequently, an amount of Rs. 26.25 lakh was transferred from Noticee's account no. 00162100001840 to Noticee's other account no. 00601000126155 on February 25, 2008. The payment was made to Noticee's broker for the aforesaid purchase from your account no. 00601000126155. Thus, it is observed that SEPL financed Noticee's total trading in KLG. Further, as per Noticee's statement regarding funding for the purchases, Noticee had *stated "I borrowed funds for the purchase of the shares from Chetan Kothari of Starwort Engg. Pvt. Ltd. My husband had arranged for the loan as he knew Chetan Kothari. The broker never asked for funds from me for any purchase. I have never done any monetary transactions with my broker. Such things are dealt with, by my husband."*

(iv) It is relevant to refer to the judgment of the Hon'ble SAT in the matter of V.K. Kaul Vs. SEBI (Appeal No. 55 of 2012, Date of Decision: 08.10.2012) wherein it has been held that: *"It is not obligatory under the regulations that the UPSI must be in possession or knowledge of 'a company' in whose securities an insider of 'the*

*company' deals. As long as, as insider of 'the company' deals in the securities of 'a company' listed on any exchange while in possession of UPSI relating to that company, the provisions of Regulation 3(i) of the regulations will get attracted."*

(v) From the above paras it is evident that the Noticee while in possession of UPSI traded in the shares of KLG. Provisions of regulations 3(i) and (ii) of PIT Regulations states that no insider shall deal in securities of a company listed on any stock exchange when in possession of any unpublished price sensitive information. In this regards, I refer to the judgment of the Hon'ble Securities Appellate Tribunal dated January 31, 2012 in the matter of Mrs. Chandrakala vs. AO, held that " 7. The prohibition contained in regulation 3 of the regulations apply only when an insider trades or deals in securities on the basis of any unpublished price sensitive information and not otherwise. It means that the trades executed should be motivated by the information in the possession of the insider. If an insider trades or deals in securities of a listed company, it may be presumed that he / she traded on the basis of unpublished price sensitive information in his / her possession unless contrary to the same is established. The burden of proving a situation contrary to the presumption mentioned above lies on the insider. If an insider shows that he / she did not trade on the basis of unpublished price sensitive information and that he / she traded on some other basis, he / she cannot be said to have violated the provisions of regulation 3 of the regulations...."

(vi) In view of the above and on the basis of the material available on record, I find that the Noticee has violated the provisions of regulations 3(i) and 3(ii) of PIT Regulations, thereby the violations alleged in the aforementioned SCNs are established.

**13. Issue C: Do the violations, if any, on the part of the Noticee attract monetary penalty under section 15G of the SEBI Act for the alleged violations by the Noticee?**

In light of the analysis regarding various allegations in terms of material available on record, it has been established that Noticee has violated provisions of regulation regulations 3(i) and 3(ii) of PIT Regulations. Therefore, after taking into account the aforesaid entire facts / circumstance of the case, and material available on record, I am of the view that the above said violations attracts imposition of monetary penalty under section 15G of SEBI Act. The relevant provision in this regard is as under:

***SEBI Act***

***Penalty for insider trading.***

***15G. If any insider who,—***

*(i) either on his own behalf or on behalf of any other person, deals in securities of a body corporate listed on any stock exchange on the basis of any unpublished price-sensitive information; or*

*(ii) communicates any unpublished price-sensitive information to any person, with or without his request for such information except as required in the ordinary course of business or under any law; or*

*(iii) counsels, or procures for any other person to deal in any securities of any body corporate on the basis of unpublished price-sensitive information,*

*shall be liable to a penalty of twenty-five crore rupees or three times the amount of profits made out of insider trading, whichever is high.*

**Issue D: If yes, then what would be the monetary penalty that can be imposed upon the Noticee, taking into consideration the factors mentioned in section 15J of the SEBI Act r/w rule 5(2) of the AO Rules?**

While determining the quantum of penalty under section 15J of SEBI Act, it is important to consider the factors stipulated in the said section which reads as under:-

*While adjudging 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.”*

I observe, that the material available on record with regard to the disproportionate gain, I would like to draw reference to SEBI order no. WTM/GM/EFD/DRA-I/43/2019-20 dated November 05, 2019 for the transactions made by the Noticee in its account in the scrip of KLG, which was placed on record by the Noticee, WTM has interalia observed that- *“26. (d) Ms. Anita Ravichandran shall disgorge the unlawful gain of Rs. 4,12,000/- along with simple interest at the rate of 12% per annum, calculated from February 29, 2008 till the date of this order”*.

I note that no case regarding quantum of unlawful gains have been made out in the SCNs also there is no case regarding amount of loss incurred to investors. There is no material on record to indicate that the non-compliance is repetitive in nature. Therefore taking into consideration the aforementioned facts/circumstance of the case, I am of the view that the Noticee is liable for a monetary penalty of Rs. 12, 36, 000/- (Rupees Twelve Lakh Thirty Six Thousand only) for her failure to comply with the provisions of regulations 3(i) and 3(ii) of PIT Regulation.

### **ORDER**

14. In exercise of the powers conferred under section 15-I of SEBI Act and rule 5 of the AO Rules 1995, I hereby impose a penalty of Rs. 12,36,000/- (Rupees Twelve Lakh Thirty Six Thousand only) under sections 15G of SEBI Act. I am of the view that the said penalty is commensurate with the defaults committed by the Noticee.
15. The Noticee shall remit / pay the said amount of penalty within 45 days of receipt of this order by one of following two modes:

- a. By using the web link <https://siportal.sebi.gov.in/intermediary/AOPaymentGateway.html> OR through online payment facility available on the SEBI website [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**
- b. By way of Demand Draft in favour of "SEBI - Penalties Remittable to Government of India", payable at Mumbai
16. Details of Demand Draft made as given in format below shall be sent to "The Division Chief, EFD-DRA-I, Securities and Exchange Board of India, SEBI Bhavan II, Plot no. C- 7, "G" Block, Bandra Kurla Complex, Bandra (E), Mumbai - 400 051." and also to e-mail id :- [tad@sebi.gov.in](mailto:tad@sebi.gov.in)
- Case Name  
Name of the 'Payer/Noticee'  
Date of Payment  
Amount Paid  
Transaction No.  
Bank Details in which payment is made  
Payment is made for (like penalties/disgorgement / recovery/ settlement amount and legal charges along with order details)
17. In the event of failure to pay the said amount of penalty within 45 days of the receipt of this Order, recovery proceedings may be initiated under section 28A of the SEBI Act for realization of the said amount of penalty along with interest thereon, inter alia, by attachment and sale of movable and immovable properties.
18. In terms of rule 6 of the Adjudication Rules, copy of this order is sent to the Noticee and also to SEBI.

**Date: September 30, 2020**

**SANGEETA RATHOD**

**Place: Mumbai**

**ADJUDICATING OFFICER**