BEFORE THE ADJUDICATING OFFICER

SECURITIES AND EXCHANGE BOARD OF INDIA

(ADJUDICATION ORDER NO: AO/SBM/EAD-3/79/2017)

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:

M/s Quantam Suppliers Pvt. Ltd.
PAN: AAACQ1621L
56, N.S. Road,
5th Floor, Kolkata-700001

In the matter of
M/s Thirani Projects Limited

FACTS OF THE CASE

1. Securities and Exchange Board of India (hereinafter referred to as '**SEBI**'), while conducting an examination in the scrip of Thirani Projects Limited (hereinafter referred to as "**Company/TPL**") during the period March 01, 2015 to August 31, 2015 (hereinafter referred to as "**examination period**"), observed that M/s **Quantam Suppliers Pvt. Ltd.** (hereinafter referred to as **"Noticee**"), had failed to make timely disclosures pertaining to its acquisition of shares of TPL during the examination period. It was observed that the Noticee had failed to comply with the disclosure requirements specified under the provisions of SEBI (Substantial Acquisition of Shares and Takeovers) Regulations, 2011 (hereinafter referred to as '**SAST Regulations**').

2. TPL was incorporated in 1992 as Soft Touch Silk and Textiles Limited with its Registered office address as 2nd Floor, 33, Brabourne Road, Kolkata. TPL is a Non-Banking Financial Company (NBFC) registered with Reserve Bank of India.

The object of the company was to carry on the business of financing industrial enterprises by way of lending and advancing money. The company is listed on the Bombay Stock Exchange (**BSE**) and the Calcutta Stock Exchange (**CSE**). The total paid up capital of the company during the examination period was Rs. 20,21,28,750/- (represented by 2,02,12,875 shares of face value of Rs. 10/- each).

3. It was observed during the course of examination by SEBI that the Noticee was holding 9,97,000 shares of TPL as on June 24, 2015, which represented 4.93% of the total share capital of the company. Noticee had purchased 15,000 shares of TPL on June 25, 2015 pursuant to which its shareholding in the company increased to 5.01% as on June 25, 2015. Thereaftter, on June 26, 2015, Noticee further purchased 20,000 shares of TPL, which resulted in the Noticee's shareholding in the Company increasing to 5.11% of the total shareholding of the Company.

4. In view of the fact that Noticee's shareholding in TPL had crossed the threshold limit of 5% of the total paid up capital of the company, the Noticee was required to make necessary disclosures under the provisions of regulation 29(1) read with regulation 29(3) of the SAST Regulations to the Stock Exchanges (i.e. BSE and CSE) and to the Company within two working days of the acquisition of the shares. It is alleged that Noticee had failed to make these disclosures required under the aforementioned provisions of law. Therefore, adjudication proceedings were initiated against the Noticee in terms of section 15 A (b) of the SEBI Act, 1992 (hereinafter refered to as "**SEBI Act**") for the alleged violation committed by the Noticee.

APPOINTMENT OF ADJUDICATING OFFICER

5. The undersigned was appointed as the Adjudicating Officer, vide Order dated March 31, 2017 under Section 15-I of the SEBI Act read with Rule 3 of SEBI (Procedure for Holding Inquiry and Imposing Penalties by Adjudicating Officer) Rules, 1995 (hereinafter referred to as '**Adjudication Rules'**) to inquire into and

adjudge under the provisions of section 15A(b) of the SEBI Act for the alleged failure on the part of the Noticee to comply with the provisions of Regulation 29(1) read with Regulation 29(3) of the SAST Regulations.

SHOW CAUSE NOTICE, REPLY AND PERSONAL HEARING:

6. Show Cause Notice dated July 26, 2017 (hereinafter referred to as "**SCN**") was issued to the Noticee in terms of Rule 4 of the Adjudication Rules read with section 15-I of the SEBI Act, to show cause as to why an inquiry should not be initiated against it and penalty be not imposed under section 15 A (b) of the SEBI Act, 1992, for the aforesaid alleged contravention of the provisions of law by the Noticee. Vide letter dated August 11, 2017, Noticee filed its reply to the SCN. The Noticee, in its reply, submitted that:

(i) the said delay was only to due non understanding of the applicability of law to us as on organization. Also, once we understood the same we have promptly made the desired submissions towards the same.

(ii) We definitely agree without any doubt that there was a delay from our end in submission but the said delay was only due to ignorance of the applicable law to us. Also, post knowledge of the same prompt reporting has been done by us.

(iii) Also, another thing which we would like to point out and you to consider is that there was no mala fide intention behind the delay in reporting nor has the company earned any income by way of delay in reporting nor has it committed any fraud by the deiay. The delay purely because of understanding of applicability of law and nothing else.

(iv) Hence, our prayer to you is to ignore our regretful mistake which has not resulted in any undue advantage to the company nor has it resulted in any monetary gain to the company. Also, we prayer to you to not charge us any penalty towards the same.

7. In terms of Rule 4(3) of the Adjudication Rules and in the interest of natural justice, the Noticee was provided with an opportunity of personal hearing on October 24, 2017 vide notice dated September 25, 2017. Mr. Vishal Dedhia (hereinafter referred to as "**AR**") appeared for the hearing on the stipulated date on behalf of the Noticee. During the course of the hearing, the AR made the following submissions:-

   (i) AR reiterated the submissions made by the Noticee vide its letters dated August 11, 2017 and October 05, 2016.

   (ii) AR submitted that the Noticee is not a promoter group entity and is a public shareholder of Thirani Projects Ltd.

   (iii) AR submitted that there was no malafide intention behind the delay in making the disclosures. In light of this, AR requested for a lenient view to be taken in the matter.

CONSIDERATION OF ISSUES, EVIDENCE AND FINDINGS:

8. I have carefuly perused the written submissions made by the Noticee, the facts and circumstances of the case and the material available on record. I find that the allegation levelled against the Noticee is that it has failed to make the necessary disclosures in respect of its acquisition of shares of TPL, as required under the relevant provision of the SAST Regulations.

9. Before moving forward, the relevant extracts of the provisions of the SAST Regulations allegedly violated by the Noticee are reproduced below:

   SAST Regulations, 2011

   29(1) Any acquirer who acquires shares or voting rights in a target company which taken together with shares or voting rights, if any, held by him and by persons acting in concert with him in such target company, aggregating to five per cent or more of the shares of such target company, shall disclose their aggregate shareholding and voting rights in such target company in such form as may be specified.

29 (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.

10. From the material/facts on record, I observe that the following table indicates the details of the transactions undertaken by the Noticee during the examination period:

Date	**No of shares purchased**	**% of shares acquired/sold to total no. of shares**	**Net Holding**	**% of net Holding to total no. of shares**
Opening Balance (as on 25.06.2015)			9,97,000	4.93%
25.06.2015	**15,000**	**0.074%**	**10,12,000**	**5.01%**
26.06.2015	20,000	0.099%	10,32,000	5.11%

11. From the above table, I note that as on June 24, 2015, the Noticee was holding 9,97,000 shares of TPL, which represented 4.93% of the total paid up capital of the Company. On June 25, 2015, the Noticee purchased 15,000 shares of TPL by way of an off-market transaction. Further, on June 26, 2015, the Noticee again purchased 20,000 shares of TPL by way of off-market transaction, which resulted in the percentage of the shareholding of the Noticee increasing from 4.96% to 5.11% (as on June 26, 2015).

12. I find that the disclosure requirements under the SAST Regulations are triggered when an entity's shareholding in a company crosses the threshold limit of 5% of the total paid up capital of the company. In the instant case, I find that the Noticee was holding less than 5% shares of TPL on June 24, 2015 (i.e. 9,97,000 shares representing 4.93% of the total paid up capital of the company viz. TPL). As can be observed from the details mentioned above, the Noticee purchased 15,000 shares of the company on June 25, 2015, which resulted in Noticee's shareholding in the company crossing the threshold limit of 5% of the total paid up capital of the Company. Therefore, the Noticee was required to make the

disclosures to the Company and to the stock exchanges viz. BSE and CSE within two working days of its acquisition of the shares, in terms of Regulation 29(1) read with Regulation 29 (3) of the SAST Regulations.

13. I find from BSE website and the earlier submission of the Noticee dated October 05, 2016 that the Noticee has made the relevant disclosure for the the abovementioned acquisition of shares of TPL on February 26, 2016 i.e. after a delay of almost 8 months from the stipulated date of making the relevant disclosure.

14. The Noticee, in its reply dated August 11, 2017, has accepted the fact that it has failed to submit the necessary discloures required under the aforementioned provisions of law on time and has delayed in filing the disclosure. The same was also reiterated by the AR during the course of the hearing on October 24, 2017.

15. In this context, 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 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.*"

16. In view of the above, I hold that the Noticee has failed to make the disclosure required under Regulation 29(1) read with Regulation 29(3) of the SAST

Regulations within the stipulated time period. Therefore, I hold that the Noticee has violated the provisions of the aforementioned Regulations.

17. I find that the Noticee, in its reply dated August 11, 2017, has stated that the said delay was due to lack of understanding of the relevant provisions of law and further submitted that the disclosures were made by it subsequently. I cannot agree with the contentions put forth by the Noticee. It is a settled principle that ignorance of law is no excuse. The obligation to make the disclosures under the SAST Regulations within the prescribed time is on the Noticee and it was incumbent on the part of the Noticee to make these discloures. It is on record that Noticee has failed to make these discloures within the stipulated time period. I observe that the Noticee had made the relevant disclosures on February 26, 2015 i.e there was a delay of 8 months from the stipulated time period of making the said disclosure. In view of the above, I conclude that the Noticee has violated the provisions of Reg 29 (1) read with Reg 29(3) of the SAST Regulations.

18. In view of the violation of the provisions of law by the Noticee, as established above, the Noticee is liable for monetary penalty under the provisions of Section 15 A(b) of the SEBI Act, which reads as under :

Penalty for failure to furnish information, return, etc

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

(b)To file any return or furnish any information, books or other documents within the time specified therefore in the regulations, fails to file return or furnish the same within the time specified therefore in the regulations, he shall be liable to a penalty which shall not be less than one lakh rupees but which may extend to one lakh rupees for each day during which such failure continues subject to a maximum of one crore rupees.

19. In this regard, the provisions of Section 15 J of the SEBI Act and Rule 5 of the 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.

20. With regard to the above factors to be considered while determining the quantum of penalty, it may be noted that the examination report has not quantified the profit/loss for the violations committed by the Noticee. 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 Noticee. Further, there is nothing on record to show that the default by the Noticee was repetitive in nature. The contentions of the Noticee that the delayed disclosures were on account of ignorance of law, there was no malafide intentions behind the delay in making the disclosures, Noticee has not made any profit etc cannot be accepted as these are not valid grounds to escape the liability from making the mandatory discloures under the SAST Regulations.

21. By not making the disclosures on time, the Noticee has failed to comply with the mandatory statutory obligation. In this context, reliance is placed upon the order of The Hon'ble Supreme Court in the matter of *Chairman, SEBI Vs Shriram Mutual Fund { [2006]5 SCC 361 }* – where the Hon'ble Supreme Court of India held that *"In our considered opinion, penalty is attracted as soon as the contravention of the statutory obligation as contemplated by the Act and the Regulations is established and hence the intention of the parties committing such violation becomes wholly irrelevant….."*

22. I am of the view that the details of the shareholding of the persons acquiring substantial stake and the timely disclosures thereof, are of significant importance from the point of view of the investors, as such information received by them in a time bound manner would facilitate them immensely in taking a balanced investment decision as regards their holdings in the Company. In the instant case, the Noticee having acquired more than 5% stake in the Company, the timely disclosures of the same by the Noticee under the relevant provisions of SAST Regulations, were of significant importance from the point of view of the investors.

ORDER

23. Having considered all the facts and circumstances of the case, the material available on record, the written submissions made by the Noticee and the factors mentioned in the preceeding paragraphs, I, in exercise of the powers conferred upon me under Section 15-I of the SEBI Act read with Rule 5 of the Adjudication Rules, hereby impose a penalty of Rs 1,00.000 /- (Rupees One Lakh only) on the Noticee viz. M/s Quantam Suppliers Pvt. Ltd. (PAN No. AAACQ1621L) under the provisions of Section 15A(b) of the SEBI Act for its failure to make the timely disclosures as required under Regulation 29(1) read with Regulation 29(3) of SEBI (Substantial Acquisition of Shares and Takeovers) Regulations, 2011. I am of the view that the said penalty is commensurate with the default committed by the Noticee.

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

SEBI Bhavan, C-4A, 'G' Block, Bandra Kurla Complex, Bandra (East), 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 payment is made:	
7. Payment is made for: (like penalties /disgorgement/recovery/Settlement amount and legal charges along with order details)	

25. In terms of the provisions of Rule 6 of the Adjudication Rules, copy of this order is sent to the Noticee viz. M/s Quantam Suppliers Pvt. Ltd. and also to Securities and Exchange Board of India.

Place: Mumbai
Date: 27.10.2017

SURESH B MENON
ADJUDICATING OFFICER