

BEFORE THE ADJUDICATING OFFICER
SECURITIES AND EXCHANGE BOARD OF INDIA

[ADJUDICATION ORDER NO. EAD/SR/SM/AO/84/2018-19/1700]

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

In respect of

BAMPSL Securities Ltd

Address - 100A, Cycle Market
Jhandewalan Extn.
New Delhi – 110055

CIN: L65100DL995PLC065028
(PAN – AAACB3769Q)

In the matter of Kay Power Paper Ltd.

BACKGROUND

1. A Department (**OD**) of Securities and Exchange Board of India (hereinafter referred to as the **SEBI**) conducted an investigation regarding trading/dealing in the scrip of Kay Power Paper Limited (hereinafter referred to as **KPPL/Company**) for the period from June 27, 2014 to August 05, 2014 (hereinafter referred to as **Investigation Period**). The company was listed on Bombay Stock Exchange (BSE) during the investigation period. During the course of investigation it was observed by OD that BAMPSL Securities Ltd. (hereinafter referred to as **Noticee**) has violated the provisions of regulation 13(1) of SEBI (Prohibition of Insider Trading) Regulations, 1992 (hereinafter referred to as **PIT Regulations, 1992**), regulation 13(3) read with (r/w) 13(5) of PIT Regulations, 1992 and regulations 29(1) and 29(2) r/w 29(3) of SEBI (Substantial Acquisition of Shares and Takeovers) Regulations, 2011 (hereinafter referred to as **SAST Regulations, 2011**).

APPOINTMENT OF ADJUDICATING OFFICER

2. Based on the examination, OD initiated adjudication proceedings against the Noticee, to inquire into and adjudge under section 15A(b) of the Securities and Exchange

Adjudication Order in respect of BAMPSL Securities Ltd. in the matter of Kay Power Paper Ltd.

Board of India Act, 1992 (hereinafter referred to as **the SEBI Act, 1992**) for alleged violations of provisions under regulations 13(1), 13(3) r/w 13(5) of PIT Regulations, 1992 and regulations 29(1) and 29(2) r/w 29(3) of SAST Regulations, 2011. The adjudication proceedings were approved by the Competent Authority. Ms. Anita Kenkare was appointed as the Adjudicating Officer under section 15-I of the SEBI Act, 1992 r/w rule 3 of the SEBI (Procedure for Holding Inquiry and Imposing Penalties by Adjudicating Officer) Rules, 1995 (hereinafter referred to as **Adjudication Rules, 1995**) to inquire into and adjudge under section 15A(b) of the SEBI Act, 1992 for the alleged violation of the provisions under regulations 13(1), 13(3) r/w 13(5) of PIT Regulations, 1992 and regulations 29(1) and 29(2) r/w 29(3) of SAST Regulations, 2011 by the Noticee. Subsequently, the matter was transferred to me and I was appointed AO vide order dated October 04, 2017. Subsequently, the penalty provision was modified from section 15A(b) of the SEBI Act, 1992 to sections 15A(b) and 15HB of the SEBI Act, 1992 and the same was conveyed to the undersigned vide communique dated September 26, 2018.

SHOW CAUSE NOTICE, REPLY AND PERSONAL HEARING

3. A Show Cause Notice no. SEBI/HO/EAD/E&AO/SR/SM/OW/11084/1/2018 dated April 10, 2018 (hereinafter referred to as **SCN**) was issued to the Noticee in terms of rule 4 of the Adjudication Rules, 1995 requiring the Noticee to show cause as to why an inquiry should not be held against it for the alleged violations of provisions under regulations 13(1), 13(3) r/w 13(5) of PIT Regulations, 1992 and regulations 29(1) and 29(2) r/w 29(3) of SAST Regulations, 2011 and why penalty be not imposed on the Noticee under section 15A(b) of the SEBI Act, 1992 for the alleged violations as specified in the SCN. The SCN was served upon the Noticee through speed post acknowledgement due (SPAD) and the delivery proof is on record. Subsequently, upon modification of penalty provision from section 15A(b) of the SEBI Act, 1992 to sections 15A(b) and 15HB of the SEBI Act, 1992, supplementary SCN (hereinafter referred to as **SSCN**) was issued to the Noticee vide notice no. SEBI/HO/EAD/E&AO/SR/SM/28329/1/2018 dated October 09, 2018 through SPAD and e-mail at bampslsecurities@yahoo.co.in. The said Notice delivered to the Noticee as seen from the available record.

4. It was alleged in the SCN that the Noticee, made certain transactions in the scrip of the Company which resulted in changing its shareholding in the company. The details of transaction are given below:

Date	Holding before transaction (in %)	No of shares buy/sell (B/S)	Holding after transaction (in %)	Disclosure requirements under PIT Regulations, 1992 and SAST Regulations, 2011	Details of Disclosure
18/07/2014	1187813 (11.16)	400000(S)	787813 (7.4)	Reg. 13(3) r/w 13(5) of PIT Regulations, 1992	Not made disclosures
				Reg. 29(2) r/w 29(3) of SAST Regulations, 2011	Made disclosure with incorrect figure
04/08/2014	587813 (5.52)	66141 (B) 206805(S)	447149 (4.2)	Reg. 13(3) r/w 13(5) of PIT Regulations, 1992	Not made disclosures
				Reg. 29(2) r/w 29(3) of SAST Regulations, 2011	Made disclosure with incorrect figure
05/08/2014	447149	305954(B) 213154(S)	539949 (5.07)	Reg. 13(1) of PIT Regulations, 1992	Not made disclosures
				Reg. 29(1) r/w 29(3) of SAST Regulations, 2011	

5. The Noticee was holding 11,87,813 shares of KPPL representing 11.16% of the total shareholding of the Company before July 18, 2014. On July 18, 2014, Noticee sold 4,00,000 shares of KPPL and its shareholding changed to 7,87,813 shares representing 7.4% of the total shareholding of the Company. For the said transaction, the Noticee was required to make disclosure to the Company and BSE under regulation 13(3) r/w 13(5) of PIT Regulations, 1992 and regulation 29(2) SAST Regulations, 2011. It was observed by OD that for the said transaction the Noticee made disclosure to BSE under regulation 29(2) of SAST Regulations, 2011 with wrong information i.e. the holding of Noticee in the Company before the disposal of shares was 14,00,614 shares representing 13.16% of the total shareholding of the Company instead of 11,87,813 shares of KPPL representing 11.16% of the total shareholding of the Company as mentioned in the disclosure. Further, for the same transaction,

Noticee has not made disclosure to the Company and BSE under regulation 13(3) r/w 13(5) of PIT Regulations, 1992.

6. Further, the Noticee was holding 5,87,813 shares of KPPL representing 5.52% of the total shareholding of the Company before August 04, 2014. On August 04, 2014, Noticee bought 66,141 shares of KPPL and sold 2,06,805 shares of KPPL and its shareholding changed to 4,47,149 shares representing 4.2% of the total shareholding of the Company. For the said transaction, the Noticee was required to make disclosure to the Company and BSE under regulation 13(3) r/w 13(5) of PIT Regulations, 1992 and regulation 29(2) r/w 29(3) of SAST Regulations, 2011. For the said transactions, the Noticee made disclosures to BSE under regulation 29(2) SAST Regulations, 2011 with wrong information i.e. the holding of Noticee in the Company before the disposal of shares was 10,00,614 shares representing 13.16% of the total shareholding of the company instead of 5,87,813 shares of KPPL representing 5.52% of the total shareholding of the Company. Further, for the same transactions, Noticee has not made disclosures to the Company and BSE under regulation 13(1) of PIT Regulations, 1992.
7. Further, the Noticee was holding 4,47,149 shares representing 4.2% of the total shareholding of the Company before August 05, 2014. On August 05, 2014, Noticee bought 3,05,954 shares of KPPL and sold 2,13,154 shares and its shareholding changed to 5,39,949 shares representing 5.07% of the total shareholding of the Company. For the said transaction, the Noticee was required to make disclosure to the Company under regulation 13(1) of PIT Regulations, 1992 and to the Company and BSE under regulation 29(1) r/w 29(3) of SAST Regulations, 2011. It was observed by OD that for the said transaction the Noticee has not made disclosures under regulation 13(1) of PIT Regulations, 1992 and under regulation 29(1) r/w 29(3) of SAST Regulations, 2011.
8. Hence, the Noticee is alleged to have violated the provisions of regulation 13(1) of PIT Regulations, 1992, regulation 13(3) r/w 13(5) of PIT Regulations, 1992 and regulations 29(1) & 29(2) r/w 29(3) of SAST Regulations, 2011 as the Noticee submitted wrong

information to BSE and failed to make timely disclosures for the transactions made on July 18, 2014, August, 04, 2014 and August 05, 2014.

9. The Noticee was given fifteen days' time to make submissions against the SCN. The Noticee vide its letter dated April 23, 2018 and May 24, 2018 submitted its reply to the SCN. In the interest of natural justice, vide hearing notice dated May 31, 2018, an opportunity was granted to the Noticee for a personal hearing on June 14, 2018. The said hearing Notice was served upon the Noticee by SPAD and the delivery proof is on record. The Noticee vide its letter dated June 12, 2018 requested to provide extension of time for personal hearing. Accordingly, acceding to Noticee's request, vide Hearing Notice dated July 02, 2018, the Noticee was granted final opportunity of hearing on July 12, 2018. Vide e-mail dated July 10, 2017 Noticee confirmed that one Shri Bhisham Kumar Gupta, the Managing Director (MD) of the Noticee on behalf of the Noticee will attend the hearing as scheduled on July 12, 2018. The MD of the Noticee attended the hearing on July 12, 2018 and requested for additional time to provide additional information and accordingly Noticee was given time to submit the information by July 23, 2018. Hearing minutes are on record. Noticee vide its letter July 20, 2018 submitted additional reply to the SCN. Further, vide e-mail dated July 26, 2018, Noticee was advised to provide the supporting evidence regarding Noticee's submissions. In this regard, Noticee submitted its reply vide e-mail dated July 26, 2018.
10. The Noticee vide its letter dated April 23, 2018, May 24, 2018, July 20, 2018 and its e-mail dated July 26, 2018 inter-alia submitted the following:
 - a) *In its depository account 11,87,813 shares was available on July 18, 2014, which was showed to target company, Kay Power and Paper Ltd and also the same was reflecting on BSE website as on June 30, 2014. However, 2,12,801 shares retained in its broker's pool depository A/c with our company client code and hence the total shareholdings become 1400614 shares (i.e. 1187813 + 212801).*
 - b) *On August 04, 2014, Noticee hold 10,00,614 shares of target company before selling 3,40,664 shares between July 19, 2014 to August 04, 2014 as follows:-*

On 22/07/2014 sold	2,00,000 shares (1.88%)	Disclosure was not done due to change of shareholding below 2%
--------------------	-------------------------	--

On 04/8/2014 sold	1,40,664 shares net	Purchase 66141 Sold 206805 Net sold 140664
Total	3,40,664 shares	On that change shareholding more than 2% and we make disclose on that date

Noticee replied that the SCN shows the wrong no. of shares that its holding August 04, 2014 i.e. 5,87,813. Further, in SCN it is mentioned that on 4/8/2013 we bought 66141 shares and sold 206805, and net off 140664 share that was no need to take disclosure but with sold on 22/7/2014 2,00,000 share the total become 3.2% with adding the sold of 4/8/2014.

- c) As per SCN, for the transaction made on August 05, 2014, the Noticee has not made disclosure under 29(1) r/w 29(3) of SAST Regulations, 2011. However, there was no need to make disclosure of under regulation 29(1) of SAST Regulations, 2011, if percentage of holding of share is 7.07% i.e. more than 5%.

As on 4/8/2014 our holding was	659950
We bought on 5/8/2014 [305954(B)-213154(S)] Net	92800
Shares on 5/8/2014	752750(7.07%)

- d) Further, it may kindly be appreciated that disclosure under SAST and PIT regulations are almost identical disclosures. It may also be pertinent to mention that the disclosure under 13(1) PIT regulations has been done away with in revised SEBI (PIT) 2015 which become effective from January 2015.
- e) The Noticee vide its letter dated July 20, 2018 submitted broker transaction statement for the period 16/07/2014 to 10/08/2014.

11. Further, upon amendment of penalty provision from section 15A(b) of the SEBI Act, 1992 to sections 15A(b) and 15HB of the SEBI Act, 1992, supplementary SCN (hereinafter referred to as SSCN) was issued to the Noticee vide notice no. SEBI/HO/EAD/E&AO/SR/SM/28329/1/2018 dated October 09, 2018 through SPAD and e-mail at bampslsecurities@yahoo.co.in. The said Notice delivered to the Noticee as seen from the available record. In the said SSCN, it was stated that in the SCN dated April 10, 2018, the Noticee is "alleged to have violated the provisions of the regulations 13(1) and 13(3) read with (r/w) 13(5) of SEBI (Prohibition of Insider

*Trading) Regulations, 1992 and regulations 29(1) and 29(2) r/w 29(3) of SEBI (Substantial Acquisition of Shares and Takeovers) Regulations, 2011 under the provision of penalty section 15A(b) of the Securities and Exchange Board of India Act, 1992 (hereinafter referred to as the **SEBI Act, 1992**). However, the competent authority has approved the amendment of alleged penalty provisions from section 15A(b) of the SEBI Act, 1992 to sections 15A(b) and 15HB of the SEBI Act, 1992 for the said alleged violations..... . Noticee is hereby advised to read the penalty section as sections 15A(b) and 15HB of the SEBI Act, 1992 instead of section 15A(b) of the SEBI act, 1992 which is mentioned in the aforementioned SCN dated April 10, 2018.” The Noticee was given fifteen days’ time to make submissions and also to inform if it desires to appear for personal hearing in this matter. Thereafter, Noticee vide its e-mail dated October 23, 2018 requested for one month time to prepare for personal hearing. Accordingly, vide hearing notice dated October 25, 2018 the Noticee was given hearing on November 14, 2018 and the same was delivered to the Noticee by SPAD and e-mail. Delivery proof is on record. In this regard, Noticee vide its e-mail dated November 01, 2018 stated that Company’s Board of Directors meeting has been fixed on November 14, 2018 and hence its authorized representative (AR) cannot attend the scheduled hearing and accordingly, on the same day Noticee was advised to appear for hearing on November 16, 2018 through e-mail. In this regard, Noticee replied that it is not possible to present for personal hearing till November 30, 2016 due to pre-occupancy schedule of their AR and requested the date of hearing after December 04, 2018. Vide e-mail dated December 12, 2018, Noticee sought supporting evidence for the SSCN and another date for hearing after 1st week of December. Acceding to the request of Noticee, vide e-mail dated November 13, 2018, Noticee was advised to attend the hearing on December 05, 2018 and in the e-mail it was informed that Noticee was provided all the documents relied upon by the undersigned in the said proceedings. Noticee vide its e-mail dated November 27, 2018 and November 28, 2018 requested for documentary evidence to the SSCN. In this regard, Noticee was informed that the allegations against the Noticee are the same as alleged in the SCN issued on April 10, 2018 and hence the evidentiary proof sent in the SCN still holds good. Only the penalty provisions have been changed and therefore no additional evidence for the alleged violations is warranted. Also, the Noticee was*

advised that the last opportunity of hearing was scheduled on December 05, 2018 and in case the Noticee fails to avail the said opportunity, the matter shall be proceeded upon based on the material available on record. Noticee has not attended the said opportunity of hearing scheduled on December 04, 2018. I believe that sufficient opportunities were granted to the Noticee to appear for personal hearing in the instant adjudication proceedings.

12. I have carefully perused the charges made against the Noticee as mentioned in the SCN, reply of the Noticee to SCN and the documents available on record. After taking into account, the allegations levelled in the SCN, reply received from the Noticee and other evidences/materials available on record, I hereby, proceed to decide the case on merit.

CONSIDERATION OF ISSUES

13. The issues that arise for consideration in the present case are:
- (a) Whether the Noticee has violated the provisions of regulation 13(1) of PIT Regulations, 1992, regulation 13(3) r/w 13(5) of PIT Regulations, 1992 and regulations 29(1) & 29(2) r/w 29(3) of SAST Regulations, 2011?**
 - (b) Do the violations, if any, on the part of the Noticee attract monetary penalty under sections 15A(b) and 15HB of the SEBI Act, 1992? and,**
 - (c) If so, what would be the quantum of monetary penalty that can be imposed on the Noticee after taking into consideration the factors mentioned in section 15J of the SEBI Act, 1992?**
14. Before proceeding further, it will be appropriate to refer to the relevant provisions of the PIT Regulations, 1992 and SAST regulations, 2011 which read as under:-

SEBI (PIT) Regulations, 1992

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

- 13. (1)** *Any person who holds more than 5% shares or voting rights in any listed company shall disclose to the company in Form A, the number of shares or voting rights held by such person, on becoming such holder, within 2 working days of :—*

(a) the receipt of intimation of allotment of shares; or

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

Continual disclosure

13(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.

13(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.

SEBI (SAST) Regulations, 2011

Disclosure of acquisition and disposal.

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.

(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.

FINDINGS

15. On perusal of the material available on record and giving regard to the facts and circumstances of the case, I record my findings hereunder:

Issue (a): Whether the Noticee has violated the provisions of regulation 13(1) of PIT Regulations, 1992, regulation 13(3) r/w 13(5) of PIT Regulations, 1992 and regulations 29(1) & 29(2) r/w 29(3) of SAST Regulations, 2011?

- (a) I observe from the shareholding pattern of Kay Power and Paper Ltd as available on BSE website that the Noticee was holding 11,87,813 shares of KPPL as on quarter ending June 2014 i.e. 11.16 % of the total shareholding of the Company. Further as per demat statement of Noticee having DP ID-IN302822, client ID – 10328272, DP name – Adroit Financial Services Private Ltd. (Adroit) that the opening balance in the scrip of KPPL as on July 23, 2014 was 11,87,813 i.e. the same no. of shares of KPPL of the Noticee as on quarter ending June 2014 per BSE website. However, as per disclosure made by the Noticee to BSE under regulation 29(2) of SAST Regulations, 2011, dated July 18, 2014, the holding of the Noticee in KPPL was 14,00,614 shares i.e. 13.16%. In this regard, it is noted from the reply of the Noticee vide letter dated May 24, 2018 that 2,12,801 shares of KPPL were held by Noticee in brokers pool account and hence the total shareholding of Noticee in KPPL is 14,00,614 (11,87,813 + 2,12,801). However, the holding valuation report of Adroit submitted by the Noticee shows that Noticee has 2,13,550 shares of KPPL as on January 30, 2014 with the broker. Further, as per the submission made by Noticee vide e-mail dated July 26, 2017, I note from the copy of holding valuation report that Noticee has 4,09,678 shares of KPPL in the Brokers accounts as on July 18, 2014. From the submissions made by the Noticee, it is noted that there is discrepancy in number of shares in the holding of shares of KPPL by the Noticee. Noticee in its reply dated May 24, 2018 replied that he had 2,12,801 shares in brokers pool account and in this regard, he submitted its holding of 2,13,550 of shares of KPPL as on January 30, 2014 and 4,09,678 shares of KPPL in the Brokers accounts as on July 18, 2014. However, the evidence w.r.t the holding of 2,12,801 shares of KPPL with brokers pool account is not submitted by the Noticee. In view of the above, reply of the Noticee is not acceptable, due to discrepancy in data provided by the Noticee and also due to the absence of evidence regarding the holding of share of KPPL in the brokers pool account. Therefore, I note that the Noticee was holding 11,87,813 shares as on quarter ending June 2014 i.e. 11.16 % and not 14,00,614 i.e. 13.16% of the total shareholding of the Company as reflecting in BSE website. In view of the above, I conclude that Noticee made disclosure to BSE under regulation 29(2) SAST Regulations, 2011 with wrong information.

- (b) As seen from material available on record, on July 18, 2014, Noticee sold 4,00,000 shares of KPPL and hence its shareholding changed from 11,87,813 to 7,87,813 shares representing 11.16 % to 7.4% of the total shareholding of the Company. By selling the said shares, the change in shareholding of Noticee exceeded over two percent of the total no. of shares of the Company and thereby the Noticee was required to make disclosures under the provisions of regulation 13(3) r/w 13(5) of PIT Regulations, 1992 and 29(2) r/w regulation 29(3) of SAST Regulations, 2011. It is noted from the material available on record that for the said transaction the Noticee made disclosure to BSE under regulation 29(2) SAST Regulations, 2011 with wrong information i.e. the holding of Noticee in the Company before the disposal of shares was 14,00,614 shares representing 13.16% of the total shareholding of the Company instead of 11,87,813 shares of KPPL representing 11.16% of the total shareholding of the Company. In view of the above, I conclude that Noticee made disclosure to BSE under regulation 29(2) SAST Regulations, 2011 with wrong information. Further, for the same transaction, Noticee has not made disclosure to the Company and BSE under regulation 13(3) r/w 13(5) of PIT Regulations, 1992.
- (c) Further, the Noticee was holding 5,87,813 shares of KPPL representing 5.52% of the total shareholding of the Company before August 04, 2017. On August 04, 2014, Noticee bought 66,141 shares of KPPL and sold 2,06,805 shares of KPPL and its shareholding changed to 4,47,149 shares representing 4.2% of the total shareholding of the Company. As the shareholding of the Noticee reduced below 5% of the total shareholding of KPPL, the Noticee was required to make disclosure to the Company and BSE under regulation 13(3) r/w 13(5) of PIT Regulations, 1992 and regulation 29(2) r/w 29(3) of SAST Regulations, 2011. As seen from material available on record, for the said transactions, Noticee made disclosure to BSE under regulation 29(2) SAST Regulations, 2011 with wrong information i.e. the holding of Noticee in the Company before the disposal of shares was 10,00,614 shares representing 13.16% of the total shareholding of the Company instead of 5,87,813 shares of KPPL representing 5.52% of the total shareholding of the Company. In this regard, Noticee replied that he was holding

10,00,614 shares of KPPL including 2,13,550 of shares of KPPL in brokers pool account. However, Noticee has not submitted any evidence that the said shares were in pool account and hence, the reply of Noticee is not acceptable to me. In view of the above, I conclude that Noticee made disclosure to BSE under regulation 29(2) SAST Regulations, 2011 with wrong information. Further, for the same transactions, Noticee has not made disclosure to the Company and BSE under regulation 13(3) r/w 13(5) of PIT Regulations, 1992.

- (d) Further, the Noticee was holding 4,47,149 shares representing 4.2% of the total shareholding of the Company before August 05, 2014. On August 05, 2014, Noticee bought 3,05,954 shares of KPPL and sold 2,13,154 shares and its shareholding changed to 5,39,949 shares representing 5.07% of the total shareholding of the Company. As the shareholding of the Noticee crossed 5% for the said transaction, the Noticee was required to make disclosure to the Company under regulation 13(1) of PIT Regulations, 1992 and to the Company and BSE under regulation 29(1) r/w 29(3) of SAST Regulations, 2011. However, it is observed from the record that Noticee had not made disclosure under regulation 13(1) of PIT Regulations, 1992 and under 29(1) r/w 29(3) of SAST Regulations, 2011. In this regard, Noticee admitted that it has made the transaction as alleged in SCN on August 05, 2014, however for the said transaction it was not required to make disclosure to the Company and BSE since it was holding 7,52,750 shares i.e. 7.07 % of shares on August 05, 2014 which is more than 5% shares of the total shareholding. In this regard, Noticee replied that he was holding 7,52,750 shares of KPPL including some shares of KPPL in brokers pool account. However, Noticee has not submitted any evidence that the said shares were in pool account and hence, the reply of Noticee is not acceptable to me. In view of the above, it is not disputed that the Noticee was holding 4,47,149 shares representing 4.2% of the total shareholding of the Company before August 05, 2014. Further, by making the transaction on August 05, 2014, Noticee's holding changed to 5,39,949 shares representing 5.07% of the total shareholding of the Company. However, the Noticee failed to make

disclosure under regulation 13(1) of PIT Regulations, 1992 and under 29(1) r/w 29(3) of SAST Regulations, 2011.

- (e) In view of the above, I conclude that Noticee by not making disclosures and making disclosures having wrong information violated the provisions of regulation 13(1) of PIT Regulations, 1992, regulation 13(3) r/w 13(5) of PIT Regulations, 1992 and regulations 29(1) & 29(2) r/w 29(3) of SAST Regulations, 2011 and the allegations against the Noticee thus stand established.

16. Issue (b): Do the violations, if any, on the part of the Noticee attract monetary penalty under sections 15A(b) and 15HB of the SEBI Act, 1992? and

- (a) After taking into account the aforesaid entire facts / circumstance of the case, I am of the view that the violations of provisions of regulation 13(1) of PIT Regulations, 1992, 13(3) r/w 13(5) of PIT Regulations, 1992 and regulations 29(1) and 29(2) r/w 29(3) of SAST Regulations, 2011 by the Noticee attracts the imposition of monetary penalties upon the Noticee under sections 15 HB and 15A(b) of the SEBI Act, 1992. The text of the said penalty provisions of sections 15A(b) and 15HB of the SEBI Act, 1992 at the time of commission of the alleged violation are reproduced below:

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.*

Penalty for contravention where no separate penalty has been provided.

15HB. *Whoever fails to comply with any provision of this Act, the rules or the regulations made or directions issued by the Board thereunder for which no separate penalty has been provided, shall be liable to a penalty which may extend to one crore rupees.*

17. Issue (c) - If so, what would be the quantum of monetary penalty that can be imposed on the Noticee after taking into consideration the factors mentioned in section 15J of the SEBI Act, 1992?

- (a) While determining the quantum of penalty under sections 15A(b) of the SEBI Act, 1992 it is important to consider the factors stipulated in section 15J Of the SEBI Act, 1992 read with Rule 5(2) of the Adjudication Rules, which reads as under:-

SEBI Act, 1992

Factors to be taken into account by the adjudicating officer

15J -: *While adjudging quantum of penalty under section 15-I, the adjudicating officer shall have due regard to the following factors, namely:-*

- (a) the amount of disproportionate gain or unfair advantage, wherever quantifiable, made as a result of the default;*
 - (b) the amount of loss caused to an investor or group of investors as a result of the default;*
 - (c) the repetitive nature of the default.”*
- (b) I observe, that the material available on record, does not quantify any disproportionate gains or unfair advantage, if any made by the Noticee and the loss, if any suffered by the investors due to the aforesaid violations. I find that the Noticee had made wrong disclosure and also failed to make required disclosures as specified under the provisions of regulation 13(1) of PIT Regulations, 1992, 13(3) r/w 13(5) of PIT Regulations, 1992 and regulations 29(1) and 29(2) r/w 29(3) of SAST Regulations, 2011.
- (c) The object of the SAST Regulations, 2011 and PIT Regulations, 1992 mandating disclosure of acquisition/sale beyond certain quantity is to give equal treatment and opportunity to all shareholders and protect their interests. To translate this objective into reality, measures have been taken by SEBI to bring about transparency in the transactions and it is for this purpose that dissemination of full information is required. The Regulation seeks to achieve fair treatment by *inter alia* mandating disclosure of timely and adequate information to enable shareholders to make an informed decision and ensuring that there is a fair and informed market in the shares of companies affected by such change in control. Correct and timely disclosures are also an essential part of the proper functioning of the securities market and failure to do so results in preventing investors from taking well informed decision.
- (d) In this regard, it would be appropriate to refer to the observations made by the Hon'ble SAT in the matter of Akriti Global Traders Ltd. Vs. SEBI (Appeal No. 78

of 2014) decided on September 30, 2014:- “...penal liability arises as soon as provisions under the regulations are violated and that penal liability is neither dependent upon intention of parties nor gains accrued from such delay.” In Appeal No. 66 of 2003 -Milan Mahendra Securities Pvt. Ltd. Vs. SEBI—the Hon’ble SAT has observed that, “the purpose of these disclosures is to bring about transparency in the transactions and assist the Regulator to effectively monitor the transactions in the market.” Further, in the matter of Ranjan Varghese v. SEBI (Appeal No. 177 of 2009 and Order dated April 08, 2010), the Hon’ble SAT had observed “Once it is established that the mandatory provisions of Takeover Code was violated, the penalty must follow.”

- (e) I conclude that the aforementioned violation of provisions of regulations 13(1) of PIT Regulations, 1992, 13(3) r/w 13(5) of PIT Regulations, 1992 and regulations 29(1) and 29(2) r/w 29(3) of SAST Regulations, 2011 attracts monetary penalty and therefore, taking into consideration the facts/circumstance of the case and the above case laws, I am of the view that the Noticee is liable for a monetary penalty of Rs. 5,00,000/- (Rupees five Lakh only) for violating the said provisions of PIT Regulations, 1992 and SAST Regulations, 2011.

ORDER

18. In exercise of the powers conferred under section 15-I of SEBI Act, 1992 and rule 5 of the Adjudication Rules, 1995, I hereby impose a penalty of Rs. 5,00,000/- (Rupees five Lakh only) on the Noticee viz. BAMPSE Securities Ltd. under sections 15A(b) and 15HB of the SEBI Act, 1992 for the violations of provisions of regulations 13(1) of PIT Regulations, 1992, 13(3) r/w 13(5) of PIT Regulations, 1992 and regulations 29(1) and 29(2) r/w 29(3) of SAST Regulations, 2011. I am of the view that the said penalty is commensurate with the defaults committed by the Noticee in terms of penalty structure provided in sections 15A(b) and 15HB of the SEBI Act, 1992.
19. The Noticee shall remit / pay the said amount of penalty within 45 days of receipt of this order either by way of Demand Draft in favour of “SEBI – Penalties Remittable to Government of India”, payable at Mumbai, or through e-payment facility into Bank Account the details of which are given below:

Account No. for remittance of penalties levied by Adjudication Officer	
Bank Name	State Bank of India
Branch	Bandra-Kurla Complex
RTGS Code	SBIN0004380
Beneficiary Name	SEBI – Penalties Remittable To Government of India
Beneficiary A/c No.	31465271959

20. The Noticee shall forward said Demand Draft or the details / confirmation of penalty so paid through e-payment to the Chief General Manager of Enforcement Department of SEBI. The Format for forwarding details / confirmations of e-payments shall be made in the following tabulated form as provided in SEBI Circular No. SEBI/HO/GSD/T&A/CIR/P/2017/42 dated May 16, 2017 and details of such payment shall be intimated at e-mail ID : tad@sebi.gov.in

Date	Department of SEBI	Name of Intermediary/ Other Entities	Type of Intermediary	SEBI Registration Number (if any)	PAN	Amount (in Rs.)	Purpose of Payment (including the period for which payment was made e.g. quarterly, annually)	Bank name and Account number from which payment is remitted	UTR No

21. In terms of the rule 6 of the Adjudication Rules, 1995, copy of this order is sent to the Noticee at its last known address and also to Securities and Exchange Board of India.

Date: December 06, 2018

Place: Mumbai

**SANGEETA RATHOD
ADJUDICATING OFFICER**