

BEFORE THE ADJUDICATING OFFICER

SECURITIES AND EXCHANGE BOARD OF INDIA

[ADJUDICATION ORDER NO. ASK/AO/SPV/21-26/2015-16]

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

In respect of

Name of the entity	PAN	Order No.
1. Anarcon Resources Private Limited	AADCA7352D	ASK/AO/SPV/21/2015-16
2. Smt. Lalita Agarwal	ACLPA2107R	ASK/AO/SPV/22/2015-16
3. Shri RatanlalBrijlalTamakhuwala	ACUPT7280P	ASK/AO/SPV/23/2015-16
4. Shri Rishiraj Agarwal	AEQPA0755E	ASK/AO/SPV/24/2015-16
5.Smt. Sangeeta Rishiraj Agarwal	ADAPA1962G	ASK/AO/SPV/25/2015-16
6. Shri Hanuman Investments Private Limited	AAGCS5378C	ASK/AO/SPV/26/2015-16

In the matter of M/s Austral Coke and Projects Limited

Background

1. Securities and Exchange Board of India (**SEBI**) conducted investigation into the alleged irregularities in the affairs of M/s Austral Coke and Projects Limited (**company**). The investigation revealed that the promoters of the company namely1)Anarcon Resources Private Limited (2)Smt. Lalita Agarwal(3) Shri RatanlalBrijlalTamakhuwala(4)Shri Rishiraj Agarwal(5) Smt. Sangeeta Rishiraj Agarwal and (6) Shri Hanuman Investments Private Limited

Adjudication Order with respect to the promoters of M/s Austral Coke and Projects Limited.

(Noticees/promoter group) were holding 65.29% shares of the company as on September 30, 2009 and they off-loaded majority of their stake during the period November, 2009 to January 2010. It was observed that the Noticees were required to make disclosures under regulation 7(1A) of SEBI (Substantial Acquisition of shares and Takeovers) Regulations, 1997 (**SAST Regulations**) and the said disclosures were not made by them. It was further observed that Shri Hanuman Investments Pvt. Ltd., **(Noticee No. 6)** was holding 66,120,200 shares (22.78%) of the company as on September 30, 2009 and it had pledged shares and the said pledge was invoked by the pledgee, SICOM Limited. Consequent upon the invocation of the pledge, the shareholding of Noticee No.6 had changed by more than 2% of total shareholding or voting rights in the company and the Noticee No. 6 was required to make disclosure regarding such change in its shareholding to the company as per regulation 13(3) of SEBI (Prohibition of Insider Trading Regulations), 1992 (**PIT Regulations**) and the Noticee No.6 had not made the required disclosure.

2. SEBI has, therefore, initiated adjudicating proceedings under the Securities and Exchange Board of India, 1992 (**SEBI Act**) to inquire into and adjudge under section 15A(b) of the SEBI Act, the aforementioned alleged violations of the provisions of regulations of SAST Regulations and PIT Regulations committed by the Noticees.

Appointment of Adjudication Officer

3. The undersigned was appointed as Adjudicating Officer vide order dated July 21, 2014 under section 15-I of SEBI Act read with rule 3 of SEBI (Procedure for Holding Inquiry and Imposing Penalty by Adjudicating Officer) Rules, 1995 (**Rules**) to inquire into and adjudge under section 15A(b) of the SEBI Act the alleged violations of the provisions of SAST and PIT Regulations by the Noticees.

Show Cause Notice, Reply and Personal Hearing

4. Show Cause Notice dated October 16, 2014 (**SCN**) was issued to the Noticees under rule 4(1) of the Rules to show cause as to why an inquiry should not be initiated and penalty be not imposed against them under section 15A(b) of the SEBI Act for the alleged violations specified in the SCN.
5. In response to the SCN, vide letter dated December 29, 2014, Shri Rishiraj Agarwal, Noticee No. 4 filed reply on behalf of the Noticees. Thereafter, the Noticees were granted an opportunity of personal hearing on January 30, 2015 and on the scheduled date Shri Ramesh Mishra, Practicing Company Secretary and Shri Loknath Mishra, Legal Professional appeared as authorized representatives (ARs) on behalf of all the Noticees. The ARs reiterated the submissions made by the Noticees vide letter dated December 29, 2014 and requested for 5 days' time for filing additional submissions/documents. Vide letter dated February 10, 2015, Shri Rishiraj Agarwal filed additional submissions on behalf of the Noticees.

Consideration of Issues, Evidence and Findings

- 6 I have carefully perused the material available on record, written and oral submissions made by the Noticees.
- 7 The issues that arise for consideration in the instant case are:
 - a. Whether the Noticees have violated the provisions of regulation 7 (1A) of SAST Regulations?
 - b. Whether Noticee No. 6 has violated the provisions of regulation 13 (3) of PIT Regulations?
 - c. Do the violations if any, on the part of the Noticees attract penalty under section 15A (b) of SEBI Act?

- d. If so, how much penalty should be imposed on the Noticees taking into consideration the factors mentioned in section 15J of the SEBI Act?

8 The relevant provisions of SAST Regulations and PIT Regulations are as under:

SAST Regulations, 1997

Acquisition of 5 per cent and more shares or voting rights of a company.

7(1)

(1A) Any acquirer who has acquired shares or voting rights of a company under sub-regulation (1) of regulation 11, or under second proviso to sub-regulation 2 of regulation 11 shall disclose purchase or sale aggregating two per cent or more of the share capital of the target company to the target company, and the stock exchanges where shares of the target company are listed within two days of such purchase or sale along with the aggregate shareholding after such acquisition or sale.

[Explanation.—For the purposes of sub-regulations (1) and (1A), the term acquirer‘ shall include a pledgee, other than a bank or a financial institution and such pledgee shall make disclosure to the target company and the stock exchange within two days of creation of pledge.]

PIT Regulations

Regulation 13

Disclosure of interest or holding by directors and officers and substantial shareholders in a listed company - Initial Disclosure

(1)

(2).....

(3) Any person who holds more than 5% shares or voting rights in any listed company shall disclose to the company in [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.

9 I note that Austral Coke and Projects Limited is a company listed on The Mumbai Stock Exchange Limited **(BSE)** and the National Stock Exchange Limited **(NSE)**.

Adjudication Order with respect to the promoters of M/s Austral Coke and Projects Limited.

During the period between January 15 to February 01, 2010, price of the scrip of the company fell by around 19%. This was just prior to the disclosure of results on February 01, 2010 for the quarter ended December 31, 2009. The Noticees were the promoters of the company at the relevant time. The investigation conducted by SEBI revealed that the Noticees were holding 65.29% stake in the company as on September 30, 2009 and they off-loaded majority of their stake during the period November, 2009 - January 2010. The day wise selling of the Noticees and change in their shareholding are as under:

Date	Name and PAN	NSE Sell Qty	BSE Sell Qty	Total	% Change in Shareholding	Cumulative
10-Nov-09	Rishiraj Agarwal	1000000	500000	1500000	0.52	0.52
10-Nov-09	Shri Hanuman Investments Private Ltd	3609944	1500000	5109944	1.76	2.28
11-Nov-09	Shri Hanuman Investments Private Ltd	1350000	1650000	3000000	1.03	3.31
12-Nov-09	Shri Hanuman Investments Private Ltd	2189321	499572	2688893	0.93	4.24
13-Nov-09	Shri Hanuman Investments Private Ltd	2990610	385812	3376422	1.16	5.40
16-Nov-09	Rishiraj Agarwal	314600	700000	1014600	0.35	5.75
16-Nov-09	Shri Hanuman Investments Private Ltd	2716941	0	2716941	0.94	6.69
17-Nov-09	Anarcon Resources Private Limited	1337078	1000000	2337078	0.81	7.49
17-Nov-09	Rishiraj Agarwal	2886115	1161248	4047363	1.39	8.88
18-Nov-09	Rishiraj Agarwal	1287925	560113	1848038	0.64	9.52
19-Nov-09	Anarcon Resources Private Limited	2849925	1463121	4313046	1.49	11.01
19-Nov-09	Rishiraj Agarwal	336917	0	336917	0.12	11.12
20-Nov-09	Rishiraj Agarwal	2498547	1226077	3724624	1.28	12.41
23-Nov-09	Anarcon Resources Private Limited	1400000	0	1400000	0.48	12.89
23-Nov-09	Rishiraj Agarwal	1400000	509502	1909502	0.66	13.55

24-Nov-09	Anarcon Resources Private Limited	962652	0	962652	0.33	13.88
24-Nov-09	Rishiraj Agarwal	1400000	368895	1768895	0.61	14.49
25-Nov-09	Anarcon Resources Private Limited	900000	0	900000	0.31	14.80
25-Nov-09	Rishiraj Agarwal	1400000	440785	1840785	0.63	15.43
26-Nov-09	Rishiraj Agarwal	1000000	0	1000000	0.34	15.78
27-Nov-09	Rishiraj Agarwal	1400000	0	1400000	0.48	16.26
30-Nov-09	Anarcon Resources Private Limited	3000000	1000000	4000000	1.38	17.64
1-Dec-09	Anarcon Resources Private Limited	2340880	1339508	3680388	1.27	18.90
1-Dec-09	Rishiraj Agarwal	1397735	767815	2165550	0.75	19.65
2-Dec-09	Anarcon Resources Private Limited	3617053	1400000	5017053	1.73	21.38
2-Dec-09	Rishiraj Agarwal	1400000	902972	2302972	0.79	22.17
3-Dec-09	Anarcon Resources Private Limited	1250486	0	1250486	0.43	22.60
3-Dec-09	Rishiraj Agarwal	1296846	207675	1504521	0.52	23.12
4-Dec-09	Lalita Agarwal	500000	0	500000	0.17	23.29
4-Dec-09	Rishiraj Agarwal	914500	0	914500	0.32	23.61
4-Dec-09	Sangeeta Rishiraj Agarwal	1398989	250000	1648989	0.57	24.18
11-Dec-09	Lalita Agarwal	3900000	0	3900000	1.34	25.52
14-Dec-09	Lalita Agarwal	1100000	0	1100000	0.38	25.90
15-Dec-09	Sangeeta Rishiraj Agarwal	500000	0	500000	0.17	26.07
16-Dec-09	Lalita Agarwal	430000	0	430000	0.15	26.22
18-Dec-09	Lalita Agarwal	1071000	600000	1671000	0.58	26.79
22-Dec-09	RatanlalBrijlalTama khuwala	4576755	500000	5076755	1.75	28.54
23-Dec-09	RatanlalBrijlalTama khuwala	3054076	859046	3913122	1.35	29.89
23-Dec-09	Sangeeta Rishiraj Agarwal	709832	220642	930474	0.32	30.21
24-Dec-09	Lalita Agarwal	1400000	0	1400000	0.48	30.69
24-Dec-09	RatanlalBrijlalTama khuwala	1550000	1408903	2958903	1.02	31.71
24-Dec-09	Sangeeta Rishiraj Agarwal	1400000	0	1400000	0.48	32.19
29-Dec-09	RatanlalBrijlalTama khuwala	1550000	100000	1650000	0.57	32.76
11-Jan-10	Lalita Agarwal	225000	1430000	1655000	0.57	33.33
11-Jan-10	RatanlalBrijlalTama khuwala	1825000	20000	1845000	0.64	33.97

	huwala					
11-Jan-10	Sangeeta Rishiraj Agarwal	1300000	200000	1500000	0.52	34.49
13-Jan-10	RatanlalBrijlalTama khuwala	999812	161140	1160952	0.40	34.89

10 As shown in the table above, the shareholding of the Noticees got changed by more than 2% on 10-Nov-09, 13-Nov-09, 17-Nov-09, 18-Nov-09, 20-Nov-09, 24-Nov-09, 30-Nov-09, 1-Dec-09, 2-Dec-09, 4-Dec-09, 16-Dec-09, 22-Dec-09, 24-Dec-09, 29-Dec-09, 13-Jan-10. It was alleged in the SCN that the promoter group/Noticees had not made necessary disclosures under regulation 7(1A) of the SAST Regulations regarding change in their shareholding.

11 In response to the allegations, the Noticees made the following submissions:

- SEBI & SAT vide its Order dated JJ/AM/AO-60-65/2014: SAT/237/489 have already imposed penalty to the Noticees for violation of non-disclosure of sale of shares during the said period.
- Noticees have 'not purchased any shares' after the notification of amendment to SAST Regulations, 2009 which came into effect from November 06, 2009 and therefore the provisions of regulation 7(1A) is not applicable to them.
- All the persons named in the show cause notice are part and parcel of the promoter/Acquirer Group and are in the homogeneous Group and penalty in case to be imposed on the acquirer in case of any default can be on Mr. Rishiraj Agrawal not on each and every PAC.
- Shree Hanuman Investment Private Limited (Noticee No. 6) Pledged 2,85,00,000 shares of the company to SICOM as a part of the loan agreement and without intimation SICOM on 22/12/2009 and 01/02/2010 sold 2,85,00,000 shares in the Open market.

- Noticee no. 6 was under impression that the sale of the shares was not covered under PIT Regulations.

12 From the above submissions of the Noticees, I note that the Noticees have neither denied nor disputed the transactions as mentioned in the SCN. One of the submissions of the Noticees is that recently SEBI & SAT vide its orders dated JJ/AM/AO-60-65/2014 and SAT/237/489 respectively have already imposed penalty on the Noticees for violation of non-disclosure of sale of shares during the said period and since the matter has already been executed, separate proceedings are not called for.

13 In this regard, I perused the orders cited and produced by the Noticees i.e., the Adjudicating Order dated April 30, 2014 and SAT order dated September 02, 2014. I note that Adjudication Order No. JJ/AM/AO-60-65/2014 dated April 30, 2014 deals with non-compliance of the provisions of regulation 30(2) read with regulation 30 (3) of SEBI (Substantial Acquisition of Shares and Takeovers) Regulations, 2011 (**SAST Regulations, 2011**) for the year 2012 by the persons/entities including certain Noticees hereinabove. The said Adjudicating Order was challenged before SAT and SAT, vide order dated September 02, 2014 dismissed the appeal and upheld the findings of the Adjudicating Officer. I note that the instant case deals with the transactions done by the Noticees during the period November 2009 - January 2010 for non-disclosure under the provisions of regulation 7(1A) of SAST Regulations, 1997. Thus, I find that the facts of the case and the charges leveled against the instant proceedings are not same as that of the proceedings covered by the Adjudication Order No. JJ/AM/AO-60-65/2014 dated April 30, 2014 as contended by the Noticees. Hence, I do not find any merit in the contentions of the Noticees in this regard.

14 Another contention of the Noticees is that they have 'not purchased any shares' after the notification of amendment to SAST Regulations, 2009 which came into effect from November 06, 2009 and therefore the provisions of regulation 7(1A) is

not applicable to them. I perused the relevant amendment to regulation 7(1A) of SAST Regulations. The relevant portion of the amendment is as under:

" ii) in regulation 7, in sub-regulation (1A), after the word and figure "regulation 11" and before the mark and words ", shall disclose and purchase, the words and figure "or under second proviso to sub-regulation (2) of regulation 11" shall be inserted".

Now, after the said amendment, the text of regulation 7(1A) reads as under:

*"(1A) Any acquirer who has acquired shares or voting rights of a company under sub-regulation (1) of regulation 11, **or under second proviso to sub-regulation 2 of regulation 11** shall disclose purchase or sale aggregating two per cent or more of the share capital of the target company to the target company, and the stock exchanges where shares of the target company are listed within two days of such purchase or sale along with the aggregate shareholding after such acquisition or sale".*

As the provisions of regulation 7(1A) refers to provisions of regulation 11(1) and 11 (2) of SAST Regulations, it will be appropriate to refer to the said regulation as well. As per the provisions of regulation 11(1) of SAST, no acquirer who, together with persons acting in concert with him, has acquired, in accordance with the provisions of law, 15 per cent or more but less than fifty five per cent (55%) of the shares or voting rights in a company, shall acquire, either by himself or through or with persons acting in concert with him, additional shares or voting rights entitling him to exercise more than 5 per cent of the voting rights, in any financial year ending on 31st March unless such acquirer makes a public announcement to acquire shares in accordance with the regulations.

As per regulation 11(2) of the SAST Regulations, no acquirer, who together with persons acting in concert with him, holds fifty-five per cent (55%) or more but less than seventy-five per cent (75%) of the shares or voting rights in a target

company, can acquire either by himself or through or with persons acting in concert with him any additional shares entitling him to exercise voting rights or voting rights therein, unless he makes a public announcement to acquire shares in accordance with these Regulations. Further, the second proviso to Regulation 11(2) as inserted by amendment of SAST Regulations with effect from October 31, 2008 states that an acquirer may, notwithstanding the acquisition made under regulation 10 or sub-regulation (1) of regulation 11, without making a public announcement, acquire either by himself or through or with persons acting in concert with him, additional shares or voting rights entitling him up to five per cent (5%) voting rights in the target company so long as the acquisition is made through open market purchase in normal segment on the stock exchange, but, not through bulk deal /block deal/negotiated deal/ preferential allotment, or the increase in the shareholding or voting rights of the acquirer is pursuant to a buyback of shares by the target company; and that the post-acquisition shareholding of the acquirer together with persons acting in concert with him shall not increase beyond seventy five per cent (75%).

15 Thus, the obligation to make disclosures to the company & stock exchanges under Regulation 7(1A) is cast on the acquirer who acquired shares either under Regulation 11 (1) or under second proviso to Regulation 11 (2) and that obligation arises whenever there is purchase or sale made by those acquirers in excess of 2%. Earlier i.e. prior to November 6, 2009, only those acquirers who acquired shares under Regulation 11 (1) were covered under Regulation 7 (1A). The said Regulation was amended in November 2009 to include within its ambit those acquirers who acquired shares under second proviso to Regulation 11 (2) also. The rationale for this amendment is to bring those acquirers who acquired shares under second proviso to Regulation 11 (2) also under the ambit of Regulation 7(1A) so as to cast disclosure obligation on them for any purchase or sale aggregating +/- 2%. Therefore, any purchase or sale beyond the specified limit by such acquirers, on or after November 6, 2009 will trigger the provisions of Regulation 7(1A)

16 From the above discussion, it is thus clear that provisions of Regulation 7(1A) are triggered if the following 2 conditions are satisfied:

- 1) If the acquirer has acquired shares or voting rights either under sub-regulation (1) to regulation 11 or under second proviso to sub-regulation 2 of regulation 11.
- 2) Such purchase or sale aggregates two per cent or more of the share capital of the target company.

17 In the instant case, the Noticees who were admittedly part of the homogenous promoter group, were collectively holding, 1,90,29,604 shares representing 65.55% of the share capital of the company as on September 30, 2008. Regulation 11 (1) refers to acquirers holding between 15% to 55 %. Since the noticees were already holding 65.55 % of shares, regulation 11 (1) is not applicable to them. Then, it is to be seen if the noticees had acquired shares under *second proviso to sub-regulation 2 of regulation 11, so as to attract the provisions of Regulation 7 (1 A)*.

18 In this regard, I find that Noticee No.4, Rishiraj Agarwal, acquired 10000 shares during the quarter ended December 2008 and the shareholding of the promoter group had gone up by .04% i.e, from 65.55% to 65.59%. The details of said purchase of 10000 shares by Noticee No.4 was sought from the Noticees vide e-mail dated March 30, 2015. As no response was received from the Noticees, vide letter dated April 07, 2015 the Noticee No.4 was once again advised to furnish the details of purchase. No response has been received from the Noticees till date and hence I proceed on the basis of the material available on record and also material available in public domain.

19 As far as the date/time period of the aforesaid acquisition is concerned, only two options are possible i.e, acquisition could have been made either before October 31, 2008 (option1) or on/after October 31, 2008 (option 2). Now, assuming for a moment that this acquisition had taken place before October 31, 2008, it would have then triggered the provisions of regulation 11(2) and the Noticees should have

made open offer as required there under, because the second proviso to regulation 11(2) which gives exemption from making open offer consequent to such acquisitions, was not in force at that point of time. In this regard, I have perused websites of SEBI and Stock Exchanges to find out if the Noticees had made any open offer in connection with the said acquisition. There is no material to show that any such open offer was made by the Noticees. This, therefore, makes me to strongly believe that the Noticees had made acquisition only after October 31, 2008. Thus, it becomes a clear case of acquisition by the Noticees under second proviso to regulation 11(2), falling within the ambit of the provisions of regulation 7(1A).

20 As far as the second requirement above is concerned, it is an undisputed fact that the Noticees have sold shares in excess of the bench mark limit of 2% on various dates, which fall after November 6, 2009 (after the amendment to SAST Regulations), as shown in the Table at paragraph no. 9. Therefore the Noticeeshave fulfilled both the requirements of regulation 7(1A) and hence the statutory obligation of making disclosures clearly falls on them. I, therefore, do not find any merit in the contentions of the Noticees in this regard.

21 Thus, I find that the Noticees have sold shares representing more than two per cent of the share capital of the company on various dates, i.e, 10-Nov-09, 13-Nov-09, 17-Nov-09, 18-Nov-09, 20-Nov-09, 24-Nov-09, 30-Nov-09, 1-Dec-09, 2-Dec-09, 4-Dec-09, 16-Dec-09, 22-Dec-09, 24-Dec-09, 29-Dec-09, 13-Jan-10 and ought to have made disclosures to the company and to the exchange. However, I find that the Noticees have not made any such disclosures. Therefore, I hold that the Noticees have violated the provisions of Regulation 7(1A) of SAST Regulations.

22 It was also alleged in the SCN that the Noticee No. 6 had violated the provisions of Regulation 13(3) of PIT Regulations which requires that any person who holds more than 5% of shares shall disclose to the company any change in shareholding exceeding 2% of the total shareholding or voting rights in the company. In the instant case, the Noticee No.6 was holding 66,120,200 shares representing 22.78%

shares of the company as on September 30, 2009. Noticee No. 6 had pledged the shares with SICOM Limited (SICOM) and SICOM had invoked the pledge. The details of invocation of pledge are as under:

Shares Invoked by SICOM		
Date	No of shares invoked	% total Shares of Austral Coke
22.12.2009	5000000	1.72
22.12.2009	3000000	1.03
22.12.2009	7000000	2.41
01.02.2010	13500000	4.65
Total	28500000	9.82

23 It was alleged in the SCN that the share holding of Noticee No.6 had changed by more than 2% of total shareholding or voting rights in the company upon invocation of pledge by SICOM on 22.12.2009 and 01.02.2010 and the Noticee should have disclosed such a change in its shareholding to the company as per regulation 13(3) of PIT Regulations and the Noticee No.6 had not made the required disclosure.

24 In this regard, it is contended by the Noticees that the shares held by Noticee.No.6 were pledged with SICOM and SICOM invoked the pledge without informing the Noticees. This contention of the Noticee is however, is not acceptable. I note that in the ordinary course, pledge is invoked after a notice is being given to the pledgor by the pledgee. Otherwise also, a pledge is invoked when the conditions of agreement entering into the pledge are violated by the pledgor. The Noticee No. 6 has, by choice offered those shares as security for pledge. Having offered the shares on pledge, Noticee No. 6 cannot claim that the invocation of the pledge by the pledgee was without information. Noticee No. 6, at the time of offering shares was fully aware and had the knowledge that the pledge will be invoked in the event of violation of terms of agreement of the pledge. Ultimately, the fact remains that there was change in the shareholding of Noticee No. 6 and such change exceeded

benchmark limit of 2% on two occasions. The Noticee ought to have made the disclosures to the company. Whereas, I find that no such disclosures have been made by Noticee No. 6. Therefore, I hold that Noticee No. 6 has violated the provisions of regulations 13(3) of PIT Regulations.

25 At this juncture, it is relevant to quote the judgment of Supreme Court in the matter of *SEBI vs. Shri Ram Mutual Fund* wherein it was inter alia held that “once the violation of statutory regulations is established, imposition of penalty becomes sine qua non of violation and the intention of parties committing such violation becomes totally irrelevant. Once the contravention is established, then the penalty is to follow.”

26 Thus, the aforesaid violations by the Noticees make them liable for penalty under section 15A(b) of the SEBI Act which reads under:

SEBI Act

15A - “Penalty for failure to furnish information, return, etc. - If any person, who is required under this Act or any rules or regulations made there under,-

(a)

(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”.

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

Factors to be taken into account by the adjudicating officer.

While adjudging quantum of penalty under S.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.”*

28 The material available on record has not quantified exactly the disproportionate gains or unfair advantage enjoyed by an entity and the consequent losses suffered by the investors. There is also no material on record from which it is possible to assess the extent of specific gains made by the Noticees as a result of the default. However the fact remains that by not making the required disclosures, the Noticees had deprived the investors of important information at the relevant time. It is pertinent to mention here that our entire securities market stands on disclosure based regime. Accurate and timely disclosures are fundamental in maintaining the integrity and transparency of the securities market. However, the Noticees have failed to discharge the statutory obligation of making the requisite disclosures. There are 15 instances of non-disclosure under SAST Regulations and 2 instances of non-disclosure under PIT Regulations. The violation committed by the Noticees is thus repetitive in nature.

Order

29 After taking into consideration all the facts and circumstances of the case, I am convinced that this is a fit case for imposing monetary penalty on the aforesaid Noticees. I, in exercise of the powers conferred upon me under section 15- I (2) of the SEBI Act, impose the following penalty on the Noticees in terms of section 15A(b) of the SEBI Act:

Name of the entity	Penalty for violation of 7 (1A) of SAST Regulations.
1. Anarcon Resources Private Limited 2. Smt. Lalita Agarwal 3. Shri RatanlalBrijlalTamakhuwala 4. Shri Rishiraj Agarwal 5.Smt. Sangeeta Rishiraj Agarwal 6. Shri Hanuman Investments Private Limited	₹30,00,000/- (Rupees Thirty Lakh only) The Noticee Nos. 1-6 shall pay the penalty jointly and severally
	Penalty for violation of PIT Regulations.
1. Shri Hanuman Investments Private Limited (Noticee No. 6)	₹5,00,000/- (Rupees Five Lakh only).

The above mentioned penalty will be commensurate with the violation committed by the Noticees.

30 The penalty shall be paid by way of a duly crossed demand draft drawn in favour of "SEBI- Penalties Remittable to Government of India" payable at Mumbai within 45 days of receipt of this order. The said demand draft shall be forwarded to the Division Chief, Enforcement Department - DRA- II, Securities

and Exchange Board of India, Plot No. C4-A, 'G' Block, BandraKurla Complex, Bandra (E), Mumbai – 400051.

31. In terms of the provisions of Rule 6 of the Rules, copies of this order are being sent to the Noticees and also to SEBI.

DATE: May 05, 2015	A SUNIL KUMAR
PLACE: Mumbai	ADJUDICATING OFFICER