

**BEFORE THE ADJUDICATING OFFICER**

**SECURITIES AND EXCHANGE BOARD OF INDIA**

**[ADJUDICATION ORDER NO. JJ/AK/AO/15-34/2014]**

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

**In respect of**

<b>S.No</b>	<b>Name</b>	<b>Permanent Account No.</b>	<b>Order Number</b>
<b>1</b>	<b>SRS Heights Private Limited</b>	<b>Not Available</b>	<b>JJ/AK/AO/15/2014</b>
<b>2</b>	<b>SRS Tours and Travels Private Limited</b>	<b>Not Available</b>	<b>JJ/AK/AO/16/2014</b>
<b>3</b>	<b>SRS Infrabuild Private Limited</b>	<b>Not Available</b>	<b>JJ/AK/AO/17/2014</b>
<b>4</b>	<b>SRS Mines and Minerals Limited</b>	<b>Not Available</b>	<b>JJ/AK/AO/18/2014</b>
<b>5</b>	<b>SRS Infracon Limited</b>	<b>Not Available</b>	<b>JJ/AK/AO/19/2014</b>
<b>6</b>	<b>SRS Facilities Private Limited</b>	<b>Not Available</b>	<b>JJ/AK/AO/20/2014</b>
<b>7</b>	<b>SRS Buildcon Private Limited</b>	<b>Not Available</b>	<b>JJ/AK/AO/21/2014</b>
<b>8</b>	<b>SRS Events and Media Limited</b>	<b>Not Available</b>	<b>JJ/AK/AO/22/2014</b>
<b>9</b>	<b>SRS Realtech Private Limited</b>	<b>Not Available</b>	<b>JJ/AK/AO/23/2014</b>
<b>10</b>	<b>SRS Superb Marktrade Limited</b>	<b>Not Available</b>	<b>JJ/AK/AO/24/2014</b>
<b>11</b>	<b>BTL Impex (India) Limited</b>	<b>Not Available</b>	<b>JJ/AK/AO/25/2014</b>
<b>12</b>	<b>SRS Commercial Company Limited</b>	<b>Not Available</b>	<b>JJ/AK/AO/26/2014</b>
<b>13</b>	<b>SRS Promoters Private Limited</b>	<b>Not Available</b>	<b>JJ/AK/AO/27/2014</b>
<b>14</b>	<b>SRS Communications Private Limited</b>	<b>Not Available</b>	<b>JJ/AK/AO/28/2014</b>
<b>15</b>	<b>SRS Developers Private Limited</b>	<b>Not Available</b>	<b>JJ/AK/AO/29/2014</b>
<b>16</b>	<b>SRS Seven Dayz Restaurants Limited</b>	<b>Not Available</b>	<b>JJ/AK/AO/30/2014</b>
<b>17</b>	<b>SRS Realbuild Private Limited</b>	<b>Not Available</b>	<b>JJ/AK/AO/31/2014</b>
<b>18</b>	<b>BTL Portfolio Limited</b>	<b>Not Available</b>	<b>JJ/AK/AO/32/2014</b>
<b>19</b>	<b>SRS International Limited</b>	<b>Not Available</b>	<b>JJ/AK/AO/33/2014</b>
<b>20</b>	<b>SRS Holdings India Limited</b>	<b>Not Available</b>	<b>JJ/AK/AO/34/2014</b>

**(Aforesaid entities had merged with "M/s BTL Industries Limited" Now Known as M/s BTL Holding Company Limited; PAN No. AAACN5131E)**

**In the matter of M/s SRS Limited**

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**FACTS OF THE CASE IN BRIEF**

1. Securities and Exchange Board of India (hereinafter referred to as "**SEBI**") conducted an examination into the affairs relating to dealing, buying and selling in the shares of M/s SRS Limited (hereinafter referred to as '**SRS**SL'/'**Company**') which is listed on Bombay Stock Exchange Limited (hereinafter referred to as '**BSE**'), National Stock exchange Limited (hereinafter referred to as '**NSE**').
2. During the examination period it was observed that the shareholding of promoter/promoter group companies of SRS SL namely (1) SRS Heights Private Limited (**SHPL**), (2) SRS Tours and Travels Private Limited (**STTPL**), (3) SRS Infrabuild Private Limited (**SIPL**), (4) SRS Mines and Minerals Limited (**SMML**), (5) SRS Infracon Limited (**SICL**), (6) SRS Facilities Private Limited (**SFPL**), (7) SRS Buildcon Private Limited (**SBPL**), (8) SRS Events and Media Limited (**SEML**), (9) SRS Realtech Private Limited (**SRTPL**), (10) SRS Superb Marktrade Limited (**SSML**), (11) BTL Impex (India) Limited (**BIL**), (12) SRS Commercial Company Limited (**SCCL**), (13) SRS Promoters Private Limited (**SPPL**), (14) SRS Communications Private Limited (**SCPL**), (15) SRS Developers Private Limited (**SDPL**), (16) SRS Seven Dayz Restaurants Limited (**SSDRL**), (17) SRS Realbuild Private Limited (**SRBPL**), (18) BTL Portfolio Limited (**BPL**), (19) SRS International Limited (**SIL**), [collectively referred to as "**Notices**"] and (20) SRS Holdings India Limited (**SHIL**) [collectively referred to as "**Promoter Group**"] was changed by more than 25000 shares or by more than 1% & 2%. Upon perusal of the shareholding pattern, following details were observed:

Date of Transaction	Promoter Names	Transaction Type [debit(D) / credit(C)]	Shareholding before transaction	%age	Amount of shares transacted	%age of shares transacted	Shareholding Post transaction	%age
07.09.2012	SRS Heights Private Limited	D	41,000	0.03	41,000	0.03	Nil	0.00
07.09.2012	SRS Tours and Travels Pvt. Ltd.	D	1,37,900	0.10	1,37,900	0.10	Nil	0.00
07.09.2012	SRS Infrabuild Private Limited	D	4,87,565	0.35	4,87,565	0.35	Nil	0.00
07.09.2012	SRS Mines and Minerals Limited	D	5,50,000	0.39	5,50,000	0.39	Nil	0.00
07.09.2012	SRS Infracon Limited	D	6,92,035	0.50	6,92,035	0.50	Nil	0.00
21.09.2012	SRS Facilities Private Limited	D	10,53,775	0.76	10,53,775	0.76	Nil	0.00
21.09.2012	SRS Buildcon Private Limited	D	17,31,435	1.24	17,31,435	1.24	Nil	0.00
07.09.2012	SRS Events and Media Limited	D	19,75,000	1.42	19,75,000	1.42	Nil	0.00
07.09.2012	SRS Realtech Private Limited	D	20,77,546	1.49	20,77,546	1.49	Nil	0.00
07.09.2012	SRS Superb Marktrade Limited	D	21,47,250	1.54	21,47,250	1.54	Nil	0.00
21.09.2012	BTL Impex (India) Limited	D	23,19,375	1.67	23,19,375	1.67	Nil	0.00
07.09.2012	SRS Commercial Company Limited	D	26,15,125	1.88	26,15,125	1.88	Nil	0.00
07.09.2012	SRS Promoters Private Limited	D	26,75,000	1.92	26,75,000	1.92	Nil	0.00
21.09.2012	SRS Communications Private Limited	D	30,20,738	2.17	30,20,738	2.17	Nil	0.00
07.09.2012	SRS Developers Private Limited	D	30,61,217	2.20	30,61,217	2.20	Nil	0.00
07.09.2012	SRS Seven Dayz Restaurants Limited	D	31,16,430	2.24	31,16,430	2.24	Nil	0.00
07.09.2012	SRS Realbuild Private Limited	D	32,80,950	2.36	32,80,950	2.36	Nil	0.00
07.09.2012	BTL Portfolio Limited	D	1,17,47,635	8.43	1,17,47,635	8.43	Nil	0.00

07.09.2012	SRS International Limited	D	1,31,67,674	9.45	1,31,67,674	9.45	Nil	0.00
21.09.2012	SRS Holdings India Limited	C	2,05,67,555	14.77	5,59,18,350	40.14	7,64,85,905	54.91

3. Thus, it was alleged that the SHPL, STTPL, SIPL, SMML, SICL, SFPL, SBPL, SEML, SRTPL, SSML, BIIL, SCCL, SPPL, SCPL, SDPL, SSDRL, SRBPL, BPL, SIL and SHIL has violated the provisions of regulation 13(4A) read with regulation 13(5) of SEBI (Prohibition of Insider Trading) Regulations, 1992 (hereinafter referred to as “**PIT Regulations**”) and BPL, SIL & SHIL has also violated the provisions regulation 13(3) read with regulation 13(5) of PIT Regulations and regulation 29(2) read with regulation 29(3) of SEBI (Substantial Acquisition of Shares & Takeover) Regulations, 2011 (hereinafter referred to as “**SAST Regulations, 2011**”) and were therefore liable for monetary penalty under section 15A(b) of the Securities and Exchange Board of India Act, 1992 (hereinafter referred to as “**SEBI Act**”).

#### **APPOINTMENT OF ADJUDICATING OFFICER**

4. Shri Piyoosh Gupta had been appointed as Adjudicating Officer vide order dated September 23, 2013 under section 15 I of SEBI Act read with rule 3 of SEBI (Procedure for Holding Inquiry and Imposing Penalties by Adjudicating Officer) Rules, 1995 (hereinafter referred to as ‘**Rules**’) to inquire into and adjudge the alleged violation of regulations 13(3), 13(4A) read with regulation 13(5) of PIT Regulations and regulation 29(2) & regulation 29(3) of SAST Regulations, 2011 and to impose penalty under section 15A(b) of SEBI Act. Consequent upon transfer of Shri Piyoosh Gupta, the undersigned has been appointed as Adjudicating Officer vide order dated November 08, 2013 to inquire and adjudge the matter.

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

5. Show Cause Notices with reference number EAD-5/JJ/AK/260/2014, EAD-5/JJ/AK/266/2014, EAD-5/JJ/AK/267/2014, EAD-5/JJ/AK/268/2014, EAD-5/JJ/AK/269/2014, EAD-5/JJ/AK/270/2014, EAD-5/JJ/AK/271/2014, EAD-5/JJ/AK/272/2014, EAD-5/JJ/AK/273/2014, EAD-5/JJ/AK/274/2014, EAD-5/JJ/AK/280/2014, EAD-5/JJ/AK/281/2014, EAD-5/JJ/AK/282/2014, EAD-5/JJ/AK/283/2014, EAD-5/JJ/AK/284/2014, EAD-5/JJ/AK/285/2014, EAD-5/JJ/AK/286/2014, EAD-5/JJ/AK/288/2014, EAD-5/JJ/AK/290/2014, EAD-5/JJ/AK/292/2014 all dated January 03, 2014 (hereinafter referred to as “**SCN**”) were issued to SHPL, STTPL, SIPL, SMML, SICL, SFPL, SBPL, SEML, SRTPL, SSML, BIL, SCCL, SPPL, SCPL, SDPL, SSDRL, SRBPL, BPL, SIL and SHIL respectively, under rule 4(1) of the Rules to show cause as to why an inquiry should not be initiated and penalty be not imposed on them under section 15A(b) of SEBI Act for the alleged violations of regulations 13(3), 13(4A) read with regulation 13(5) of PIT Regulations and regulation 29(2) & regulation 29(3) of SAST Regulations, 2011 as specified in the said SCNs.
6. From the documents available on records, I find that that the SCNs issued to SCCL, SDPL, SIPL, SIL, SPPL, SRBPL, SRTPL, SSDRL and STTPL were delivered as per the signed acknowledgement cards received. SCNs issued to SCPL, SEML, BPL, SICL, SMML and SSML were delivered as per the delivery receipt received from the speed post website. SCNs issued to BIL, SFPL, SHIL, SBPL and SHPL were returned undelivered.
7. BTL Holding Company Limited (BHCL) vide letter dated January 18, 2014 had submitted the reply on behalf of 9 promoter entities namely, SCCL, SDPL, SIPL, SIL, SPPL, SRBPL, SRTPL, SSDRL and STTPL. Further, BHCL in its reply has stated that all the future communications in respect of abovementioned 20 entities be address to them. Therefore, the scanned copy

of SCNs dated January 03, 2014 issued to BIIL, SFPL, SHIL, SBPL, SHPL, SCPL, SEML, BPL, SICL, SMML and SSML had been forwarded at the email id of BHCL i.e. [btlholding@srsparivar.com](mailto:btlholding@srsparivar.com). BHCL had acknowledged the receipt of delivery of the SCNs. Further, BHCL vide letter dated January 29, 2014 had submitted the reply on behalf of 11 promoter entities namely BIIL, SFPL, SHIL, SBPL, SHPL, SCPL, SEML, BPL, SICL, SMML and SSML, which is similar to the reply submitted vide letter dated January 18, 2014.

8. BHCL vide letters dated January 18, 2014 and January 29, 2014 had submitted the reply, which *inter alia* stated as under:

".....

- *At the outset, we would like to inform you that the following promoter/promoter Group Companies of SRS Limited had been merged with one of the promoter Company, BTL Industries Limited vide Order of the Hon'ble High Court of Delhi dated 16<sup>th</sup> March, 2012. The Certified True copy of the same was received on 26<sup>th</sup> March, 2012.*

*The Shareholding of 22 Promoter/Promoter Group Companies which have been merged with BTL Industries Limited was as follows-*

S. No.	Particulars	No. of Shares	%
1	BTL Portfolio Limited	1,17,47,635	8.43
2	BTL Impex (India) Limited	23,19,375	1.67
3	SRS Commercial Company Limited	26,15,125	1.88
4	SRS Superb Marktrade Limited	21,47,250	1.54
5	SRS Realbuild Private Limited	32,80,950	2.35
6	SRS Developers Private Limited	30,61,217	2.20
7	SRS Seven Dayz Restaurants Limited	31,16,430	2.24
8	SRS Communications private Limited	30,20,738	2.17
9	SRS International Limited	1,31,67,674	9.45
10	SRS Promoters Private Limited	26,75,000	1.92
11	SRS Realtech Private limited	20,77,546	1.49
12	SRS Events & Media Limited	19,75,000	1.42
13	SRS Facilities Private Limited	10,53,775	0.76

14	<i>SRS Infrastructure Limited</i>	0	0.00
15	<i>DRS Infracon Limited</i>	6,92,035	0.50
16	<i>SRS Infrabuild Private Limited</i>	4,87,565	0.35
17	<i>SRS Mines &amp; Minerals Limited</i>	5,50,000	0.39
18	<i>SRS Tours &amp; Travels Private Limited</i>	1,37,900	0.10
19	<i>SRS Movies Private Limited</i>	20,100	0.01
20	<i>SRS Buildcon Private Limited</i>	17,31,435	1.24
21	<i>SRS Heights Private Limited</i>	41,600	0.03
22	<i>SRS News Limited</i>	0	0.00
	<i>Total</i>	5,59,18,350	40.14

*On the subject of the acquisition of impugned shares, we state that the aforesaid shares, as referred to in the above table, were acquired by BTL Industries Limited under the “Scheme of Amalgamation pursuant to Section 391 to 394 and other relevant provisions of the Companies Act, 1956” by the order of Hon’ble High Court of Delhi.*

- Post-Merger, shareholding of all the above said 22 Companies has become the shareholding of BTL Industries Limited. The status of post-Merger shareholding of promoter/promoter Group Companies is as follows :*

<i>S. No.</i>	<i>Promoter Entity</i>	<i>Pre-Merger</i>		<i>Post-Merger</i>	
		<i>No. of Shares</i>	<i>% of Share holding</i>	<i>No. of Shares</i>	<i>% of Share holding</i>
1	<i>BTL Industries Limited</i>	2,05,67,555	14.77	7,64,85,905	54.91
2	<i>22 above mentioned Promoter/Promoter Group Companies merged with BTL Industries Limited by Order of the Hon’ble High Court of Delhi</i>	5,59,18,350	40.14	Nil	Nil
3	<i>Other Promoter/Promoter Group</i>	2,66,50,225	19.13	2,66,50,225	19.13
	<i>Total</i>	10,31,36,130	74.04	10,31,36,130	74.04

*Hence, there was no change in the shareholding of the Promoter/Promoter Group of SRS Limited due to the above said merger as all the above mentioned Companies were part of the Promoter/Promoter Group only.*

- *The details of the said acquisition were informed to BSE and NSE by SRS Limited vide its letters dated 9<sup>th</sup> April, 2012.*
- *The details of merger were informed to the stock exchanges by way of a NOTE in the Shareholding Patterns of SRS Limited for the quarters ending on 31st March, 2012 and 30th June, 2012 i.e. during the period the transfer of shares from the merging companies to the resultant company was in process.*
- *Compliance under Regulation 29(3) of SAST Regulation & 13(5) of PIT Regulations were done on 1st June, 2013 by the Acquirer Company i.e. BTL Industries Limited....*
- *Thus, inadvertently, through oversight and misinterpretation of considering merger case under exempt category, there was a delay in filing of documents within the time period prescribed under the relevant provision of SAST and PIT Regulations. However, no sooner the fact of requirement for filing of information came to our knowledge, we immediately sue-motto complied with the said requirements of SAST and PIT Regulation.*
- *It is pertinent to mention that as the impugned transaction were between the Promoter/Promoters Group Companies with no change in the total shareholding of promoter Group; they did not in any way affect the total number of public shareholding in the SRS Limited, hence, in reality, it has no material consequence.*
- *Thus, SRS Limited has been regular and proactive in dissemination of information to the stock exchanges.*
- *Further, the name of BTL Industries Limited was changed to SRS Holding India Limited vide fresh Certificate of Incorporation consequent upon change of name of the Company issued by the Register of Companies, NCT of Delhi & Haryana dated 19th April, 2012.*
- *Later on, SRS Holding India Limited, the Promoter Company has been merged with one of the Promoter Group Company, BTL Investments & Securities Limited vide order of the Hon'ble High Court of Delhi dated 18th July, 2013. The Certified True Copy of the same was received by us on 18th September, 2013.*
- *Thus, in pursuance to this Order of Hon'ble High Court of Delhi, the shares of SRS Limited held by SRS Holding India Limited, became the shareholding of BTL Investments & Securities Limited.*
- *Further, the name of BTL Investments & Securities Limited was changed to BTL Holding Company Limited vide fresh Certificate of Incorporation consequent upon change of name of the Company issued by the Registrar of Companies, NCT of Delhi & Haryana dated 30th September, 2013.*



- *As the companies in the name of which, referred notices have been issued, has been merged in pursuance of the above mentioned Order of Hon'ble High Court of Delhi and these notice companies being no longer in existence; the reply is being given by BTL Holding Company Limited.*
- *We humbly request your good self to appreciate the fact that there is always a time gap in between the execution/implementation of any Hon'ble Court's order and analysing/realising its other related implications/consequences, such as happened in our case.*
- *It is further submitted that by these off market transaction, no gain or unfair advantage accrued to us. Further, it has not caused any harm, loss, damage or disadvantage to investors in general and public shareholders of SRS Limited in particular.*
- *Under the facts and circumstances as enumerated hereinabove, we request you to kindly consider the following facts and circumstances as strong mitigating factors in exonerating us from the alleged violation as mentioned in the above mentioned notice:-*

- i) The Companies involved are the Promoter/Promoter Group Companies and the acquisition/transfer of shares has also happened from the category of Promoter/Promoter Group Companies, therefore it did not result in any change in control of SRS Limited or promoter's shareholding in SRS Limited.*
- ii) It has not adversely affected the interests of any shareholder/stakeholder of SRS Limited in any manner whatsoever and has not put the existing Shareholders of SRS Limited to any disadvantage.*
- iii) The said disclosures, when made public, did not have any impact on the trading pattern in the scrip.*
- iv) By delaying the disclosure requirements, there was no intention to suppress any material information from the shareholders of the company at the relevant time. In fact, the aforesaid Hon'ble Delhi High Court Order was in public domain since its pronouncement. Moreover, intimation was given to BSE & NSE, immediately after receiving the order of Hon'ble High Court.*
- v) The said violation, if only technical/procedural and has not caused any adverse consequences to anybody and No loss has been caused to any investor or group of investors or to any member of the public as a result.*
- vi) We have not consciously or deliberately avoided the filing of the requisite information with SRS Limited or with the concerned stock exchanges, thereby not made any disproportionate gain or derived any unfair advantage.*

*vii) There is no investors' complaint of any nature whatsoever with regard to our increase in shareholding in SRS Limited.*

*....."*

9. In the interest of natural justice and in order to conduct an inquiry in terms of rule 4(3) of the Rules, the Noticees and SHIL were granted an opportunity of personal hearing on February 12, 2014, vide notices dated January 31, 2014 at SEBI, Head Office, Mumbai. Mr. Jyoti Prakash Madaan, appeared as Authorized Representative, (hereinafter referred to as "AR") on behalf of the Noticees and SHIL. During the hearing, the AR made the following submissions, which *inter alia*, stated as under:

*"....."*

*Noticees reiterated the submission made vide letters dated January 18, 2014 and January 29, 2014. Further, I would like to make the following submissions on behalf of the Noticees:*

- *As alleged in the show cause notice (SCN) dated January 03, 2014, Para 3 and Para 4 as applicable, there is no selling of shares by the Noticees and therefore there is no purchasing of shares by anyone. There is no consideration which has been either paid or received by the Noticees or anyone else. The shares were only transferred from the Noticees companies to the merged entity, now known as BTL Holding Company Limited because of the order of Hon'ble High Court of Delhi in September 2012.*
- *Since the Noticees companies are extinguished with the merged entity, BTL Holding Company Limited, therefore the identity of Noticees companies was finally known as BTL Holding Company Limited.*
- *The allegation in the SCN against the Noticees on the findings that the Noticees has sold shareholding in September 2012 which is not correct. Infact, the Noticees vide company petition no. 519/2011 filed before Hon'ble High Court of Delhi got merged with BTL Industries limited (Now known as BTL Holding Company Limited). Thus there is no sale of shares as alleged, therefore no disclosures was made under SEBI (PIT) Regulations and SEBI (SAST) Regulations.*
- *Even when the merger process was going on with Hon'ble High Court of Delhi, for the information to the investors and public at large, the company has informed the exchanges about the merger of the Noticees with the*

*merged entity in the shareholding pattern filed for the quarters ended March 31, 2012 and June 30, 2012.*

- *Further, with regard to disclosure of shareholding patterns with the stock exchange, the company had filed the disclosure of shareholding patterns for the relevant quarter ending September 2012 in the name of merged entity BTL Industries limited (Now known as BTL Holding Company Limited) with the exchange. Hence in our humble submissions there is no violation of SEBI (PIT) Regulations and SEBI (SAST) Regulations.*
- *In the whole process, there is no sales of shares, no purchase of shares, no inter-se transfer, no acquisition of shares, no change in total promoters shareholdings, no consideration paid or received amongst any of the Noticees.*
- *In our humble submissions there is no violation of SEBI (PIT) Regulations and SEBI (SAST) Regulations.*

*.....”*

### **CONSIDERATION OF ISSUES AND FINDINGS**

10. I have carefully perused the oral and written submissions made by the BHCL on behalf of the Noticees & SHIL and documents available on record. The issues that arise for consideration in the present case are:

- a. Whether the Noticees & SHIL have violated the provisions of regulation 13(4A) read with regulation 13(5) of PIT Regulations ?
- b. Whether the BPL, SIL and SHIL have violated the provisions of regulation 13(3) read with regulation 13(5) of PIT Regulations and regulation 29(2) read with regulation 29(3) of SAST Regulations, 2011?
- c. Whether the Noticees & SHIL are liable for monetary penalty under section 15A(b) of the SEBI Act ?
- d. What quantum of monetary penalty should be imposed on the Noticees & SHIL taking into consideration the factors mentioned in Section 15J of the SEBI Act ?

11. The provisions of regulation 13 of PIT Regulations are reproduced hereunder:-

***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 Form C the number of shares or voting rights held and change in shareholding or voting rights, even if such change results in shareholding falling below 5%, if there has been change in such holdings from the last disclosure made under sub-regulation (1) or under this sub-regulation; and such change exceeds 2% of total shareholding or voting rights in the company.*

(4) .....

(4A) *Any person who is a promoter or part of promoter group of a listed company, shall disclose to the company and the stock exchange where the securities are listed in Form D, the total number of shares or voting rights held and change in shareholding or voting rights, if there has been a change in such holdings of such person from the last disclosure made under Listing Agreement or under sub-regulation (2A) or under this sub-regulation, and the change exceeds Rs. 5 lakh in value or 25,000 shares or 1% of total shareholding or voting rights, whichever is lower.*

(5) *The disclosure mentioned in sub-regulations (3), (4) and (4A) shall be made within two working days of :*

(a) *the receipts of intimation of allotment of shares, or*

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

***Disclosure by company to stock exchanges***

(6).....

12. The provisions of regulation 29 of SAST Regulations 2011, are reproduced hereunder:-

(1) .....

(2) *Any acquirer, who together with persons acting in concert with him, holds shares or voting rights entitling them to five percent or more of the shares or voting rights in a target company, shall disclose every acquisition or disposal of shares of such target company representing two percent or more of the shares or voting rights in such 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:*
- (a) every stock exchange where the shares of the target company are listed ;*  
*and*
  - (b) the target company at its registered office.*

### **Findings**

13. From the documents available on record I find that vide order of the Hon'ble High Court of Delhi dated March 16, 2012, SHPL, STTPL, SIPL, SMML, SICL, SFPL, SBPL, SEML, SRTPL, SSML, BIIL, SCCL, SPPL, SCPL, SDPL, SSDRL, SRBPL, BPL, and SIL had merged with M/s BTL Industries Limited. Later the name of BTL Industries Limited was changed to SRS Holding India Limited (SHIL) on April 19, 2012. Further, vide order of the Hon'ble High Court of Delhi dated July 18, 2013, SHIL had merged with M/s BTL Investments & Securities Limited. Thereafter, the name of M/s BTL Investments & Securities Limited was changed to M/s BTL Holding Company Limited on September 30, 2013.

14. It was alleged in the SCN that (i) SHPL, STTPL, SIPL, SMML, SICL, SEML, SRPL, SSML, SCCL, SPPL, SDPL, SSDRL, SRPL, BPL & SIL had sold the shares of SRSL on September 07, 2012 and (ii) SFPL, SBPL, BIIL & SCPL had sold the shares of SRSL on September 21, 2012 and (iii) SHIL had acquired the shares of SRSL on September 21, 2012, due to which their respective shareholdings in SRSL had changed by either 25,000 shares or by more than 1% & 2%. Due to the change in shareholdings of the Noticees & SHIL by 25,000 shares or by more than 1%, they were required to make disclosures under regulation 13(4A) read with regulation 13(5) of PIT Regulations to BSE, NSE, MCX-SX & SRSL.

15. Further, it was also alleged in the SCN that the shareholdings of BPL, SIL & SHIL were changed by more than 2%, for which BPL, SIL & SHIL were also required to make the disclosures under regulation 13(3) read with regulation 13(5) of PIT Regulations to SRSL and under regulation 29(2) read with regulation 29(3) of SAST Regulations, 2011 to BSE, NSE, MCX-SX & SRSL.

16. Noticees & SHIL during the course of hearing has stated that:

- *As alleged in the show cause notice (SCN) dated January 03, 2014, Para 3 and Para 4 as applicable, there is no selling of shares by the Noticees and therefore there is no purchasing of shares by anyone. There is no consideration which has been either paid or received by the Noticees or anyone else. The shares were only transferred from the Noticees companies to the merged entity, now known as BTL Holding Company Limited because of the order of Hon'ble High Court of Delhi in September 2012.*
- *The allegation in the SCN against the Noticees on the findings that the Noticees has sold shareholding in September 2012 which is not correct. Infact, the Noticees vide company petition no. 519/2011 filed before Hon'ble High Court of Delhi got merged with BTL Industries limited (Now known as BTL Holding Company Limited). Thus there is no sale of shares as alleged, therefore no disclosures was made under SEBI (PIT) Regulations and SEBI (SAST) Regulations.*

17. With respect to the said allegation, the contention of the Noticees & SHIL was that the shares were only transferred from the Noticees companies to the merged entity (BTL Industries Limited), now known as BTL Holding Company Limited pursuant to scheme of merger and amalgamation sanctioned by the Hon'ble High Court of Delhi in September 2012. Thus, there was no sale of shares as alleged and no consideration was either paid or received by the Noticees or SHIL, therefore no disclosures was made under SEBI (PIT) Regulations and SEBI (SAST) Regulations.

18. However, I am not inclined to accept the said contention of the Noticees & SHIL because the allegations against the Noticees & SHIL under regulation 13(4A) of PIT regulations and against BPL, SIL & SHIL under regulation 13(3)

of PIT Regulations & under regulation 29(2) of SAST Regulations, 2011 was not with respect to the sale of shares of SRSL by them. The allegation against the Noticees & SHIL, was of failure to make the disclosures under PIT Regulations and SAST Regulations, 2011 with respect to change in their shareholdings in SRSL by 25,000 shares or by more than 1% & 2%. Such change in shareholding may be either by sale, purchase, transfer, or disposal of shares or voting rights and that should be disclosed within 2 working days from the date of transaction. Therefore, in my view there was a change in shareholdings of the Noticees & SHIL by 25,000 shares or by more than 1% & 2% in SRSL and that triggered the disclosures requirement under PIT Regulations and SAST Regulations, 2011.

19. Further, I find that BHCL on behalf of the Noticees & SHIL, vide reply dated January 18, 2014 and January 29, 2014 states that *".....inadvertently, through oversight and misinterpretation of considering merger case under exempt category, there was a delay in filling of documents within the time period prescribed under the relevant provision of SAST and PIT Regulations. However, no sooner the fact of requirement for filing of information came to our knowledge, we immediately sue-motto complied with the said requirements of SAST and PIT Regulation...."*. Whereas the Noticees, during the course of hearing states that *"....there is no sale of shares as alleged, therefore no disclosures was made under SEBI (PIT) Regulations and SEBI (SAST) Regulations...."*. Thus, I find that the said argument of the Noticees & SHIL are contradictory in nature.

20. From the documents available on records, I find that SHIL, with respect to its acquisition on September 21, 2012 had made the required disclosures under regulation 13(4A) of PIT Regulations and under regulation 29(2) of SAST Regulations on June 01, 2013 to SRSL, BSE and NSE i.e. with a delay of almost 7 months. However, no disclosures was made by SHIL under regulation 13(3) of PIT Regulations to SRSL, BSE and NSE.

21. BHCL on behalf of the Noticees & SHIL had submitted that the shares of SRSL are not listed at MCX-SX. From the website of MCX-SX, I find that the admission date of SRSL at MCX-SX was February 11, 2013, whereas the transaction period of shares of SRSL was of September 2012. Thus, with respect to the listing of shares of SRSL at MCX-SX, I find merit in this submission of the Noticees & SHIL.
22. I note that, consequent to scheme of merger and amalgamation, all the rights and obligations of the Noticees were then vested in BTL Industries Limited, whose name had subsequently changed to SHIL [ which was subsequently merged with M/s BTL Investments & Securities Limited (Now Known as "BTL Holding Company Limited")]. As soon as the scheme of merger and amalgamation comes in effect, the obligation/liability of the disclosures requirement with respect to change in shareholding of the Noticees to be made by the Noticees were then vested in SHIL. Therefore, SHIL was responsible for making disclosures with respect to the change in shareholding of the Noticees in September 2012 under PIT Regulations and SAST Regulations to SRSL and Stock Exchanges.
23. As there was a change of more than 25,000 shares or 1% of shareholding of the Noticees in SRSL in September 2012, SHIL (for the Noticees, i.e., the entities which got merged into SHIL) was required to make the disclosures with respect to the change in shareholding of the Noticees to SRSL, BSE and NSE, in accordance with the provisions of regulation 13(4A) read with regulation 13(5) of PIT Regulations i.e. within two working days from the date of transaction, which the SHIL had failed to do.
24. As there was a change of more than 2% of shareholding of BPL and SIL in SRSL in September 2012, SHIL (being the merged entity of BPL & SIL), was required to make the disclosures with respect to the change in shareholding of BPL & SIL to SRSL, BSE and NSE in accordance with the provisions of



regulation 13(3) read with regulation 13(5) of PIT Regulations and also in accordance with the provisions of regulation 29(2) read with regulation 29(3) of SAST Regulations, 2011 i.e. within two working days from the date of transaction, which SHIL had failed to do.

25. Further, as there was a change of more than 25,000 shares or 1% and 2% of shareholding of SHIL in SRSL in September 2012, SHIL was required to make the disclosures with respect to the change in its shareholding, to SRSL, BSE and NSE in accordance with the provisions of regulation 13(3) & regulation 13(4A) read with regulation 13(5) of PIT Regulations and also in accordance with the provisions of regulation 29(2) read with regulation 29(3) of SAST Regulations, 2011 i.e. within two working days from the date of transaction, which SHIL had failed to do.

26. In terms of PIT Regulations and SAST Regulations, 2011, acquirer or any person or promoter of the company, upon change in certain percentage of their shareholdings in a company are required to disclose the same to the company and to stock exchanges within two working days from the date of transaction. The holding pattern of shareholding of a company is an important information for all investors. The investors should know who are the major shareholders of a company. Any change in this regard (whether shareholding percentage or the holders thereof) is an important information which can have a bearing on the investment decision of the investors. Failure to make timely disclosures as required under abovementioned regulations cannot be considered as trivial or of no consequence to be overlooked.

27. Further, I note the following submissions of the Noticees & SHIL:

- Change in shareholdings of the Noticees & SHIL was pursuant to the scheme of merger and amalgamation sanctioned by the Hon'ble High Court of Delhi.

- The details of merger were informed to the stock exchanges (by way of note) in the shareholding patterns of SRS Limited for the quarters ending on 31st March, 2012 and 30th June, 2012.
- The Companies involved are the Promoter/Promoter Group Companies and the acquisition/transfer of shares had happened from the category of Promoter/Promoter Group Companies, therefore it did not result in any change in control of SRSL or promoter's shareholding in SRSL.
- The said violations are only technical and procedural in nature.

28. I am of the view that the aforesaid submissions of the Noticees & SHIL, does not, in any way, absolve the Noticees & SHIL of their failure in complying with the statutory requirements. At best, these are factors which may, to some extent, be relevant while considering the penal consequences.

29. Thus, in the light of above, the allegation of violation of provisions of regulation 13(4A) read with regulation 13(5) of PIT Regulations by SHIL (for the Noticees, i.e., the entities which got merged into SHIL) stands established. Further, the allegation of violation of provisions of regulation 13(3) read with regulation 13(5) of PIT Regulations and regulation 29(2) read with regulation 29(3) of SAST Regulations, 2011 by SHIL (for BPL & SIL, which got merged into SHIL) stands established.

Further, the allegation of violation of regulation 13(3) & regulation 13(4A) read with regulation 13(5) of PIT Regulations and regulation 29(2) read with regulation 29(3) of SAST Regulations, 2011 by SHIL stands established.

SHIL (for the Noticees, i.e., the entities which got merged into SHIL), therefore, ought to have made the relevant disclosures to the company and to the Stock Exchanges as per the provisions of PIT Regulations and SAST

Regulations, 2011 regarding the change in shareholdings. However, by not making the disclosure, SHIL failed to comply with their statutory obligation. The timely disclosure is mandated for the benefit of the investors at large. In Appeal No. 66 of 2003 - *Milan Mahendra Securities Pvt. Ltd. Vs SEBI* – Order dated November 15, 2006 the Hon'ble Securities Appellate Tribunal 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. We cannot therefore subscribe to the view that the violation was technical in nature”

30. The provisions of section 15A(b) of SEBI Act is reproduced hereunder:

**15A. Penalty for failure to furnish, information, return etc.**

*If any person, who is required under this Act or any rules or regulations made thereunder, -*

*(a).....*

*(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 of one lakh rupees for each day during which such failure continues or one crore rupees, whichever is less.*

*(c).....*

31. The Hon'ble Supreme Court of India in the matter of *SEBI Vs. Shri Ram Mutual Fund* [2006] 68 SCL 216 (SC) 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”.

32. In view of the foregoing, I am convinced that it is a fit case to impose monetary penalty under section 15A (b) of the SEBI Act.

33. While determining the quantum of monetary penalty under section 15A (b), I have considered the factors stipulated in section 15J of SEBI Act, which reads as under:-

***“15J - Factors to be taken into account by the adjudicating officer***

*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.”*

34. It is difficult, in cases of this nature, to quantify exactly the disproportionate gains or unfair advantage enjoyed by an entity and the consequent losses suffered by the investors. There is no material on record which dwells on the extent of specific gains made by the Noticees & SHIL, by not making the specified disclosures on the due dates. Further it is also not possible to ascertain the loss to the investors in monetary terms. From the documents available on records, it is observed that this violation is not repetitive. The purpose of these disclosures is to bring about transparency about the transactions so as to enable general investors to make informed investment decision.

35. Consequent to merger in March 2012, all the rights and obligations of the Noticees are then vested in M/s BTL Industries Limited, whose name had subsequently changed to SHIL. Further, due to the merger of SHIL with M/s BTL Investment & Securities Limited in July 2013, all the rights and obligation/liability of SHIL are now vested in M/s BTL Investment & Securities Limited whose name had subsequently changed to M/s BTL Holding Company Limited.

36. In view of the above and considering the facts and circumstances of the case and factors under Section 15J of the SEBI Act, I find that imposing a penalty of ₹ 20,00,000/- (Rupees twenty lakhs only) on M/s SRS Holding India Limited, which had subsequently merged with M/s BTL Investment & Securities Limited, (Now known as "M/s BTL Holding Company Limited") would be commensurate with the violation of regulation 13(4A) read with regulation 13(5) of PIT Regulations committed by SHIL (for the Noticees, i.e., the entities which got merged into SHIL) and also the violation of regulation 13(3) read with regulation 13(5) of PIT Regulations & regulation 29(2) read with regulation 29(3) of SAST Regulations, 2011 committed by SHIL (for BPL & SIL, which got merged into SHIL) and violation of regulations 13(3) & 13(4A) read with regulation 13(5) of PIT Regulations & regulation 29(2) read with regulation 29(3) of SAST Regulations, 2011 committed by SHIL.

### **ORDER**

37. In exercise of the powers conferred under Section 15-I of the SEBI Act and Rule 5 of the Rules, I hereby impose a penalty of ₹ 20,00,000/- (Rupees twenty lakhs only) on M/s BTL Holding Company Limited (being the merged entity of SHIL) under section 15A(b) of SEBI Act for the violations as mentioned above.

38. M/s BTL Holding Company Limited shall pay the said amount of penalty by way of demand draft 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 should be forwarded to Deputy General Manager, Integrated Surveillance Department, SEBI, SEBI Bhavan, Plot No. C – 4 A, "G" Block, Bandra Kurla Complex, Bandra (E), Mumbai – 400 051.

39. In terms of rule 6 of the Rules, copies of this order are sent to M/s BTL Holding Company Limited and also to the Securities and Exchange Board of India.

**Date: February 26, 2014**

**Place: Mumbai**

**Jayanta Jash**

**Adjudicating Officer**