

BEFORE THE ADJUDICATING OFFICER
SECURITIES AND EXCHANGE BOARD OF INDIA
[ADJUDICATION ORDER NO. MC/CB/2019-20/4671-4673]

UNDER SECTION 15-I (2) OF SECURITIES AND EXCHANGE BOARD OF INDIA ACT, 1992 AND RULE 5 OF SEBI (PROCEDURE FOR HOLDING INQUIRY AND IMPOSING PENALTIES) RULES, 1995.

In respect of –

1. **D Sudhakara Reddy (PAN: AAGPR3101F)** having address at – No. 10, Tarapore Avenue, Harrington Road, Chetpet, Chennai – 600 031 (Tamil Nadu)
2. **D Deeptha Reddy (PAN: Not available)** having address at – No. 10, Tarapore Avenue, Harrington Road, Chetpet, Chennai – 600 031 (Tamil Nadu)
3. **D Usha Reddy (PAN: Not available)** having address at – No. 10, Tarapore Avenue, Harrington Road, Chetpet, Chennai – 600 031 (Tamil Nadu)

In the matter of *Regaliaa Realty Limited*

BACKGROUND

1. Securities and Exchange Board of India (hereinafter be referred to as, the “**SEBI**”) carried out examination in trading / dealings in the scrip of Regaliaa Realty Limited (hereinafter be referred to as, the “**Company**”), a company listed on the BSE Limited (hereinafter be referred to as, the “**BSE**”). Examination *prima facie* revealed violation of Regulations 13(3), 13(4) and 13(4A) read with 13(5) of the SEBI (Prohibition of Insider Trading) Regulations, 1992 (hereinafter be referred to as, the “**PIT Regulations**”) and Regulation 31(2) read with 31(3) of the SEBI (Substantial Acquisition of Shares and Takeovers) Regulations, 2011 by D Sudhakara Reddy (hereinafter be referred to as, the “**Noticee 1**”) who was a promoter & director of the Company, D Deeptha Reddy (hereinafter be referred to as, the “**Noticee 2**”) who was a promoter & director of the Company and D Usha Reddy (hereinafter be referred to as, the “**Noticee 3**”) who was a promoter of the Company, for not making relevant disclosures under SAST Regulations and PIT Regulations upon invocation of pledge

on their shareholding and subsequent change in their shareholding in the Company. Noticee 1-3 shall hereinafter be collectively referred to as, the “**Noticees**”.

APPOINTMENT OF ADJUDICATING OFFICER

2. SEBI initiated adjudication proceedings and appointed Mr. Suresh Gupta, Chief General Manager as Adjudicating Officer under Section 15I of the Securities and Exchange Board of India Act, 1992 (hereinafter be referred to as, the “**SEBI Act**”) read with Rule 3 of the SEBI (Procedure for Holding Inquiry and Imposing Penalties by Adjudicating Officer) Rules, 1995 (hereinafter be referred to as, the “**Adjudication Rules**”) *vide* order dated February 07, 2017 to inquire into and adjudge under Section 15A (b) of the SEBI Act against the Noticees for the aforesaid alleged violations. Subsequently, the undersigned was appointed as the Adjudicating Officer on May 29, 2018 which was communicated *vide* order dated November 05, 2018.

SHOW CAUSE NOTICE, REPLY AND HEARING

3. Show Cause Notice No. EAD/EAD5/MC/CB/912/2019 dated January 08, 2019 (hereinafter be referred to as, the “**SCN**”) was served upon the Noticees under Rule 4(1) of the Adjudication Rules to show cause as to why an inquiry should not be held and penalty be not imposed against them under Section 15A(b) of the SEBI Act for alleged violations of Regulations 13(3), 13(4) and 13(4A) read with 13(5) of the PIT Regulations and Regulation 31(2) read with 31(3) of the SAST Regulations.
4. The allegations levelled against the Noticees in the SCN are summarized as below:
 - a) Noticee 1 and Noticee 2 were promoters as well as directors of the Company, while Noticee 3 was a promoter of the Company.
 - b) Examination revealed that the Noticees, in order to obtain a project loan for the Company, created encumbrance on the shares held by them by way of a pledge in favour of the Karvy Financial Services Limited (hereinafter be referred to as, the “**KFSL**”) to secure repayment of the aforesaid loan. Relevant disclosures required under Regulation 31(1) read with 31(3) of the SAST Regulations, with respect to creation of pledge over securities of the Company were made by the Noticees. The details of the shares encumbered by the Noticees are as follows:

Name	Category	Pledged Shares	Percentage of total share capital	Date of Creation of Pledge
Sudhakar Reddy	Promoter – cum – Director	976340	27.12%	February 24, 2011
D Deeptha	Promoter – cum – Director	739300	20.54%	February 24, 2011
D Usha Reddy	Promoter	284460	7.90%	February 24, 2011
Total		2000100	55.56%	

- c) Pledge created over the shares of the Noticees was invoked by the KFSL on February 16, 2012 and subsequently, 20,00,100 shares of the Company amounting to 55.56% of its total share capital were transferred in favour of the KFSL and as a result, the shareholding of the Noticees in the Company reduced to zero.
- d) Invocation of pledge in the manner mentioned hereinabove required disclosures to be made to Company as well as the BSE in terms of Regulation 31(2) of the SAST Regulations while reduction in the shareholding of the Noticees on account of such invocation was required to be disclosed under Regulation 13(3), 13(4) and 13(4A) read with 13(5) of the PIT Regulations by Noticee 1 & 2 and under Regulation 13(3), 13(4A) read with 13(5) of the PIT Regulations by Noticee 3.
- e) BSE, *vide* e-mail dated June 16, 2015 confirmed non-receipt of any disclosures under PIT Regulations and SAST Regulations from the Noticees. Therefore, it was alleged that the Noticee 1 & 2 did not make disclosures in terms of Regulation 13(3), 13(4) and 13(4A) read with 13(5) of the PIT Regulations & Regulation 31(2) of the SAST Regulations while the Noticee 3 did not make disclosures in terms of Regulation 13(3), 13(4A) read with 13(5) of the PIT Regulations & Regulation 31(2) of the SAST Regulations.
- f) It was alleged that the aforesaid non-disclosure under PIT Regulations by the Noticees was in violation of Regulation 13(3), 13(4), (4A) read with 13(5) of the PIT Regulations and Regulation 31(2) of the SAST Regulations, text of which is mentioned as below:

SEBI (Prohibition of Insider Trading) Regulations, 1992

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.

(4) Any person who is a director or officer 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 and his dependents (as defined by the company) from the last disclosure made under sub-regulation (2) 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.

(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.

SEBI (Substantial Acquisition of Shares and Takeovers) Regulations, 2011

“31.

(2) The promoter of every target company shall disclose details of any invocation of such encumbrance or release of such encumbrance of shares in such form as may be specified.

(3) The disclosures required under sub-regulation (1) and sub-regulation (2) shall be made within seven working days from the creation or invocation or release of encumbrance, as the case may be to,—

(a) every stock exchange where the shares of the target company are listed; and

(b) the target company at its registered office..”

g) The Noticees were informed that the alleged violations, if established, would make them liable for imposition of monetary penalty under Section 15A(b) of the SEBI Act.

5. The SCN was served upon the Noticees by way of *Speed Post with Acknowledgment Due* at their addresses, acknowledgments of which are available on record. Noticee 1, *vide* letter dated January 29, 2019 confirmed receipt of the SCN and submitted that they had not had any operations in the Company for almost 6-6.5 years and therefore, requested an extension of 6-9 weeks to file their reply towards the SCN. Noticees' request seeking extension of time was acceded to. However, no reply towards the SCN was received from the Noticees.
6. For the purpose of inquiry and in the interest of natural justice, an opportunity of hearing was provided to the Noticees on June 26, 2019 *vide* Notice of Hearing dated June 06, 2019. Noticees were also informed that reply, if any, towards the SCN may be filed by June 24, 2019.
7. Hearing scheduled on June 26, 2019 was attended by Noticee 1 and Ms. Nirupama Kar, who was appointed as an authorized representative of the Noticees. Noticee 1 submitted written submissions on behalf of all the Noticees and requested for additional submissions to be submitted on July 05, 2019. Request of the Noticee 1 was acceded to. Noticee 1 also informed that Noticee 3, i.e. Ms. Usha Reddy had passed away on April 16, 2016 and produced death certificate dated April 25, 2016 issued by Department of Public Health, Corporation of Chennai.
8. Relevant submissions of the Noticees dated June 26, 2019 are summarized as under:
 - a. During the month of January 2011, the Company approached KFSL for financial assistance by way of project loan for its project, '*Ferns*' and KFSL, sanctioned and

disbursed loan of ₹7,00,00,000/- (Seven Crores only) and the Company created mortgage over its immovable properties to secure the project loan facility. Noticees, at the insistence of the Chairman of Karvy group, pledged shares of their respective promoter shares as additional security on the assurance that KFSL will not invoke the pledge and that the shares were taken as additional security only.

- b. Noticees submitted that KFSL had sufficient charge over the immovable properties of Company and yet, without intimation, invoked the pledge created over shares of the Company in violation of RBI / SEBI Guidelines which are applicable to NBFCs.
 - c. The Noticees, *vide* letter dated February 25, 2011 had intimated the fact of creation of pledge over the securities of Company to the Company and Exchange under Regulation 8A(4) of the SEBI (Substantial Acquisition of Shares and Takeovers) Regulation, 1997.
 - d. Noticees also submitted that the Company, *vide* letter dated April 14, 2012, intimated the shareholding pattern for the quarter ending March 31, 2012 to BSE and clarified that the promoter shares pledged with KFSL, which were shown under the pledge column, were invoked by KFSL.
 - e. Noticees submitted that neither the Company nor Noticees received any intimation from DP or KFSL about transfer of shares / invocation of pledge. The Noticees came to know about invocation of pledge from the monthly statements of their demat accounts generated in March 2012.
 - f. Noticees duly intimated about creation of pledge to stock exchanges and they had not gained any unfair advantage. Rather, the Noticees suffered loss on account of illegal invocation of pledge.
 - g. Noticees have not committed a violation of law. If at all, there is a violation, that is technical in nature. The Noticees, therefore, submitted that the proceedings initiated by way of issuance of SCN be dropped.
9. The Noticees, *vide* letter dated June 28, 2019 filed additional submissions in the instant matter, which are summarized as under:
- a) Noticees' RTA – M/s Cameo Corporate Services Limited sent the shareholding pattern of the Company for the financial quarter – January – March 2012 on April 14, 2012, pursuant to which shareholding pattern of the Company was changed to show transfer of shares from promoter group to a body corporate.

- b) Shareholding pattern available on the website of BSE has been showing promoter shareholding to be zero, which indicates that information relating to change in the shareholding was supplied to BSE.
- c) Noticees have also produced a letter dated April 14, 2012 submitted to BSE informing the latter of the invocation of pledge created over Noticees' shares by KFSL.

10. Before considering the issues to be examined in this matter, I find it relevant to examine whether adjudication proceedings initiated in respect of Noticee 3 would survive her demise. It is noted that Noticee 3, i.e. Ms. Usha Reddy had passed away on April 16, 2016 and her death certificate dated April 25, 2016 issued by Department of Public Health, Corporation of Chennai was produced and is available on record. In this respect, I am of the view that the right to sue in respect of Noticee 3 has not survived after her demise and therefore, in this case, the maxim, '*action personalis moritur cum persona*' (personal action dies with the death of person) would apply. Therefore, adjudication proceedings initiated in respect of Noticee 3, i.e. Ms. Usha Reddy are liable to be abated without going into merits of the case. Adjudication proceedings initiated in respect of Ms. Usha Reddy are accordingly disposed of.

11. Since inquiry in the instant matter is concluded, I proceed to decide the case on merit, taking into account the allegations levelled against the Noticee 1 & 2 in the SCN, submissions of the Noticee 1 & 2 towards the SCN and material available on record.

CONSIDERATION OF ISSUES AND FINDINGS

12. The issues that arise for consideration in the instant matter are:

- Issue No. I** Whether Noticee 1 & Noticee 2 failed to make disclosures required under Regulations 13 (3), 13(4), 13(4A) read with 13(5) of the PIT Regulations and Regulation 31(2) read with 31(3) of the SAST Regulations as alleged in the SCN?
- Issue No. II** If yes, whether the failure, on the part of the Noticee 1 & Noticee 2 would attract monetary penalty under Section 15A (b) of the SEBI Act?
- Issue No. III** If yes, what would be the monetary penalty that can be imposed upon the Noticee 1 & Noticee 2 taking into consideration the factors stipulated in Section 15J of the SEBI Act read with Rule 5 (2) of the Adjudication

Rules?

Issue No. I Whether the Noticee 1 & Noticee 2 failed to make disclosures required under Regulations 13 (3), 13(4), 13(4A) read with 13(5) of the PIT Regulations and Regulation 31(2) read with 31(3) of the SAST Regulations as alleged in the SCN?

- 13.** It is noted that the facts relating to creation and invocation of pledge over the shares of Noticee 1 and Noticee 2 in favour of KFSL is not in dispute by Noticee 1 & Noticee 2. The allegation that information relating to invocation of pledge over the shares of Noticee 1 & 2 by KFSL was not disclosed to BSE is substantiated with the confirmation of BSE, which was supplied to the Noticee 1 & 2 as a part of the SCN.
- 14.** However, it is the case of Noticee 1 & 2 that shares of the Noticee 1 & 2 were pledged as additional security to secure the project loan taken by the Company from KFSL, on latter's assurance that they will not be invoked. Noticee 1 & 2 have also submitted that KFSL invoked the pledge created over their shares of the Company on February 16, 2012 without intimating them and they got to know about the fact of invocation of shares only in March 2012 on receipt of account statements of their de-mat accounts. Thus, 9,76,340 shares of the Company belonging to Noticee 1 and 7,39,300 shares of the Company belonging to Noticee 2 were transferred to KFSL on February 16, 2012, which resulted in the reduction in the shareholding of Noticee 1 and Noticee 2 from 27.12 & 20.54% to zero respectively.
- 15.** Noticee 1 & 2 have also submitted that the Company, *vide* letter dated April 14, 2012 intimated shareholding pattern for the financial quarter ending in March 2012 to BSE and that the promoter shares pledged with KFSL were invoked by KFSL, resulting in change of shareholding in the Company in favour of KFSL. Noticee 1 & 2, therefore, have submitted that the information relating to invocation of pledge over their shares was available to the BSE and in public domain through BSE. I also note that Noticee 1 & 2 have submitted that violation on their part, if at all, is a technical violation and therefore, adjudication proceedings in the instant matter be dropped.
- 16.** The pledge was invoked in favour of KFSL on February 16, 2012. As per documents submitted by the Noticees 1 & 2, invocation of pledge came to knowledge of Noticee

1 & 2 through the monthly statement of their de-mat accounts dated March 01, 2012. I further note that, even if it is accepted that the Noticee 1 & 2 were not informed about invocation of pledge, they became aware of it within approximately about 2 weeks from invocation. However, disclosure in the manner required under PIT and SAST Regulations was not made by the Noticee 1 & 2. Information relating to invocation of pledge and change in shareholding was provided to BSE in plain letter form, rather than in the formats required under PIT and SAST Regulations only on April 14, 2012 along with quarterly shareholding pattern of the Company.

17. In view of the above, while noting that information regarding invocation along with quarterly shareholding format with a delay of around 50 days was given to BSE by the Company on behalf of Noticee 1 & 2, I am of the view that the Noticee 1 & 2 failed to comply with obligation to make a timely disclosure as required under Regulation 13(3), 13(4), 13(4A) read with 13(5) of the PIT Regulations and Regulation 31(2) read with 31(3) of the SAST Regulations.

18. The non-compliance by Noticee 1 & 2, although venial in nature, is a non-compliance of statutory obligation and hence, violations of Regulations 13(3), (4) (4A) read with 13(5) of the PIT Regulations and Regulation 31(2) read with 31(3) of the SAST Regulations stand established against Noticee 1 & 2.

Issue No. II If yes, whether the failure, on the part of Noticee 1 & 2 would attract monetary penalty under Section 15A (b) of the SEBI Act?

&

Issue No. III If yes, what would be the monetary penalty that can be imposed upon Noticee 1 & 2 taking into consideration the factors stipulated in Section 15J of the SEBI Act read with Rule 5 (2) of the Adjudication Rules?

19. Since failure of Noticee 1 & 2 in compliance with Regulations 13(3), (4) (4A) read with 13(5) of the PIT Regulations and Regulation 31(2) read with 31(3) of the SAST Regulations is established, I am of the view that it warrants imposition of monetary penalty under Section 15A(b) of the SEBI Act, text of which is reproduced as under:

SEBI Act

“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 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.”

20. While determining the quantum of penalty under Section 15A(b) of the SEBI Act, the following factors stipulated in Section 15J of the SEBI Act, have to be given due regard:

- a) amount of disproportionate gain or unfair advantage, wherever quantifiable, made as a result of the default;
- b) amount of loss caused to an investor or group of investors as a result of the default;
- c) repetitive nature of the default.

21. It is noted that Noticee 1 & 2 have submitted that they had not gained any unfair advantage on account of non-disclosure of the information relating to invocation of pledge and subsequent change in their shareholding, rather they suffered loss on account of invocation of pledge. I also note from the material available on record that no amount of disproportionate gain or unfair advantage or amount of loss caused to investor or investor groups can be ascertained. Repetitive nature of default on the part of Noticee 1 & 2 can also not be ascertained from the material available on record. I note that Noticee 1 & 2 have been compliant with disclosure requirements prior to this non-compliance. I also note that information regarding reduction in shareholding and invocation of pledge was available in public domain with a delay of around 50 days.

22. I also find it relevant to examine whether the order of Hon'ble SAT in the matter of ***Vitro Commodities Private Limited, Kolkata v. Securities and Exchange Board of India, Mumbai*** (Appeal No. 118 of 2013 dated September 04, 2013) will have an application on the fact of current case. I note that Hon'ble SAT in this matter had held, *“It may be noticed that provisions of Regulations 7(1) of Takeover Regulations, 1997 and Regulation 13(1) of PIT Regulations, 1992 are not substantially different, since violation of first automatically triggers violation of second and hence there is no justification for imposition of penalty for second violation when penalty for first violation has been imposed.”* However, I note that provisions of Regulation 31(2) read with 31(3) of the SAST Regulations are substantially different from the provisions of Regulation

13 of the PIT Regulations and therefore, imposition of penalty upon Noticee 1 & 2 for violation of both, PIT Regulations and SAST Regulations is justified in the instant adjudication proceedings.

- 23.** Therefore, taking into accounts the facts and circumstances of the instant matter and presence of mitigating factors as discussed above, I am of the view that a penalty of ₹2,00,000/- upon Noticee 1 and ₹2,00,000/- upon Noticee 2 will be commensurate with the violation of Regulations 13(3), (4) (4A) read with 13(5) of the PIT Regulations and Regulation 31(2) read with 31(3) of the SAST Regulations by them.

ORDER

- 24.** Accordingly, taking into account the facts and circumstances of the case, in exercise of powers conferred upon me under Section 15I (2) of the SEBI Act read with Rule 5 of the Adjudication Rules, I hereby impose the following penalty on Noticee 1 & 2:

Name of the Noticee(s)	Amount of Penalty	Penalty Provisions and Violations
1. D Sudhakara Reddy	₹1,00,000/- (Rupees One Lac only)	Under Section 15A(b) for violation of Regulations 13(3), (4) (4A) read with 13(5) of the PIT Regulations
	₹1,00,000/- (Rupees One Lac only)	Under Section 15A(b) for violation of Regulation 31(2) read with 31(3) of the SAST Regulations
Total Penalty for Noticee 1	₹2,00,000/- (Rupees Two Lakh only)	
2. D Deeptha Reddy	₹1,00,000/- (Rupees One Lakh only)	Under Section 15A(b) for violation of Regulations 13(3), (4) (4A) read with 13(5) of the PIT Regulations
	₹1,00,000/- (Rupees One Lakh only)	Under Section 15A(b) for violation of Regulation

		31(2) read with 31(3) of the SAST Regulations
Total Penalty for Noticee 2	₹2,00,000/- (Rupees Two Lakh only)	

25. Noticee 1 & 2 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 online payment facility available on the website of SEBI, i.e. www.sebi.gov.in on the following path, by clicking on the payment link:

ENFORCEMENT → Orders → Orders of AO → PAY NOW.

26. Noticee 1 & 2 shall forward said Demand Draft or the details / confirmation of penalty so paid to the Enforcement Department – Division of Regulatory Action – I of SEBI. Noticee 1 & 2 shall also provide the following details while forwarding DD/ payment information:

- a) Name and PAN of the entity (Noticee)
- b) Name of the case / matter
- c) Purpose of Payment – Payment of penalty under AO proceedings
- d) Bank Name and Account Number
- e) Transaction Number

27. Copies of this Adjudication Order are being sent to the Noticees and also to SEBI in terms of Rule 6 of the Adjudication Rules.

Date : September 30, 2019

Place : Mumbai

(Maninder Cheema)

Adjudicating Officer