

BEFORE THE ADJUDICATING OFFICER
SECURITIES AND EXCHANGE BOARD OF INDIA

[ADJUDICATION ORDER Ref No.: Order/AP/AS/2019-20/7132]

**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) RULES, 1995.**

In respect of:

Zeppelin Investment Private Limited
(PAN: AAACZ0512H)

Nirmal, 20th Floor, Nariman Point,
Mumbai-400021.

In the matter of Nagpur Power & Industries Limited

1. Nagpur Power & Industries Limited (hereinafter referred to as 'NPIL' or 'Company') is a listed company having its shares listed on Bombay Stock Exchange Limited (BSE). BSE and National Stock Exchange Limited (NSE) conducted a joint examination regarding the trading activities of certain investors (hereinafter referred to as 'Group') in certain scrips during December 15, 2011 to October 09, 2014 (hereinafter referred to as 'investigation period'), on the basis of alerts generated by their surveillance system and complaint received from Securities and Exchange Board of India ('SEBI') alleging circular trading in the scrip of Ponni Sugars (Erode) Limited by the said Group. Thereafter, BSE and NSE forwarded a joint examination report to SEBI, wherein it was observed that there were 17 scrips at BSE and NSE where Group executed/ reversed trades through bulk deals and NPIL was one of the scrip out of the 17 scrips.
2. Based on joint examination by BSE and NSE, SEBI conducted an investigation in the matter under this notice. On completion of the investigation in the said matter, SEBI had observed that in shareholding pattern of 'Promoter and Promoter Group of the Company' for quarter ending on June 30, 2013 (Source: <https://www.bseindia.com/stock-share-price/shp/scripcode/532362/flag/7/>), one of the entity viz. Zeppelin Investments Private Limited (hereinafter referred as 'Noticee') had been shown as a promoter entity, which was holding 84,200 shares of the Company. The details of 'Promoter and Promoter Group' shareholding of the Company during the period September 30, 2011 to June 30, 2013 is as follows:

| Name of the entity | 30-Sep-2011 | | 31-Dec-2011 | | 31-Mar-2012 | | 30-Jun-2012 | |
|-------------------------------|------------------|--------------|------------------|--------------|------------------|--------------|------------------|--------------|
| | Shares held | % of holding | Shares held | % of holding | Shares held | % of holding | Shares held | % of holding |
| Gautam P Khandelwal | 4,91,100 | 3.75 | 4,91,100 | 3.75 | 4,91,100 | 3.75 | 4,91,100 | 3.75 |
| Geeta P Khandelwal | 5,59,900 | 4.28 | 5,75,200 | 4.39 | 5,75,200 | 4.39 | 5,75,200 | 4.39 |
| Premnath Khandelwal | 60,800 | 0.46 | 45,500 | 0.35 | 45,500 | 0.35 | 45,500 | 0.35 |
| SIA G Khandelwal | 2,01,250 | 1.54 | 2,01,250 | 1.54 | 2,01,250 | 1.54 | 2,01,250 | 1.54 |
| Suelve G Khandelwal | 2,07,150 | 1.58 | 2,07,150 | 1.58 | 2,07,150 | 1.58 | 2,07,150 | 1.58 |
| Tara G Khandelwal | 2,00,950 | 1.53 | 2,00,950 | 1.53 | 2,00,950 | 1.53 | 2,00,950 | 1.53 |
| Uday Siddharth Khandelwal | 2,01,250 | 1.54 | 2,01,250 | 1.54 | 2,01,250 | 1.54 | 2,01,250 | 1.54 |
| Khandelwals Ltd | 56,41,100 | 43.08 | 56,41,100 | 43.08 | 56,41,100 | 43.08 | 56,41,100 | 43.08 |
| Informed Technologies Ltd | 1,66,094 | 1.27 | 2,24,221 | 1.71 | 1,76,812 | 1.35 | 1,81,636 | 1.39 |
| Total | 77,29,594 | 59.02 | 77,87,721 | 59.47 | 77,40,312 | 59.11 | 77,45,136 | 59.14 |
| Name of the entity | 30-Sep-2012 | | 31-Dec-2012 | | 31-Mar-2013 | | 30-Jun-2013 | |
| | Shares held | % of holding | Shares held | % of holding | Shares held | % of holding | Shares held | % of holding |
| Gautam P Khandelwal | 4,91,100 | 3.75 | 4,91,100 | 3.75 | 4,91,100 | 3.75 | 4,91,100 | 3.75 |
| Geeta P Khandelwal | 5,75,200 | 4.39 | 5,75,200 | 4.39 | 5,75,200 | 4.39 | 5,75,200 | 4.39 |
| Premnath Khandelwal | 45,500 | 0.35 | 45,500 | 0.35 | 45,500 | 0.35 | 45,500 | 0.35 |
| SIA G Khandelwal | 2,01,250 | 1.54 | 2,01,250 | 1.54 | 2,01,250 | 1.54 | 2,01,250 | 1.54 |
| Suelve G Khandelwal | 2,07,150 | 1.58 | 2,07,150 | 1.58 | 2,07,150 | 1.58 | 2,07,150 | 1.58 |
| Tara G Khandelwal | 2,00,950 | 1.53 | 2,00,950 | 1.53 | 2,00,950 | 1.53 | 2,00,950 | 1.53 |
| Uday Siddharth Khandelwal | 2,01,250 | 1.54 | 2,01,250 | 1.54 | 2,01,250 | 1.54 | 2,01,250 | 1.54 |
| Khandelwals Ltd | 56,41,100 | 43.08 | 56,41,100 | 43.08 | 56,41,100 | 43.08 | 56,41,100 | 43.08 |
| Informed Technologies Ltd | 2,24,082 | 1.71 | 2,24,221 | 1.71 | 2,44,964 | 1.87 | 2,44,964 | 1.87 |
| Zeppelin Technologies (I) Ltd | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 84,200 | 0.64 |
| Total | 77,87,582 | 59.47 | 77,87,721 | 59.47 | 78,08,464 | 59.63 | 78,92,664 | 60.27 |

(Source: <https://www.bseindia.com/stock-share-price/shp/scripcode/532362/flag/7/>)

3. From the above table, it was observed that promoters' shareholding in the Company had increased from 78,08,464 (59.63%) shares on March 31, 2013 to 78,92,664 (60.27%) as on June 30, 2013. On June 30, 2013, the Noticee had been shown holding 84,200 shares of the Company, however, the aforesaid

disclosure of the Noticee's shareholding under category 'Promoter and Promoter Group' shareholding of the Company was not there in any of the disclosures made to BSE by the Company in previous quarters during the investigation period.

4. In view of the above, vide e-mail dated September 09, 2018, SEBI sought explanation from the Company in this regard. The Company in its reply vide e-mail dated October 03, 2018 submitted that the Noticee had been holding the 84,200 shares of the Company from the date of listing of the shares of the Company i.e. September 18, 2000. The details of the Noticee shareholding had been included in the category 'Promoter and Promoter Group' shareholding of the Company, from June 2013 till date, pursuant to the intimation from Noticee. The Company further submitted that the said error was inadvertent and was adequately rectified by it, when it came to its notice.
5. Regulation 13(2A) read with 13(5) of the SEBI (Prohibition of Insider Trading) Regulations, 1992 (hereinafter referred to as 'PIT Regulations, 1992') provides that, any person who is a promoter or part of promoter group of a listed company shall disclose to the company in Form B the number of shares or voting rights held by such person, within two working days of becoming such promoter or person belonging to promoter group. From the facts of the case and information provided by the Company, it was alleged that the Noticee, being a promoter in the Company had not disclosed the shares held by it in the Company from the date of listing i.e. September 18, 2000 of the scrip, till June 30, 2013, when its shareholding appeared for the first time under the category of promoters' shareholding. It is observed that there is a delay in disclosing the shareholding of the Noticee in the Company. In view of the above, it has been alleged that the Noticee has violated Regulation 13(2A) of the PIT Regulations, 1992.
6. The competent authority in SEBI *prima facie* felt satisfied that there are sufficient grounds to adjudicate upon the alleged violations of the provisions of Regulation 13(2A) of the PIT Regulations, 1992 by the Noticee. Accordingly, Shri Santosh Shukla, Chief General Manager had been appointed as Adjudicating Officer ('erstwhile AO') in the matter and had been advised to inquire and adjudge under Rule 5 of the SEBI (Procedure for Holding Inquiry and imposing penalties) Rules, 1995 (hereinafter referred as 'Adjudication Rules') and under section 15A(b) of the SEBI Act, for the alleged violation of the aforesaid provision by the Noticee. Subsequently, by a common *communication-order* dated January 07, 2020, this case was transferred to the undersigned with the advice that except for the change of the Adjudicating Officer, the other terms and conditions of the original orders '*shall remain unchanged and shall be in full force and effect*' and that the "*Adjudicating Officer shall proceed in accordance with the terms of reference made in the original orders*".

7. Accordingly, in terms of Rule 4(1) of the Adjudication Rules read with section 15I of the SEBI Act, the notice to show cause no. EAD-2/AP/AKS/2751/2020 dated January 21, 2020 (hereinafter referred as 'SCN') was issued to the Noticee, calling upon it to show cause as to why an inquiry should not be held against it in terms of Rule 4 of the Adjudication Rules and penalty be not imposed under Section 15A(b) of the SEBI Act for the aforesaid alleged violations. The relevant provisions of the PIT Regulations, 1992 charged in this case are reproduced hereinafter:

PIT Regulations, 1992

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

(2A) Any person who is a promoter or part of promoter group of a listed company shall disclose to the company in Form B the number of shares or voting rights held by such person, within two working days of becoming such promoter or person belonging to promoter group.

(5) The disclosure mentioned in sub-regulations 54[(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.

8. The SCN was duly served upon the Noticee. Vide letter dated February 06, 2020, the Noticee requested for ten working days' extension to file its reply to the SCN as it has to check its past records to file suitable reply to the SCN. Considering the request of the Noticee and in the interest of principles of natural justice, undersigned granted an opportunity of personal hearing to the Noticee in terms of Rule 4(3) of the Adjudication Rules on February 28, 2020 and allowed it to file its reply to the SCN by February 26, 2020 in the matter.
9. Thereafter, vide letter dated February 25, 2020 the Noticee filed its reply to the SCN and made submissions *inter alia* as follows:
- The Noticee held 84,200 shares in the Company from the date of its listing on September 18, 2000 and continued to hold till August, 2018.
 - The allegation on violation of Regulation 13(2A) of the PIT Regulations, 1992 on account of delay of 12 years 9 months 10 days (4666 days since September 21, 2000) is baseless and unsubstantiated as Regulation 13(2A) was itself inserted vide SEBI (Prohibition of Insider Trading) (Amendment) Regulations, 2011 w.e.f. 16-08-2011.

- c. The language of Regulation 13(2A) is not as clear as provided under Regulation 7(1) of SEBI (Prohibition of Insider Trading) Regulations, 2015 (hereinafter referred to as 'PIT Regulations, 2015'). The same is reproduced hereunder:

PIT Regulations, 2015

"7. (1) Initial Disclosures

(a). Every promoter, member of the promoter group, key managerial personnel and director of every company whose securities are listed on any recognised stock exchange shall disclose his holding of securities of the company as on the date of these regulations taking effect, to the company within thirty days of these regulations taking effect;

(b). Every person on appointment as a key managerial personnel or a director of the company or upon becoming a promoter or member of the promoter group shall disclose his holding of securities of the company as on the date of appointment or becoming a promoter, to the company within seven days of such appointment or becoming a promoter."

- d. As on the date of the commencement of the amended provisions in August 2011, the Noticee was already holding shares of the Company. The amended provision did not seem to mandate furnishing of initial disclosure by existing promoter and promoter group. It rather indicated that disclosure was required to be given on becoming such promoter or person belonging to promoter group. Therefore, it assumed that there was no requirement to disclose the existing holdings as on the date of the amended regulations taking effect.
- e. It was later observed by the Noticee that its name was not reflecting in the 'promoter group' of the shareholding pattern filed by the Company with the stock exchange. Therefore, the Noticee furnished the disclosure under Regulation 13(2A) of the PIT Regulations, 1992 on June 28, 2013, despite there being no specific requirement to furnish the same. Consequently, the Noticee was shown under 'Promoter and Promoter Group' in the shareholding pattern filed by the Company with the stock exchanges for quarter ended June, 2013. Accordingly, there has been no delay of 12 years, 9 months and 10 days (4,666 days since September 21, 2000) in disclosing the shareholding by the Company as stated in the SCN.
- f. In view of the Noticee submissions, the SCN lacks credible evidence and needs to be dropped.
10. On schedule date of hearing, the authorized representatives of the Noticee viz. Ms. Vinita Nair, Practicing Company Secretary and Ms. Nidhi Sultanpuria appeared before undersigned for hearing and made submissions on behalf of the Noticee on the lines of Noticees's reply dated February 25, 2020.

11. I have considered the allegation levelled in the terms of reference, the relevant material brought on record and reply / submissions of the Noticee made before undersigned. In this case, the fact about the Noticee being a promoter of the Company and holding 84,200 shares of the Company since September 18, 2000 is an admitted position. It is also an admitted fact that the Noticee made disclosure to the Company about its shareholding in the Company on June 28, 2013. The limited question for determination is as to whether the Noticee had failed to make disclosures to the company as required under Regulation 13(2A) read with Regulation 13(5) of the PIT Regulations, 1992. In this regard, I note that Regulation 13(2A) of the PIT Regulations, 1992 had been inserted *via* an amendment and came into effect from August 16, 2011.
12. The Noticee has contended that the amended provision Regulation 13(2A) of the PIT Regulations, 1992 did not seem to mandate furnishing of initial disclosure by existing promoter and promoter group. It rather indicates that disclosure is required to be given on becoming such promoter or person belonging to promoter group. In this regard, I note that, as per the language of Regulation 13(2A), the compliance obligation of a promoter to make disclosure to the company in Form B within two working days' triggers when –
- (a) it becomes a promoter of the company; or
 - (b) it becomes a person belonging to promoter group of the company.
13. Further, Regulation 13(2A) of the PIT Regulations, 1992 came into force from August 16, 2011 and the Noticee was holding 84,200 shares of the Company from the date of listing of shares i.e. September 18, 2000. In view of the same, I am of the view that the provisions of Regulation 13(2A) cannot be applied retrospectively and therefore, the Noticee cannot be held liable for failure to make disclosures under Regulation 13(2A) of the PIT Regulations, 1992, since the shares were already held on the date of listing, which is prior to coming into the force of Regulation 13(2A). I am, therefore, of the view that the case does not deserve imposition of any monetary penalty and the SCN is accordingly disposed of.
14. In terms of Rule 6 of the Adjudication Rules, copies of this order are sent to the Noticee and also to SEBI.

Date: March 04, 2020

Place: Mumbai

Amit Pradhan

Adjudicating Officer