

BEFORE THE ADJUDICATING OFFICER
SECURITIES AND EXCHANGE BOARD OF INDIA

[ADJUDICATION ORDER Ref No.: EAD-2/SS/VS/2018-19/2353-2362]

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:

1. **Dash Pharmaceuticals Pvt. Ltd. (PAN No. AAACD1675P)**
2. **Mandvi Dyes & Chemicals Co. Pvt. Ltd. (PAN No. AAACM3248D)**
3. **Maxilla Financial Services Pvt. Ltd. (PAN No. AADCM9154D)**
4. **Parachit Sales & Marketing (I) Pvt. Ltd. (PAN No. AAACP2501Q)**
5. **Prime Dyes and Chemical Company Pvt. Ltd. (PAN No. AACCP1840N)**
6. **Rajratan Trading Pvt. Ltd. (PAN No. AACCR7367Q)**
7. **Shingar Dyes & Chemicals Pvt. Ltd. (PAN No. AAACS6370E)**
8. **Sparkle Tooth Brush Mfg Co. Pvt. Ltd. (PAN No. AAACS6369M)**
9. **Tutis Technologies Ltd. (PAN No. AAACA7948L)**
10. **Vishal Information Technologies Ltd. (PAN No. AAACS7326Q)**

In the matter of
Mindvision Capital Limited

1. Securities and Exchange Board of India (hereinafter referred to as 'SEBI') had conducted an examination in the scrip of Mindvision Capital Limited (formerly known as Kailash Ficom Limited and hereinafter referred to as 'Company' / 'MCL'), a company listed on the Bombay Stock Exchange (hereinafter referred to as 'BSE'), during the period July 01, 2008 to September 30, 2010 for the probable violation of SEBI (Prohibition of Inside Trading) Regulations, 1992 (hereinafter referred to as the 'PIT Regulations') by certain entities viz. i) Dash Pharmaceuticals Pvt Ltd. (hereinafter referred to as 'Dash/Noticee No. 1'), ii) Mandvi Dyes & Chemicals Co. Pvt. Ltd. (hereinafter referred to as 'Mandvi/Noticee No. 2'), iii) Maxilla Financial Services Pvt. Ltd. (hereinafter referred to as 'Maxila/Noticee No. 3'), iv) Parachit Sales & Marketing (I) Pvt. Ltd. (hereinafter referred to as 'Parachit/Noticee No. 4'), v) Prime Dyes & Chemicals Co Pvt Ltd. (hereinafter referred to as 'Prime/Noticee No. 5'), vi) Rajratan Trading Pvt Ltd. (hereinafter referred to as 'Rajratan/Noticee No. 6'), vii) Shingar Dyes and Chemicals Ltd. (hereinafter referred to as 'Shingar/Noticee No. 7'), viii) Sparkle Tooth Brush Mfg Co. Pvt Ltd. (hereinafter referred to as 'Sparkle/Noticee No. 8'), ix) Tutis Technologies Ltd. (hereinafter referred to as 'Tutis/Noticee No. 9') and x) Vishal Information Technologies Ltd. (hereinafter referred to as

‘Vishal/Noticee No. 10’) (hereinafter referred collectively as ‘the Noticees/ entities of Tutis Group’).

2. I note from the SCN that, during the relevant period, the Noticees were required to make disclosures under provisions of the PIT Regulations as mention below:-

- a. It was observed that on November 19, 2008, Dash's shareholding crossed 5% and became 7.89% (836150 shares), hence Dash was required to make disclosure under regulation 13(1) read with regulation 13(5) of the PIT Regulations to the company. Further, on November 21, 2008, the shareholding of the entity became 11.50% (increased by more than 2%). Hence, the entity was required to make disclosure under regulation 13(3) read with regulation 13(5) of the PIT Regulations to the company.
- b. It was observed that on December 02, 2008, Mandvi's shareholding crossed 5% and became 6.71% (711172 shares), hence Mandvi was required to make disclosure under regulation 13(1) read with regulation 13(5) of the PIT Regulations to the company. Further, the shareholding of the entity increased by more than 2% on April 20, 2010 and decreased by more than 2% on July 16, 2010 and August 26, 2010. Hence, the entity was required to make disclosure under regulation 13(3) read with regulation 13(5) of the PIT Regulations to the company.
- c. It was observed that on April 22, 2010, Maxilla's the entity's shareholding crossed 5% and became 5.35% (566980 shares), hence Maxilla was required to make disclosure under regulation 13(1) read with regulation 13(5) of the PIT Regulations to the company.
- d. It was observed that on June 09, 2010, the Parachit's shareholding crossed 5% and became 5.42% (574950 shares), hence Parachit was required to make disclosure under regulation 13(1) read with regulation 13(5) of the PIT Regulations to the company. Further, on July 24, 2010, the shareholding of the entity decreased by more than 2%. Hence, the entity was required to make disclosure under regulation 13(3) read with regulation 13(5) of the PIT Regulations to the company.
- e. It was observed that on June 07, 2010, Prime's shareholding crossed 5% and became 5.29% (560500 shares), hence Prime was required to make disclosure under regulation 13(1) read with regulation 13(5) of the PIT Regulations to the company. Further, on August 13, 2010, the entity's shareholding again crossed 5% and became 5.24% (555500 shares), hence the entity was required to make disclosure under regulation 13(1) read with regulation 13(5) of the PIT Regulations to the company.

- f. It was observed that on August 09, 2010, Rajratan's shareholding crossed 5% and became 5.66% (600150 shares), hence Rajratan was required to make disclosure under regulation 13(1) read with regulation 13(5) of the PIT Regulations to the company.
- g. It was observed that on September 13, 2010, Shingar's shareholding crossed 5% and became 6.29% (666230 shares), hence Shingar was required to make disclosure under regulation 13(1) read with regulation 13(5) of the PIT Regulations to the company.
- h. It was observed that on July 27, 2010, Sparkle's shareholding crossed 5% and became 5.04% (534500 shares), hence Sparkle was required to make disclosure under regulation 13(1) read with regulation 13(5) of the PIT Regulations to the company.
- i. As on July 01, 2008, Tutis was holding 9.85% shares (1044629 shares) of MCL. On December 24, 2008, April 15, 2009 and February 24, 2010, the shareholding of Tutis became 7.74% (820216 shares), 5.38% (570216 shares) and 2.27% (240216 shares) respectively i.e. decreased by more than 2% on every occasion. Hence, Tutis was required to make disclosure under regulation 13(3) read with regulation 13(5) of the PIT Regulations to the company.
- j. It was observed that on March 23, 2010, Vishal's shareholding crossed 5% and became 6.04% (640000 shares), hence Vishal was required to make disclosure under regulation 13(1) read with regulation 13(5) of the PIT Regulations to MCL. Further, on March 27, 2010 and April 07, 2010, the shareholding of Vishal became 9.85% and 12.12% i.e. increased by more than 2%. Hence, Vishal was required to make disclosure under regulation 13(3) read with regulation 13(5) of the PIT Regulations to the company.

However, from the reply received from BSE, vide its email dated August 26, 2016, it was observed that these entities have failed to make the required disclosures under regulation 13(1) and 13(3) read with regulation 13(5) of the PIT Regulations to the company and stock exchange.

3. In view of the above, SEBI felt satisfied that there are sufficient grounds to inquire and adjudicate upon the aforesaid violation of the PIT Regulations by the aforesaid 10 Noticees and approved the instant proceedings and *vide* communication-order dated July 17, 2017, Mr. D. Sura Reddy, General Manager, was appointed as Adjudicating Officer (erstwhile AO) to inquire and adjudge under section 15A (b) of the SEBI Act the aforesaid alleged violations by the respective Noticees and the matter was referred to him on July 18, 2017. A show cause notice no. EAD-2/DSR/RG/19058/2017 dated August 09, 2017 (hereinafter referred to as 'SCN') was issued by the erstwhile AO to the Noticees in terms of rule 4(1) of the SEBI (Procedure for Holding Inquiry

and Imposing Penalties by Adjudicating Officer) Rules, 1995 (hereinafter referred to as the 'Adjudication Rules') read with section 15I of the SEBI Act. By the SCN, the Noticees were called upon to show cause as to why an inquiry should not be held against them 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 SCN was duly served upon them. However, no reply was received from the Noticees.

4. Subsequently, by a communication-order dated November 22, 2018, this case has been transferred to me. After receipt of records, the Noticees were given additional opportunity to file reply to the SCN and were also granted an opportunity of personal hearing on December 20, 2018 in terms of Rule 4(3) of the Adjudication Rules and in the interest of natural justice and the notices of hearing were sent to the Noticees on December 10, 2018. The notice dated December 10, 2018 for hearing on December 20, 2018 was served upon the Noticees No. 7 and 9 through affixture as it could not be served by delivery *via* post. As the notice dated December 10, 2018 could not be served upon Noticee No. 1, 2, 3, 4, 5, 6, 8 and 10 either by delivery or affixture, therefore, another opportunity of hearing was granted to them on February 07, 2019 and notice for that purpose was served upon them by publishing the same in newspapers in terms of rule 7(d) of the Adjudication Rules on January 12, 2019. However, no reply / communication has been received from the Noticees despite the service of notices upon them. Vide the aforesaid notices, it was clearly indicated that in case of failure to submit reply or to appear for the hearing, the case shall be proceeded with *ex-parte* on the basis of the material available on record.
5. It is noted that the Noticees have neither filed any reply nor have availed the opportunity of personal hearing despite service of notices upon them. From the material brought on record, it is noted that the Noticee has failed to submit any reply/submissions to the respective SCN and have not responded to the hearing notice despite service thereof upon them. I am of the view that these Noticee is deliberately keeping away from these proceedings and are not willing to cooperate. In the facts and circumstances of this case, I am of the view that the Noticees have nothing to submit and in terms of rule 4(7) of the Adjudication Rules the matter can be proceeded *ex-parte* on the basis of material available on record.. In absence of any response from the Noticees, it is presumed that they have admitted the charge. In this regard, the observations of Hon'ble Securities Appellate Tribunal (SAT) in the matter of *Classic Credit Ltd. vs. SEBI* (Appeal No. 68 of 2003 decided on December 08, 2006) are relevant to rely upon wherein it has that- "*... the appellants did not file any reply to the second show-cause notice. This being so, it has to be presumed that the charges alleged against them in the show cause notice were admitted by them*". Further, the Hon'ble SAT in the matter of *Sanjay Kumar Tayal & Others vs SEBI* (Appeal No. 68 of 2013 decided on February 11, 2014), has, *inter alia*,

observed that: "... appellants have neither filed reply to show cause notices issued to them nor availed opportunity of personal hearing offered to them in the adjudication proceedings and, therefore, appellants are presumed to have admitted charges levelled against them in the show cause notices..."

6. I now proceed to deal with charge of non-compliance of the disclosure obligations under regulation 13(1) and 13(3) read with regulation 13(5) of the PIT Regulations against the 10 Noticees. The relevant provision of PIT Regulations, is reads as follows:

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

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

- (a) The receipt of intimation of allotment of shares ; or
(b) The acquisition of shares or voting rights, as the case may be.

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-regulations; and such change exceeds 2% of total shareholding or voting rights in the company.

13(5) The disclosure mentioned in sub-regulation (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.

7. I have perused the transactions of these Noticees as mentioned hereinabove had triggered the obligations to make disclosures in terms of regulation 13(1) and regulation 13(3) within the time stipulated in regulation 13(5) of the PIT Regulations. The same are summarized in the following table:-

Sr. No.	Acquisition/sale by the Noticee	Date of transaction which triggered disclosure obligation from previous disclosures	Regulation violated of PIT Regulation
1	Dash (Noticee No. 1)	19-Nov-08 (Purchase)	13(1) read with 13(5)
		21-Nov-08 (Purchase)	13(3) read with 13(5)
2	Mandvi. (Noticee No. 2)	02-Dec-08 (Purchase)	13(1) read with 13(5)
		20-Apr-10 (Purchase)	13(3) read with 13(5)
		16-Jul-10 (Sale)	13(3) read with 13(5)
		26-Aug-10 (Sale)	13(3) read with 13(5)
3	Maxilla (Noticee No. 3)	22-Apr-10 (Purchase)	13(1) read with 13(5)

4	Parachit (Noticee No. 4)	09-Jun-10 (Purchase)	13(1) read with 13(5)
		24-Jul-10 (Sale)	13(3) read with 13(5)
5	Prime (Noticee No. 5)	07-Jun-10 (Purchase)	13(1) read with 13(5)
		13-Aug-10 (Purchase)	13(1) read with 13(5)
6	Rajratan (Noticee No. 6)	09-Aug-10 (Purchase)	13(1) read with 13(5)
7	Shingar (Noticee No. 7)	13-Sep-10 (Purchase)	13(1) read with 13(5)
8	Sparkle (Noticee No. 8)	27-Jul-10 (Purchase)	13(1) read with 13(5)
9	Tutis (Noticee No. 9)	24-Dec-08 (Sale)	13(3) read with 13(5)
		15-Apr-09 (Sale)	13(3) read with 13(5)
		24-Feb-10 (Sale)	13(3) read with 13(5)
10	Vishal (Noticee No. 10)	23-Mar-10 (Purchase)	13(1) read with 13(5)
		27-Mar-10 (Purchase)	13(3) read with 13(5)
		07-Apr-10 (Purchase)	13(3) read with 13(5)

8. It also noted that from amongst the above transactions, the following transactions of the respective Noticees had also triggered their disclosures obligations under provisions of regulation 7(1A) read with regulation 7(2) of the SEBI (Substantial Acquisition of Shares and Takeover) Regulations, 1997(SAST Regulations):-

Sr. No.	Acquisition/sale by the Noticee	Date of transaction
1	Dash (Noticee No. 1)	21-Nov-08 (Purchase)
2	Mandvi. (Noticee No. 2)	02-Dec-08 (Purchase)
3	Prime (Noticee No. 5)	07-Jun-10 (Purchase)
4	Tutis (Noticee No. 9)	15-Apr-09 (Sale)
5	Vishal (Noticee No. 10)	23-Mar-10 (Purchase)
		27-Mar-10 (Purchase)

9. For the violation of regulation 7(1A) read with regulation 7(2) of the SAST Regulations vide an order dated February 27, 2019 penalty has already been imposed upon the above Noticees No. 1, 2, 5, 9 and 10. In this regard, it is noted that for the purpose of inquiry and adjudication of these similar violations arising out of same transactions, Hon'ble SAT, vide its order dated September 04, 2013 in the matter of *Vitro Commodities Private Limited Vs. SEBI* had held that:

"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. It may be seen that Regulation 7(1) of Takeover Regulations, 1997 and Regulation 13(1) of PIT Regulations, 1992 are not stand alone Regulations and one is corollary of other "

10. In view of the aforesaid *ratio decidendi*, the violation of the provisions of regulation 13(1) and regulation 13(3) read with regulation 13(5) of the PIT Regulations and regulation 7(1A) read with regulation 7(2) of the SAST Regulations are not substantially different and can be considered as a single violation by Noticees No.1, 2, 5, 9 and 10 for the purpose of adjudication for the aforesaid transaction given in para 8. Since penalty has already been imposed for violation of same disclosure obligation vide order dated February 27, 2019, I do not deem it necessary proceed to adjudicate the penalty in respect of same transactions in these proceedings.
11. In this case, there is complete failure on the part of aforesaid Noticees. It is pertinent to mention that the disclosures requirements under the respective regulations serve very important purposes. The stock exchange is informed so that the investing public will come to know of the position enabling them to stick on with or exit from the company. Timely disclosures of the details of the shareholding of the persons acquiring/transferring substantial stake is of significant importance as such disclosures also enable the regulators to monitor such acquisitions. Hon'ble SAT in the matter of *Coimbatore Flavors & Fragrances Ltd. vs SEBI (Appeal No. 209 of 2014 order dated August 11, 2014)*, has held that *"Undoubtedly, the purpose of these disclosures is to bring about more transparency in the affairs of the companies. True and timely disclosures by a company or its promoters are very essential from two angles. Firstly; investors can take a more informed decision to invest or not to invest in a particular scrip secondly; the Regulator can properly monitor the transactions in the capital market to effectively regulate the same."* Further in the matter of Appeal No. 66 of 2003 -*Milan Mahendra Securities Pvt. Ltd. vs. SEBI*—the Hon'ble SAT, vide its order dated April 15, 2005 also held 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."* In the facts and circumstances of this case, the failure to make disclosure as found in this case would defeat the purpose of the provisions of regulation 13(1) and regulation 13(3) read with regulation 13(5) of the PIT Regulations. The statutory timeline stipulated in regulation 13(5) of the PIT Regulations is mandatory.

12. Considering these facts and circumstances, I hold that this case deserves imposition of monetary penalty upon all the Noticees under Section 15A (b) of the SEBI Act which reads as following:-

Penalties and Adjudication

Penalty for failure to furnish information, return, etc.

15A. *If any person, who is required under this Act or any rules or regulations made thereunder,—*

(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 which shall not be less than one lakh rupees but which may extend to one lakh rupees for each day during which such failure continues subject to a maximum of one crore rupees.

13. For the purpose of adjudication of penalty it is relevant to mention that under section 15I of the SEBI Act imposition of penalty is linked to the subjective satisfaction of the Adjudicating Officer. The words in the section that "*he may impose such penalty*" are of considerable significance, especially in view of the guidelines provided by the legislature in section 15J. Further, as per explanation appended to section 15J, vide Part VIII of Chapter VI of the Finance Act, 2017, while adjudging the quantum of penalty the adjudicating officer has discretion and such discretion should be exercised having due regard to the factors specified in section 15J. The factors stipulated in Section 15J of the 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 investor/ +s as a result of the default;

(c) the repetitive nature of the default.

Explanation-

For the removal of doubts, it is clarified that the power of an adjudicating officer to adjudge the quantum of penalty under sections 15A to 15E, clauses (b) and (c) of section 15F, 15G, 15H and 15HA shall be and shall always be deemed to have been exercised under the provisions of this section.

14. Having regard to the factors listed in section 15J, it is noted that from the material available on record, any quantifiable gain or unfair advantage accrued to the Noticees or the extent of loss suffered by the investors as a result of the default in this case cannot be computed. It is also relevant

to consider that observed that the Noticees have been found to be purchasing shares of MCL repeatedly pursuant to concerted action with a commonality of object and community of the interest in acquisition of shares of MCL. Further, it has been found, in the order dated February 27, 2019 that except the Noticee No. 7 , other Noticees herein to have failed to discharge their similar disclosure obligations under regulation 7(1) read with regulation 7(2) of the SAST Regulations with regard to their several acquisitions in MCL. In addition, Noticee No. 1 has been found to have failed to make disclosures under regulation 7(1) of the SAST Regulations for its separate an independent acquisitions in the shares of MCL and appropriate penalty has been imposed on it by separate order passed today. Thus, the Noticees, except Noticee No. 7 have been found to be habitually and repeatedly defying their disclosure obligations. Such repeated defaults in respect of acquisition of shares of same company in close proximity of time further aggravate the charge. It is established that the Noticees have entered into transactions in clandestine manner and have completely defaulted in making requisite disclosures thereby defeating the objective and purpose of the regulations.

15. Considering the facts and circumstances of the case and exercising the powers conferred upon me under section 15I of the SEBI Act read with rule 5 of the Adjudication Rules. I, therefore, hereby impose the monetary penalty on Noticees under Section 15A(b) of the SEBI Act as per following table:-

Sr. No.	Name of Noticee	Amount of Penalty (₹)
1	Dash Pharmaceuticals Pvt Ltd. (Noticee No. 1)	4,00,000/-
2	Mandvi Dyes & Chemicals Co. Pvt. Ltd. (Noticee No. 2)	6,00,000/-
3	Maxilla Financial Services Pvt. Ltd. (Noticee No. 3)	3,00,000/-
4	Parachit Sales & Marketing (I) Pvt. Ltd. (Noticee No. 4)	4,00,000/-
5	Prime Dyes & Chemicals Co. Pvt. Ltd. (Noticee No. 5)	3,00,000/-
6	Rajratan Trading Pvt. Ltd. (Noticee No. 6)	3,00,000/-
7	Shingar Dyes & Chemicals Pvt. Ltd. (Noticee No. 7)	2,00,000/-
8	Sparkle Tooth Brush Mfg Co. Pvt. Ltd. (Noticee No. 8)	3,00,000/-
9	Tutis Technologies Ltd. (Noticee No. 9)	4,00,000/-
10	Vishal Information Technologies Ltd. (Noticee No. 10)	3,00,000/-

16. In my view, the aforesaid penalty is commensurate with the violation committed by these Noticees in this case.
17. The aforesaid Noticees shall remit / pay the said amount of penalty within 45 days of receipt of this order either by way of Demand Draft in favour of “SEBI - Penalties Remittable to

Government of India”, payable at Mumbai, OR through e-payment facility into Bank Account, the details of which are as follows:

Bank Name	State Bank of India
Branch	Bandra-Kurla Complex
RTGS Code	SBIN0004380
Beneficiary Name	SEBI – Penalties Remittable To Government of India
Beneficiary A/c No	31465271959

18. The said demand draft or forwarding details and confirmation of e-payment made in the format as given in following table should be sent to "The Division Chief, EFD-DRA-IV, Securities and Exchange Board of India, SEBI Bhavan, Plot no. C- 4 A, "G" Block, Bandra Kurla Complex, Bandra (E), Mumbai - 400 052” and also to e-mail id:- tad@sebi.gov.in

1	Case Name	
2	Name of the Payee	
3	Date of Payment	
4	Amount Paid	
5	Transaction No.	
6	Bank Details in which payment is made	
7	Payment is made for (like penalties/disgorgement / recovery/ settlement amount and legal charges along with order details)	

19. In terms of Rule 6 of the Adjudication Rules, copies of this order are sent to the Noticee and also to SEBI.

Date: February 28, 2019

Place: Mumbai

**Santosh Shukla
Chief General Manager &
Adjudicating Officer**