

BEFORE THE ADJUDICATING OFFICER
SECURITIES AND EXCHANGE BOARD OF INDIA
[ADJUDICATION ORDER NO. Order/BJD/MG/2020-21/9698-9705]

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

- 1. Bharat Jayantilal Patel (PAN: AAAPP6652R)**
- 2. Minal Bharat Patel (PAN: AACPP5126G)**
- 3. Hardik Bharat Patel (PAN: AHIPP1407H)**
- 4. Ruchit Bharat Patel (PAN: ANDPP9202F)**
- 5. Prashant Jayantilal Patel (PAN: AABPP2156M)**
- 6. Pat Financial Consultants Private Limited (PAN: AAACP3115E)**
- 7. Pasha Finance Private Limited (PAN: AAACP8316P)**
- 8. Pranav Holdings Private Limited (PAN: AABCP1438P)**

In the matter of Centum Electronics Limited

BACKGROUND OF THE CASE

1. Securities and Exchange Board of India (hereinafter referred to as '**SEBI**') conducted an investigation for the period December 15, 2011 to October 09, 2014 (hereinafter referred to as "**Investigation Period/ IP**") in the scrip of Centum Electronics Limited (hereinafter referred to as "**Centum/ Company**"), which is listed on the Bombay Stock Exchange (herein after referred to as '**BSE**') and the National Stock Exchange (herein after referred to as '**NSE**').

2. It was observed that entities - (1) Mr. Bharat Jayantilal Patel, (2) Ms. Minal Bharat Patel, (3) Mr. Hardik Bharat Patel, (4) Mr. Ruchit Bharat Patel, (5) Mr. Prashant Jayantilal Patel, (6) Pat Financial Consultants Private Limited, (7) Pasha Finance Private Limited and (8) Pranav Holdings Private Limited (hereinafter referred to as '**Noticee 1 to 8**' respectively and collectively as '**Noticees**') are Persons acting in concert (hereinafter referred to as '**PAC**') in terms of SEBI (Substantial Acquisition of Shares and Takeovers) Regulations, 2011 (hereinafter referred to as "**SAST Regulations**"). The shareholding of the Noticees as PAC in Centum changed during the investigation period and, as PAC, they were required to make disclosures in terms of SAST Regulations on multiple occasions. SEBI further, observed that the transactions executed by Noticee 3 in the scrip of Centum, during the investigation period, required disclosures in terms of SEBI (Prohibition of Insider Trading) Regulation, 1992 (hereinafter referred to as "**PIT Regulations, 1992**") read with Regulation 12(2) of SEBI (Prohibition of Insider Trading) Regulation, 2015 (hereinafter referred to as "**PIT Regulations, 2015**") on multiple occasions. However, it was observed that the Noticees have failed to make disclosures as PAC in terms of SAST Regulations and Noticee 3 failed to make disclosures in terms of PIT Regulations, 1992, as required. In view of the same, SEBI has initiated adjudication proceedings under Section 15A(b) of the SEBI Act against the Noticees.

APPOINTMENT OF ADJUDICATING OFFICER

3. SEBI, vide Communique dated June 14, 2019, appointed the undersigned as the Adjudicating Officer under Section 19 read with Section 15I(1) of SEBI and Rule 3 of SEBI (Procedure for Holding Inquiry and Imposing Penalties) Rules, 1995

(hereinafter referred to as '**AO Rules**') to inquire into and adjudge the Noticees under the provisions of Section 15A(b) of SEBI Act.

SHOW CAUSE NOTICE, REPLY AND HEARING

4. A Show Cause Notice SEBI/EAD/BJD/MKG/16381/2020 dated October 01, 2020 (hereinafter referred to as '**SCN 1**') was issued to the Noticees, under the AO Rules to show-cause as to why an inquiry should not be initiated against the Noticees and why penalty should not be imposed upon it under Section 15A(b) of SEBI Act for the violations of SAST Regulations alleged to have been committed by them as PAC.
5. The details in respect of the violations alleged to be committed by the Noticees, as mentioned in the SCN 1, is as given below:
 - a. *In terms of Regulation 2(1)(q)(2)(ii) & (iii) of SAST Regulations, (i) a company, its holding company, subsidiary company and any company under the same management or control (ii) a company, its directors, and any person entrusted with the management of the company, are defined as deemed to be 'Persons Acting in Concert' (herein after referred to as 'PAC'). Further, following relationships among the Noticees 1 to 8 are alleged -*

Table-1

Sr. no.	Entity Name	Basis of Connection
1	Bharat Jayantilal Patel	Director in Fidelity Multitrade Ltd., Pranav Holdings Pvt. Ltd., Pasha Finance Pvt. Ltd., Superior Financial Consultancy Services Private Limited and PAT Financial Consultants Ltd.
2	Minal Bharat Patel	Director in Fidelity Multitrade Pvt. Ltd., Pasha Finance Pvt. Ltd.
3	Hardik Bharat Patel	Director in PAT Financial Consultants Pvt. Ltd.
4	Ruchit Bharat Patel	Director in Fidelity Multitrade Pvt. Ltd. & Pat Financial Consultants Pvt. Ltd.
5	Prashant Jayantilal Patel	Director in Pat Financial Consultants Pvt. Ltd.
6	Pat Financial Consultants Pvt. Ltd.	Bharat Jayantilal Patel, Hardik Bharat Patel, Ruchit Bharat Patel and Prashant Jayantilal Patel are the directors.
7	Pranav Holdings Pvt. Ltd.	Bharat Jayantilal Patel, Pankaj Jayantilal Patel are directors.
8	Pasha Finance Pvt. Ltd.	Bharat Jayantilal Patel and Minal Bharat Patel are directors.

- b. In view of the same, it is alleged that the Noticees 1 to 8 are acting as PAC in terms of Regulation 2(1)(q)(2)(ii) & (iii) of SAST Regulations. It is observed that shareholding of the PAC in Centum changed during the investigation period and as a PAC they were required to make disclosures in terms of Regulation 29(1) and 29(2) read with 29(3) of SAST Regulations on multiple occasions as depicted in the Table – 2-

Table 2

Date	No of shares held - pre Acquisition	% holding pre-acquisition	Debit (disposal)	% shares disposed	Credit (acquisition)	% shares acquired	Closing (post acquisition)	% holding post-acquisition	Disclosure required in terms of R.29(1) & (2) of read with R.29(3) of SAST Regulation	Disclosure made (Yes/No)
14-Feb-2012	377842	3.06%	0	0.00%	1115000	9.02%	1492842	12.07%	Triggered R.29(1)	No
15-Feb-2012	1492842	12.07%	719000	5.81%	87000	0.70%	860842	6.96%	Triggered R.29(2)	No
24-Jan-2013	683551	5.53%	148000	1.20%	0	0.00%	535551	4.33%	Triggered R.29(2)	No
29-Jan-2013	535551	4.33%	0	0.00%	148000	1.20%	683551	5.53%	Triggered R.29(1)	No
4-Mar-2013	586883	4.75%	0	0.00%	375152	3.03%	962035	7.78%	Triggered R.29(2)	No
20-Mar-2013	846635	6.85%	0	0.00%	730930	5.91%	1577565	12.76%	Triggered R.29(2)	No
16-Jul-2013	1577065	12.75%	300000	2.43%	0	0.00%	1277065	10.33%	Triggered R.29(2)	No
12-Jun-2014	1354534	10.88%	200000	1.61%	400000	3.21%	1554534	12.48%	Triggered R.29(2)	No
22-Jul-2014	1504107	12.08%	490747	3.94%	50999	0.41%	1064359	8.55%	Triggered R.29(2)	No
15-Sep-2014	835045	6.69%	68209	0.55%	0	0.00%	766836	6.15%	Triggered R.29(2)	No

- c. It is observed from the Table - 2 above that the Noticees 1 to 8, acting as PAC, were required to make disclosures to the stock exchanges and the Centum in terms of Regulation 29(1) read with 29(3) of SAST Regulations on two (2) occasions and in terms of Regulation 29(2) read with 29(3) of SAST Regulations on eight (8) occasions as brought out in above Table, during the investigation period in the scrip of Centum.
- d. The company in its reply dated July 04, 2015, has provided details of disclosures received by it. However, it was observed that, there were various instances of purchase/sell as given in the above table which triggered the disclosure requirement and yet, disclosures were not provided by the PAC to the company. Therefore, it is alleged that Noticees 1 to 8 had violated Regulation 29(1) read with 29(3) of SAST Regulations on

two (2) occasions and Regulation 29(2) read with 29(3) of SAST Regulations on eight (8) occasions.

6. Another Show Cause Notice SEBI/EAD/BJD/MKG/16382/2020 dated October 01, 2020 (hereinafter referred to as '**SCN 2**') was issued to the Noticee 3, under the AO Rules to show-cause as to why an inquiry should not be initiated against the Noticee 3 and why penalty should not be imposed upon it under Section 15A(b) of SEBI Act for the violations of PIT Regulations, 1992 alleged to have been committed by him.
7. The details in respect of the violations alleged to be committed by the Noticee 3, as mentioned in the SCN 2, are as given below:

- a. *SEBI observed that the trades executed by the Noticee 3, in the scrip of Centum, during the investigation period, required disclosures in terms of Regulation 13(1) or 13(3) read with 13(5) of PIT Regulations, 1992 on multiple occasions as depicted in the Table – 3-*

Table 3

Date	No of shares held - pre Acquisition	% holding pre-acquisition	Debit (disposal)	% shares disposed	Credit (acquisition)	% shares acquired	Closing (post acquisition)	% holding post-acquisition	Trigger under R.13(1) & (3) of read with R.13(5) of SEBI (PIT) 1992	Disclosure Status
14-Feb-2012	25202	0.20%	0	0.00%	1115000	9.02%	1140202	9.22%	Triggered R.13(1)	Not disclosed
15-Feb-2012	1140202	9.22%	719000	5.81%	0	0.00%	421202	3.41%	Triggered R.13(3)	Not disclosed
4-Mar-2013	452856	3.66%	0	0.00%	375152	3.03%	828008	6.70%	Triggered R.13(1)	Not disclosed
2-Jul-2013	826008	6.68%	300000	2.43%	0	0.00%	526008	4.25%	Triggered R.13(3)	Not disclosed
17-Jun-2014	512042	4.11%	0	0.00%	300000	2.41%	812042	6.52%	Triggered R.13(1)	Not disclosed
22-Jul-2014	762802	6.12%	430747	3.46%	0	0.00%	332055	2.67%	Triggered R.13(3)	Not disclosed

- b. *It is observed from the Table - 3 above that the Noticee 3, was required to make disclosures to the Company in terms of Regulation 13(1) read with 13(5) of PIT Regulations, 1992 (when his shareholding crossed 5%) on three (3) occasions and in terms of Regulation 13(3) read with 13(5) of PIT Regulations, 1992 (when his shareholding changed by more than 2%) on three (3) occasions.*

- c. *The company in its reply dated July 04, 2015, has provided details of disclosures received by the Noticee 3. However, it was observed that, there were various instances of purchase/ sell as given in the above table which triggered the disclosure requirement and yet, disclosures were not provided by the Noticee 3 to the Company.*
 - d. *In view of the above facts and observations, it is alleged that the Noticee 3 has violated Regulation 13(1) read with 13(5) of PIT Regulations, 1992, on three (3) occasions and Regulation 13(3) read with 13(5) of PIT Regulations, 1992, on three (3) occasions.*
8. The SCN 1 issued to the Noticees was sent through digitally signed email dated October 01, 2020 and were duly delivered to the Noticees. The Noticee 1 vide letter dated October 12, 2020, replied to the SCN 1, on behalf of all the Noticees and *inter alia* made following submissions-
- i. *At the outset, we would like to state that the shareholding is relating to 2011, 2012, 2013 & 2014. We are not in position to locate file containing to these disclosures as these records are 7-8 years old period. Moreover, it is humanly impossible to remember any specific reasons for non-submission in case even if not submitted.*
 - ii. *Notwithstanding what is stated above, we would like to submit followings*
 - a) *Our shareholding is disclosed in quarterly shareholding pattern as displayed in Stock Exchange website and available to general public (Shareholding pattern period ended Dec-11 to Dec-14 highlighting our shareholding is attached as Annexure- 1). Thus, details of change of holding of the shares of the company were already on the public domain due to the corporate periodic filing made by the company with the stock exchange.*
 - b) *It is also stated that no loss or harm was caused to any investor or shareholding of the company or any public in any manner.*
 - c) *Not pecuniary gain and advantage was derived by us.*
 - d) *We have not acted deliberately in defiance of the law. We have not acted in conscious disregard of our obligation.*

- iii. *It is also stated that we have always acted in compliance of rules and regulations of security market. In view of non-location or non-availability of files containing disclosures, we are handicapped to submit required disclosures as matter is 7-8 years old. Needless to state that, our inability to submit disclosures cannot be termed as non-disclosures.*
 - iv. *We would like to draw your attention to many judgements which condemns such inordinate delay and have rules that investigation authority cannot draw adverse interference against that party for not producing records.*
 - v. *Having regards to what is stated above, you are requested to view the stated fact in right spirits and perceptive and not to take negative inference.*
9. The SCN 2 issued to the Noticee 3 was sent through digitally signed email dated October 01, 2020 and was duly delivered to the Noticee 3. However, the Noticee 3 failed to file any reply to the SCN 2. Thereafter, in the interest of natural justice, all the Noticees including the Noticee 3, were granted opportunities of personal hearing through webex video conferencing on November 19, 2020, vide digitally signed email dated November 05, 2020. Aforesaid email was duly served upon the Noticees and didn't bounce. However, the Noticees didn't avail opportunity of personal hearing.

CONSIDERATION OF ISSUES

10. I have carefully perused the charges leveled against the Noticees, reply of the Noticees and the documents / material available on record. The issues that arise for consideration in the present case are:
- (a) Whether the Noticees, as PAC, have violated provisions of Regulations 29(1), 29(2) read with Regulation 29(3) of SAST Regulations on multiple occasions?
 - (b) Whether the Noticee 3 has violated provisions of Regulations 13(1), 13(3) read with Regulation 13(5) of PIT Regulations, 1992, on multiple occasions?

(c) Does the violation, if any, attract monetary penalty under Section 15A(b) of SEBI Act?

(d) If so, what would be the quantum of monetary penalty that can be imposed on the Noticees after taking into consideration the factors mentioned in section 15J of the SEBI Act?

11. Before proceeding further, I would like to refer to the relevant provisions of the SAST Regulations and PIT Regulations, 1992 and PIT Regulations, 2015 as below:

Relevant provisions of SAST Regulations:

2.(1).(q). 'persons acting in concert' means, —

(1) persons who, with a common objective or purpose of acquisition of shares or voting rights in, or exercising control over a target company, pursuant to an agreement or understanding, formal or informal, directly or indirectly co-operate for acquisition of shares or voting rights in, or exercise of control over the target company.

(2). Without prejudice to the generality of the foregoing, the persons falling within the following categories shall be deemed to be persons acting in concert with other persons within the same category, unless the contrary is established,—

(i) a company, its holding company, subsidiary company and any company under the same management or control;

(ii) a company, its directors, and any person entrusted with the management of the company;

(iii) directors of companies referred to in item (i) and (ii) of this sub-clause and associates of such directors;

Disclosure of acquisition and disposal-

29.(1) Any acquirer who acquires shares or voting rights in a target company which taken together with shares or voting rights, if any, held by him and by persons acting in concert

with him in such target company, aggregating to five per cent or more of the shares of such target company, shall disclose their aggregate shareholding and voting rights in such target company in such form as may be specified.

(2) Any person, who together with persons acting in concert with him, holds shares or voting rights entitling them to five per cent or more of the shares or voting rights in a target company, shall disclose the number of shares or voting rights held and change in shareholding or voting rights, even if such change results in shareholding falling below five per cent, 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 two per cent of total shareholding or voting rights in the 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 to,—

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

(b) the target company at its registered office.

Relevant provisions of PIT Regulations, 1992:

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.

...

Continual disclosure.

(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 had 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.

...

(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.

Relevant provisions of PIT Regulations, 2015:

Repeal and Savings.

12. (1) *The Securities and Exchange Board of India (Prohibition of Insider Trading) Regulations, 1992 are hereby repealed.*

(2) Notwithstanding such repeal,—

(a) the previous operation of the repealed regulations or anything duly done or suffered thereunder, any right, privilege, obligation or liability acquired, accrued or incurred under the repealed regulations, any penalty, forfeiture or punishment incurred in respect of any offence committed against the repealed regulations, or any investigation, legal proceeding or remedy in respect of any such right, privilege, obligation, liability, penalty, forfeiture or punishment as aforesaid, shall remain unaffected as if the repealed regulations had never been repealed; and

(b) anything done or any action taken or purported to have been done or taken including any adjudication, enquiry or investigation commenced or show-cause notice issued under the repealed regulations prior to such repeal, shall be deemed to have been done or taken under the corresponding provisions of these regulations;

(3) After the repeal of Securities and Exchange Board of India (Prohibition of Insider Trading) Regulations, 1992, any reference thereto in any other regulations made, guidelines or circulars issued thereunder by the Board shall be deemed to be a reference to the corresponding provisions of these regulations.

12. The first issue for consideration is whether the Noticees, as PAC, have violated the provisions of Regulations 29(1), 29(2) read with Regulation 29(3) of SAST Regulations on multiple occasions. It is noted from the disclosure dated March 23, 2013, under Regulation 29(1) of SAST Regulations, made to the Company, by the Noticee 1 to 4 and 6 that they were shown as PAC in the said disclosure. Additionally, it is noted from the Table 1 that the Noticee 1 is director in the Noticee 6, 7 and 8; the Noticee 2 is director in the Noticee 7; the Noticee 3, 4 & 5 are directors in the Noticee 6. Further, the Noticee 1, 2 & 4 are also common directors in Fidelity Multitrade Limited. It is noted that in terms of the Regulation 2(1)(q)(2)(ii) of SAST Regulations that a company, its directors and any person entrusted with the management of the company are deemed to be PAC. Thus, I find that the Noticees are deemed to be PAC in terms of SAST Regulations (herein after referred to as '**Bharat Patel PAC/ PAC**').

13. I note that Regulation 29(1) read with 29(3) of SAST Regulations clearly mandates that any acquirer who acquires shares or voting rights in a target company which taken together with shares or voting rights, if any, held by him and by persons acting in concert with him in such target company, aggregating to five per cent or more of the shares of such target company, shall disclose their aggregate shareholding to — (a) every stock exchange where the shares of the Target

Company are listed; and (b) the Target Company at its registered office, within two working days, from the acquisition of the shares. Further, in terms of SAST Regulations, acquirer means any person who, directly or indirectly, acquires or agrees to acquire whether by himself, or through, or with **persons acting in concert** with him, shares of a target company. I note from the Table 2 that the total shareholding of the Noticees as PAC has changed during the investigation period as below:

- (i) On February 14, 2012, shareholding of Bharat Patel PAC increased from 3,77,842 shares (3.06% of total paid up share capital of Company) to 14,92,842 shares (12.07% of total paid up share capital of Company).
- (ii) Thereafter, on January 29, 2013, shareholding of Bharat Patel PAC again increased from 5,35,551 shares (4.33% of total paid up share capital of Company) to 6,83,551 shares (5.53% of total paid up share capital of Company).

14.I, therefore, note from above that the Noticees as PAC were acquirers and on aforesaid two occasions their total shareholding crossed the threshold of 5% shares of the target company. Thus, they were required to make disclosures in terms of Regulation 29(1) read with 29(3) of SAST Regulations on two aforesaid occasions.

15.Further, In terms of Regulation 29(2) read with 29(3) of SAST Regulations, 2011, any acquirer, who together with persons acting in concert with him, holds shares or voting rights entitling them to five per cent 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 per cent or more of the shares or voting rights in such target company with in two working days of receipt of intimation of allotment of shares or acquisition of shares to the target company and Stock exchange. It is noted that total shareholding of the Noticees, as PAC, taken together reached 12.07% shares, in Centum on February 14, 2012. Subsequently, due to disposal / sale of shares on February 15, 2020 by the Noticees, their total shareholding in the Centum reduced by 5.81%. Therefore, the Noticees as PAC were required to make disclosure for aforesaid disposal of shares, in terms of Regulation 29(2) read with 29(3) of SAST Regulations. Similarly, I note from the Table 2 that the Noticees as PAC were required to make disclosures in terms of Regulation 29(2) read with 29(3) of SAST Regulations on seven (7) other occasions during the investigation period.

16. I note from the reply of the Noticees that they have not disputed the facts of the case. In this regard it is contended by the Noticees that they have acted in compliance of rules and regulations of securities market. However, I note that they have failed to submit any cogent evidence in this regard which will substantiate their submissions. It is further noted that Centum, vide letter dated July 04, 2015, has submitted that it has not received disclosures for aforesaid changes in the shareholding of the Noticees. The Noticees further submitted that their shareholding is disclosed in quarterly shareholding pattern displayed in stock exchange website and available in public domain. In this context, I would like to rely on observation of Hon'ble Securities Appellate Tribunal ('SAT') in Ambaji Papers Pvt. Ltd. vs. the Adjudicating Officer, SEBI dated January 15, 2014,

wherein similar contention of information being in the public domain was raised by the appellant. Hon'ble SAT observed: *".... that a reading of Regulation 7 of the SAST Regulations, 1997 read with Regulation 35(2) of the SAST Regulations, 2011 clearly points out that not only the company, but an acquirer is also required to inform the stock exchanges at every stage of aggregate of the shareholding or voting rights in the company. The object underlying these regulations is, therefore, unequivocally to bring more transparency by dissemination of complete information to the public as well as shareholders at large not only by the concerned company but by the individual acquirer as well."*

17. I would also like to rely on observation of Hon'ble SAT in Premchand Shah and Others V. SEBI (Appeal no. 192 of 2010 dated February 21, 2011), wherein it was held that - *".....When a law prescribes a manner in which a thing is to be done, it must be done only in that manner..... Non-disclosure of information in the prescribed manner deprived the investing public of the information which is required to be available with them when they take informed decision while making investments"*

18. The Noticees have further contended that they have not gained any pecuniary gain or advantage by not making the purported disclosures, no loss was caused to the investors. The Noticees also submitted that they have not acted deliberately in defiance of law. In this regard, I note that Hon'ble SAT through various judgments has consistently observed that these factors are not valid grounds for not complying with the mandatory disclosure obligations under the PIT and SAST regulations. In the matter of Virendrakumar Jayantilal Patel vs. SEBI (Appeal No.

299 of 2014 order dated October 14, 2014), Hon'ble SAT observed that - *"..... obligation to make disclosures within the stipulated time is a mandatory obligation and penalty is imposed for not complying with the mandatory obligation. Similarly argument that the failure to make disclosures within the stipulated time, was unintentional, technical or inadvertent and that no gain or unfair advantage has accrued to the appellant, is also without any merit, because, all these factors are mitigating factors and these factors do not obliterate the obligation to make disclosures."*

19. I also note that in Appeal No. 78 of 2014 of Akriti Global Traders Ltd. Vs. SEBI, the Hon'ble SAT vide Order dated September 30, 2014 had observed that - *".....Argument of appellant that the delay was unintentional and that the appellant has not gained from such delay and therefore penalty ought not to have been imposed is without any merit, because, firstly, penal liability arises as soon as provisions under the regulations are violated and that penal liability is neither dependent upon intention of parties nor gains accrued from such delay."* Therefore, I find that the contentions of the Noticees are devoid of any merit.

20. In view of the above, I find that the allegation of non-submission of disclosures in terms of Regulation 29(1) and 29(2) read with 29(3) of SAST Regulations, as brought out above, against the Noticees, as PAC, stands established.

21. The next issue for consideration is whether Noticee 3 has violated provisions of Regulation 13(1), 13(3) read with 13(5) of PIT Regulations, 1992 on multiple

occasions. It is noted that in terms of Regulation 13(1) read with 13(5) of PIT Regulations, 1992, any person who holds more than 5% shares in any listed company shall disclose to the Company details of his shareholding in the Company, within 2 working days of on becoming such holder. I note from Table 3 that the Noticee 3 acquired 11,15,000 shares (9.02% of paid up share capital of the Company) on February 14, 2020 and, as a result, his shareholding increased from 25,202 shares (0.20% of paid up share capital of the Company) to 11,40,202 shares (9.22% of paid up share capital of the Company), triggering disclosure requirement in terms of Regulation 13(1) read with 13(5) of PIT Regulations, 1992. Similarly, on two (2) other occasions i.e. on March 04, 2013 and June 17, 2014 his shareholding again crossed 5% in the Company. Thus, the Noticee 3 was required to make disclosures in terms of Regulation 13(1) read with 13(5) of PIT Regulations, 1992 on three (3) abovementioned occasions.

22. In terms of Regulation 13(3) read with 13(5) of PIT Regulations, 1992, any person who holds more than 5% shares in any listed company and his shareholding changes by more than 2%, he shall disclose to the Company details of his shareholding and changes therein, within 2 working days of such change. It is noted from the Table 3 that the Noticee 3 disposed 7,19,000 shares (5.81% of paid up share capital of the Company) on February 15, 2020 and, as a result, his shareholding reduced from 11,40,202 shares (9.22% of paid up share capital of the Company) to 4,21,202 shares (3.41% of paid up share capital of the Company). Thus, his shareholding changed by more than 2% triggering disclosure requirement in terms of Regulation 13(3) read with 13(5) of PIT Regulations, 1992. Similarly, on two (2) other occasions i.e. on July 02, 2013 and July 22, 2014 his

transactions triggered disclosure requirement in terms of Regulation 13(3) read with 13(5) of PIT Regulations, 1992. Thus, the Noticee 3 was required to make disclosures in terms of Regulation 13(3) read with 13(5) of PIT Regulations, 1992 on three (3) abovementioned occasions to the Company.

23. In view of the above, I find that the Noticee 3 was required to make disclosures in terms of Regulation 13(1) and 13(3) read with 13(5) of PIT Regulations, 1992 on the above mentioned occasions to the Company. However, I note from the letter of the Company dated July 04, 2015, that the Noticee 3 has failed to make any disclosures in respect of the aforesaid change in his shareholding in the Company.

24. I note from available records that a copy of SCN, along with annexures, was duly served on Noticee 3. However, Noticee 3 has failed to respond to the allegations in the SCN. Further, Noticee 3 was granted an opportunity of personal hearing in the matter, however, he has neither availed the opportunity of hearing nor made any written submissions. In this context, I place my reliance upon the judgment of the Hon'ble Securities Appellate Tribunal in the matter of Classic Credit Limited Vs. SEBI (Appeal No. 68 Of 2003, Date of Decision December 8, 2006) regarding the significance of the filling the reply to the show cause notice, which stated as follows *"the appellant 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."* I also observe that the Hon'ble Securities Appellate Tribunal in the matter of *Sanjay Kumar Tayal & Ors. v SEBI (Appeal 68 of 2013 dated February 11, 2014)* had *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 leveled against them in the show cause notices...”

25. In view of the foregoing, I find that the allegation against Noticee 3 that he has failed to make disclosures in terms of Regulation 13(1) and 13(3) read with 13(5) of PIT Regulations, 1992 on three (3) occasions each to the Company stands established.

26. The Hon'ble Supreme Court of India in the matter of SEBI Vs. Shri Ram Mutual Fund [2006] 68 SCL 216(SC) held that - *“In our considered opinion, penalty is attracted as soon as the contravention of the statutory obligation as contemplated by the Act and the Regulations is established and hence the intention of the parties committing such violation becomes wholly irrelevant...”*.

27. In view of the above, I am convinced that it is a fit case for imposition of monetary penalty on the Noticees in terms of the provisions of 15A(b) of SEBI Act which reads as under:

Penalty for failure to furnish information, return, etc.

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

(a)

(b) to file any return or furnish any information, books or other documents within the time specified 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 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;

28. While determining the quantum of penalty under Section 15A(b) of SEBI Act, it is important to consider the relevant factors as stipulated in Section 15J of SEBI Act which reads as under:-

Factors to be taken into account while adjudging quantum of penalty.

15J. While adjudging quantum of penalty under 15-I or section 11 or section 11B, the Board or 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.*

Explanation.— For the removal of doubts, it is clarified that the power 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.

29. The amount of disproportionate gain or unfair advantage to the Noticees or loss caused to the investors as a result of the default is not quantified in the material available on record. I have also taken into account the fact that the impugned transactions pertain to the period 2012-2014. I further note that the transactions of Noticee 3 have resulted in violation of both PIT Regulations, 1992 and SAST Regulations. In this respect, I am guided by the observations of Hon'ble SAT in the matter of Vitro Commodities Private Limited Vs. SEBI (Appeal No. 118 of 2013 decided on September 04, 2013), wherein it was *inter alia* observed 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”.

30. Details of the shareholding of the acquirers and changes thereto are an important element for the proper functioning of the securities market and timely disclosure thereof are of significant importance from the standpoint of investors. The purpose of these disclosures is to bring about transparency in the transactions of Directors/Promoters/Acquirers and assist the Regulator to effectively monitor the transactions in the market. Hon'ble SAT in the case of M/s. Coimbatore Flavors & Fragrances Ltd. & Ors vs SEBI (Appeal No. 209 of 2014 order dated August 11, 2014), observed "*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.*"

ORDER

31. Having considered all the facts and circumstances of the case, the material available on record, the factors mentioned in Section 15J of the SEBI Act, in exercise of the powers conferred upon me, under Section 15I of the SEBI Act read with Rule 5 of the AO Rules, I hereby impose a monetary penalty of Rs. 1,00,000 (Rupees One Lakh only) on the Noticees viz. (1) Mr. Bharat Jayantilal Patel, (2)

Ms. Minal Bharat Patel, (3) Mr. Hardik Bharat Patel, (4) Mr. Ruchit Bharat Patel, (5) Mr. Prashant Jayantilal Patel, (6) Pat Financial Consultants Private Limited, (7) Pasha Finance Private Limited and (8) Pranav Holdings Private Limited in terms of the provisions of Section 15A(b) of SEBI Act. The said penalty shall be payable jointly and severally by the Noticees.

32. I am of the view that the said penalty is commensurate with the lapse/omission on the part of the Noticees. The Noticees shall remit / pay the said amount of penalty within 45 days of receipt of this order 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. In case of any difficulties in payment of penalties, the Noticees may contact the support at portalhelp@sebi.gov.in.

33. The demand draft or the details/ confirmation of e-payment should be sent to "The Division Chief, EFD – DRA - IV, Securities and Exchange Board of India, SEBI Bhavan, Plot no. C- 7, "G" Block, Bandra Kurla Complex, Bandra (E), Mumbai - 400 051" and also to e-mail id:- tad@sebi.gov.in in the format as given in table below:

1. Case Name:	
2. Name of 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)	

34. In the event of failure to pay the said amount of penalty within 45 days of the receipt of this Order, recovery proceedings may be initiated under section 28A of the SEBI Act for realization of the said amount of penalty along with interest thereon, *inter alia*, by attachment and sale of movable and immovable properties.

35. In terms of the provisions of Rule 6 of the AO Rules, a copy of this order is being sent to the Noticee viz. (1) Mr. Bharat Jayantilal Patel, (2) Ms. Minal Bharat Patel, (3) Mr. Hardik Bharat Patel, (4) Mr. Ruchit Bharat Patel, (5) Mr. Prashant Jayantilal Patel, (6) Pat Financial Consultants Private Limited, (7) Pasha Finance Private Limited, (8) Pranav Holdings Private Limited and also to the Securities and Exchange Board of India.

Date: November 27, 2020

Place: Mumbai

B J DILIP

ADJUDICATING OFFICER