

**BEFORE THE ADJUDICATING OFFICER**  
**SECURITIES AND EXCHANGE BOARD OF INDIA**  
**[ADJUDICATION ORDER NO. - PKK/AO/190/2010]**

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**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**

**Against**

**Ms. Jagruti S. Sheth**

**[PAN: Not Available]**

**In the matter of**

**Shukun Construction Limited**

**Background:**

1. Securities and Exchange Board of India (hereinafter referred to as 'SEBI') had conducted an investigation in respect of the buying, selling and dealing in the shares of Shukun Construction Limited (hereinafter referred to as 'the Company'), a public company listed at the Bombay Stock Exchange (BSE) and Ahmedabad Stock Exchange (ASE). During the course of the investigation, it was inter alia observed that the promoters or persons having control over the Company and persons acting in concert with them did not make disclosures as required under Regulations 7(1A) and 7(2) of the SEBI (Substantial Acquisition of Shares and Takeovers) Regulations, 1997 (hereinafter referred to as 'SAST Regulations'). The Statement of Declaration under Regulation 8(3) of SAST Regulations dated May 06, 2004 (hereinafter referred to as 'Statement of Declaration'), purportedly filed by the Company to the Stock Exchanges, indicated that 213 entities named as the promoters or

persons having control over the Company and persons acting in concert with them held 1277100 shares as on March 31, 2003 constituting 25% of the share capital of the Company. Their shareholding decreased to 10.17% ie 519900 shares as on March 31, 2004. It was found that the decrease of 7,57,170 shares was contributed by 26 of the 213 entities listed in the Statement of Declaration. Ms. Jagruti S. Sheth (hereinafter referred to as the 'Noticee') was found to be one of the 26 entities and her individual shareholding in the Company decreased from 5000 shares as on March 31, 2003 to nil as on March 31, 2004. She allegedly did not make the disclosures to the Company and to the Stock Exchanges as required under Regulations 7(1A) and 7(2) of the SAST Regulations.

**Appointment of Adjudicating Officer:**

2. On the basis of the said findings, SEBI vide Order dated August 08, 2007 appointed Ms. Babita Rayudu as the Adjudicating Officer (AO), under section 15I of the SEBI Act, 1992 (hereinafter referred to as the 'SEBI Act') read with Rule 3 of SEBI (Procedure for holding Inquiry and Imposing Penalty by Adjudicating Officer) Rules, 1995 (hereinafter referred to as the 'Adjudication Rules') to inquire into and adjudge under Section 15A (b) of the SEBI Act, the alleged violation of the provisions of Regulations 7(1A) and 7(2) of the SAST Regulations by the Noticee. Thereafter, SEBI vide Order dated November 23, 2007 appointed Shri Sandeep Deore as AO consequent to the deputation of Ms. Rayudu to IRDA. SEBI vide Order dated August 17, 2010 appointed the undersigned as AO consequent to the transfer of Shri Deore to the Enforcement Department.

**Show Cause Notice, Reply and Personal Hearing:**

3. The AO issued a notice dated May 20, 2008 (hereinafter referred to as 'SCN') to the Noticee under Rule 4 of the Adjudication Rules to show cause as to why an enquiry should not be held against her in terms of Section 15I of the SEBI Act and penalty be not imposed under Section 15A (b) of the SEBI Act.

It was alleged that the Noticee along with 25 other Promoters or persons having control over the Company and persons acting in concert with them collectively sold 757,170 shares constituting 14.83% of the total share capital of the Company and accordingly their shareholding decreased from 25% to 10.17% during the period from April 01, 2003 to March 31 2004, as evidenced by the Statement of Declaration annexed to the SCN. The Noticee has allegedly failed to make disclosures as required under Regulations 7 (1A) and 7 (2) of the SAST Regulations to the Company and to Stock Exchanges where the Company is listed.

4. I observe that the material available on record does not provide the address of the Noticee and therefore the SCN was sent to the address of the Company by 'Registered Post Ack. Due'. The same was returned undelivered. Subsequently, the SCN was hand delivered at the Company's address on April 07, 2009. Intimation regarding the SCN was also published in the newspaper on June 10, 2010. However, the Noticee has not submitted any reply to the SCN.
5. I decided to conduct an inquiry in this matter, in the absence of any reply from the Noticee to the SCN, on consideration of the material available on record. I granted an opportunity of personal hearing to the Noticee on September 09, 2010 at SEBI, WRO, Ahmedabad. The notice of hearing dated August 26, 2010 was sent to the Noticee at the Company's address by hand and was delivered there. The Noticee did not appear before me on the given date and time.
6. In view of the above, I am proceeding with the matter based on material available on record.

**Consideration of Issues, Evidence and Findings:**

7. I have carefully perused the charges made against the Noticee as mentioned in the SCN and the material available on record. The issue that arises for consideration in the present case is whether the Noticee has violated Regulations 7(1A) and 7(2) of the SAST Regulations.
8. Before proceeding to decide the above issue, it is important to have a look at the abovementioned provisions as they existed at the relevant time. The same read as follows.

**SAST Regulations:**

*Acquisition of 5 per cent and more shares or voting rights of a company.*

*7. (1A) Any acquirer who has acquired shares or voting rights of a company under sub-regulation (1) of regulation 11, shall disclose purchase or sale aggregating two per cent or more of the share capital of the target company to the target company, and the stock exchanges where shares of the target company are listed within two days of such purchase or sale along with the aggregate shareholding after such acquisition or sale.*

*(2) The disclosures mentioned in sub-regulations (1) and (1A) shall be made within two 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.*

9. An acquirer is defined in the SAST Regulations as *any person who, directly or indirectly, acquires or agrees to acquire shares or voting rights in the target company, or acquires or agrees to acquire control over the target company, either by himself or with any person acting in concert with the acquirer.*
10. I found from the Statement of Declaration that 213 entities were mentioned therein as the promoters or persons having control over the Company and the persons acting in concert with them. Their collective shareholding in the Company stood at 25% as on March 31, 2003. Out of the said 213 entities,

the shareholding of 26 entities including the Noticee was shown to have decreased by a total of 7,57,170 shares during the period from April 01, 2003 to March 31, 2004. Accordingly, the total promoter group shareholding in the Company stood decreased to 10.17% (decrease of 14.83%) during the said period. The individual shareholding of the Noticee in the Company decreased from 5000 shares as on March 31, 2003 to nil as on March 31, 2004.

11. In order to decide the issues involved and arrive at a conclusion, all the material available on record was perused. My findings are as given below:

- a) The address of the Noticee is not available in the records. Except the Statement of Declaration purportedly made by the Company which merely mentions the name of the Noticee as one of the promoters or the persons having control over the Company and the persons acting in concert with them, there is no other document or material available on record which establishes the identity of the Noticee or by which the Noticee can be recognized.
- b) I could not ascertain from the material available on record the details of purchase and/or sale of shares of the Company made by the Noticee or other promoters or the persons having control over the Company and the persons acting in concert with them during the period from April 1, 2003 to March 31, 2004.
- c) Regulation 7 (1A) of SAST Regulations applies only to acquirers who have acquired shares or voting rights of a company under sub-regulation (1) of Regulation 11 of the SAST Regulations. From the material available on record, it is not clear whether the said promoters or the persons having control over the Company and the persons acting in concert with them had acquired the shares of the Company under sub-regulation (1) of Regulation 11 of the SAST Regulations.

12. Further, It is absolutely necessary to know:
- a) the quantum of shares transacted each time by each one of the acquirers to arrive at the 'purchase or sale aggregating two per cent or more of the share capital of the target company' which triggered the reporting requirement
  - b) the date of the transactions to determine the due date for disclosure i.e. 'within two days of such purchase or sale' ;and
  - c) the aggregate shareholding of the acquirer prior to and after each transaction
- to establish violation of Regulations 7(1A) and 7(2) of the SAST Regulations by an acquirer.
13. It is also possible that any one or all of the 213 entities might have traded in the scrip during the year, apart from the 26 entities whose shareholding decreased, and might have triggered the reporting requirements under Regulations 7(1A) and 7(2) of the SAST Regulations. A reported decrease in the shareholding of the Noticee in the Company, from 5000 shares as on March 31, 2003 to nil as on March 31, 2004 is not a sufficient evidence to establish whether the Noticee triggered the disclosure requirement under Regulations 7(1A) and 7(2) of the SAST Regulations.
14. In view of the above observations, findings and material on record it is difficult to draw any definitive inference regarding the violation of the said disclosure requirements by the Noticee. I am inclined to give benefit of doubt to the Noticee. I, therefore, conclude that the allegation of violation of Regulations 7(1A) and 7(2) of the SAST Regulations by the Noticee does not stand established.

**Order:**

15. In view of the foregoing, the allegation of violation of the abovementioned provisions of SAST Regulations by the Noticee Ms. Jagruti S. Sheth, as specified in the SCN dated May 20, 2008 does not stand established and the matter is, accordingly, disposed of.
  
16. In terms of rule 6 of the Rules, copies of this order are sent to the Noticee and also to the Securities and Exchange Board of India.

**Date: November 19, 2010**

**Place: Mumbai**

**P.K. KURIACHEN  
ADJUDICATING OFFICER**