



**BEFORE THE ADJUDICATING OFFICER  
SECURITIES AND EXCHANGE BOARD OF INDIA  
(ADJUDICATION ORDER NO. Order/JS/VC/2025-26/32264-32266)**

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

**In respect of:**

<b>Noticee No.</b>	<b>Name and PAN of the Noticee</b>
1	Mr. Arvind Babulal Goyal (PAN: ACIPG0193J)
2	Mrs. Pooja Arvind Goyal (PAN: AEHPG5959B)
3	Mr. Abhay Javlekar (PAN: ACVPJ4679B)

**In the matter of Incap Financial Services Limited**

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**BACKGROUND OF THE CASE**

1. Adjudicating Officer vide an order dated April 20, 2020 and two separate orders dated April 30, 2020 (hereinafter referred to as '**AO orders**'), had imposed penalties of ₹19,70,000/- (Rupees nineteen lakh seventy thousand only), ₹14,00,000/- (Rupees fourteen lakh only) and ₹18,50,000/- (Rupees eighteen lakh fifty thousand only) on Mr. Arvind Babulal Goyal (hereinafter referred to as '**Noticee-1**'), Mrs. Pooja Arvind Goyal (hereinafter referred to as '**Noticee-2**') and Mr. Abhay Javlekar (hereinafter referred to as '**Noticee-3**'), respectively, (hereinafter together referred to as '**Noticees**'), under sections 15A(b), 15H, 15HA and 15HB of the Securities and Exchange Board of India Act, 1992 (hereinafter referred to as '**SEBI Act**') and section 23H of the Securities Contracts (Regulation) Act, 1956 (hereinafter referred to as '**SCRA**') for violations of the following provisions:
  - (a) violation of regulations 7(1), 7(1A), 10 and 11(1) of the SEBI (Substantial Acquisition of Shares and Takeovers) Regulations, 1997 (hereinafter referred to as '**SAST Regulations**'), regulation 12(1) and 13(4) of the SEBI (Prohibition



of Insider Trading) Regulations, 1992 (hereinafter referred to as '**PIT Regulations**') read with regulation 12(2) of the PIT Regulation, 2015, clause 1.2 and 4.2 model code of conduct provided in schedule 1 part A read with regulation 12(1) and 12(3) read with regulation 12(2) of PIT Regulations, 2015, sections 12A(a), (b), (c) of SEBI Act read with regulations 3(a), (b), (c), (d) and 4(1), 4(2)(a) and (g) of the SEBI (Prohibition of Fraudulent and Unfair trade Practices Relating to Securities Market) Regulations, 2003 (hereinafter referred to as '**PFUTP Regulations**') and section 16 of SCRA read with SEBI Notification G.S.R.219(E) dated March 2, 2000 and sections 13 and 18 of the SCRA read with section 2(i) of the SCRA by Noticee-1;

(b) violation of regulation 7(1A) and 11(1) of the SAST Regulations and sections 12A(a), (b), (c) of SEBI Act read with regulations 3(a), (b), (c), (d), 4(1) and 4(2)(a) of the PFUTP Regulations by Noticee-2;

(c) violation of regulations 7(1), 7(1A), 10 and 11(1) of the SAST Regulations, regulations 13(1) and 13(3) read with regulation 12(2) of the PIT Regulation, 2015, sections 12A(a), (b), (c) of SEBI Act, regulations 3(a), (b), (c), (d) and 4(1), 4(2)(a) and (g) of the PFUTP Regulations and section 16 of SCRA read with SEBI Notification G.S.R.219(E) dated March 2, 2000 and sections 13 and 18 of the SCRA read with section 2(i) of the SCRA by Noticee-3.

2. Aggrieved by the aforesaid AO orders in the matter of Incap Financial Services Limited (hereinafter referred to as '**the Company/ Incap**'), Noticees filed separate appeals before the Hon'ble Securities Appellate Tribunal (hereinafter referred to as '**SAT**') vide Appeal No. 20 of 2021 (Noticee-1), Appeal No. 19 of 2021 (Noticee-2) and Appeal No. 308 of 2021 (Noticee-3). The Hon'ble SAT vide order dated October 30, 2023 set aside the AO orders and remanded the matter to SEBI, *inter alia*, observed as under:

*"We, however, find that Arvind Babulal Goyal, Pooja Goyal and Abhay Javlekar in their own capacity had acquired the shares. Whether they individually crossed the trigger of 15% / 5% under Regulations 10 and 11 of the SAST Regulations is required to be considered afresh. The AO is required to see whether or not Arvind Babulal Goyal and Pooja Goyal collectively as husband and wife and Abhay*



*Javlekar in his individual capacity had triggered the obligation to make an open offer under Regulations 10 and 11 of the SAST Regulations respectively and if they had triggered the requirement of making an open offer under Regulations 10 and 11 of the SAST Regulations then appropriate penalty commensurate with the acquisition should be levied. Since, we are not in a position to find out the percentage of the acquisition made by these entities the matter is required to be decided afresh by the AO.*

.....

*The appeals are allowed and the matters are remitted to the AO to decide the matter afresh in the light of the observation made thereunder.”*

### **APPOINTMENT OF ADJUDICATING OFFICER**

3. Pursuant to reallocation of this matter, SEBI appointed the undersigned as Adjudicating Officer vide communique dated April 04, 2025, under section 15-I of the SEBI Act and rule 3 of SEBI (Procedure for Holding Inquiry and Imposing Penalties) Rules, 1995 (hereinafter referred to as '**Rules**') read with section 19 of the SEBI Act, to inquire into and adjudge the alleged violations by the Noticees under the provisions of section 15H(ii) of the SEBI Act. Further, pursuant to the Hon'ble SAT order October 15, 2025, revised communique dated December 24, 2025 was issued to the undersigned in the present matter.

### **SHOW CAUSE NOTICE, REPLY AND HEARING**

4. Separate Show Cause Notices dated May 13, 2016 (hereinafter referred to as '**SCNs**') were issued to the Noticees in terms of the provisions of rule 4(1) of the Rules read with section 15-I of the SEBI Act requesting the Noticees to show cause as to why an inquiry should not be held against them and why penalty, if any, should not be imposed upon them under section 15H of the SEBI Act for the aforesaid violations alleged to have been committed by the Noticees.
5. The allegations levelled against the Noticees in the SCNs, which remain to be adjudicated as per the directions of the Hon'ble SAT, were as follows:



**Noticee-1:**

(a) Noticee-1, Executive Director and Compliance Officer of Incap, as one of the persons acting in concert (hereinafter referred to as '**PAC**'), triggered open offer obligations on September 30, 2010 under regulation 10 and on October 16, 2010 under regulation 11(1) of the SAST Regulations. It was alleged that the combined shareholding of Abhay Javlekar, Dharmendra Bhojak and Noticee-1 as PAC crossed 15% of issued capital of Incap on September 30, 2010 and further crossed 5% twice, first on October 16, 2010 and subsequently along with Pooja Goyal and Ramesh Dwarkades Daga on December 6, 2010 in the scrip of Incap, which attracted the provision of regulation 10 and 11(1) of the SAST Regulations, however, no open offer was made under the SAST Regulations. Therefore, Noticee-1 being PAC, failed to comply with the provisions of regulations 10 and 11(1) of the SAST Regulations.

**Noticee-2:**

- (a) Noticee-2 lent her name to Noticee-1 and all the trading in Noticee-2's account was done by Noticee-1 only, therefore, Noticee-2 and 1 acted in concert with each other, i.e., PAC.
- (b) Further, it was alleged that Noticee-2 triggered open offer obligations on October 16, 2010 as per regulation 11(1) of the SAST Regulations, however, no open offer was made under the said provisions of the SAST Regulations. Therefore, Noticee-2 being PAC failed to comply with the provisions of regulation 11(1) of the SAST Regulations.

**Noticee-3:**

(a) Noticee-3 as one of the PAC triggered open offer obligations on September 30, 2010 under regulation 10 and on October 16, 2010 under regulation 11(1) of the SAST Regulations. It was alleged that the combined shareholding of Arvind Babulal Goyal, Dharmendra Bhojak and Noticee-3 as PAC crossed 15% of issued capital of Incap on September 30, 2010 and further crossed 5% twice, first on October 16, 2010 and subsequently along with Pooja Goyal and Ramesh Dwarkades Daga on December 6, 2010 in the scrip of Incap, which attracted the provision of regulation 10 and 11(1) of the SAST Regulations, however, no open offer was made under the SAST Regulations. Therefore, Noticee-3 being PAC, failed to comply with the provisions of regulations 10 and 11(1) of the SAST Regulations.

6. Vide notice of hearing dated November 13, 2025, an opportunity of hearing was granted to the Noticees on November 24, 2025. However, due to adjournments requested by Noticee-1 and 2, hearing was re-scheduled to January 14, 2026. Noticee-1 and 2 vide email dated January 13, 2026, submitted their replies to the SCN. On January 14, 2026, Authorized Representatives ("**ARs**") of Noticee-1 and 2, viz., Mr. Kunal Kataria and Ms. Aparna Wagle appeared for the hearing through



video-conferencing and reiterated the submissions made by the Noticee-1 and 2 vide reply dated January 13, 2026.

7. Noticee-3 also requested for adjournment of the hearing on November 24, 2025, accordingly, the hearing was re-scheduled on December 16, 2025. On said date, AR of Noticee-3, viz., Adv. Yugandhara Khanwilkar, i/b Triad Law Chambers appeared for the hearing in person at SEBI and submitted that the remand from the Hon'ble SAT was limited to regulations 10 and 11 of SAST Regulations. It was further submitted that open offer requirements by Noticee-3 was triggered only on one occasion, i.e., on December 06, 2010. However, the correct provisions were not invoked in the SCN, therefore, no penalty should be levied on Noticee-3. Further, it was stated that the maximum penalty at relevant time was upto Rs. 5 lakh only. AR further stated to furnish the written submission in the matter within two weeks, which was filed by Noticee-3 vide email and letter dated January 12, 2026.

8. Relevant extracts of the said replies of the Noticees are as under:

**Reply of Noticee-1 and 2:**

(a) *All submissions made in their reply dated March 16, 2020 are expressly relied upon and may be treated as reproduced herein.*

**Scope of remand before AO, SEBI is narrow and limited:**

(b) *The Hon'ble SAT has remanded the matter only for one limited purpose, namely, to examine whether Noticee-1 and 2, viz., Arvind Goyal and Pooja Goyal (as husband and wife) and Abhay Javlekar in his individual capacity crossed the thresholds of 15% or 5% under regulations 10 and 11 of the SAST Regulations. The Hon'ble SAT has specifically prohibited any aggregation on PAC basis.*

(c) *SCN did not allege that Noticee-1 and 2 individually crossed 15% or 5% and no case to that effect was even made out in the SCN. Thus, the SCN never put the Noticees to notice of:*

- (i) *any individual breach of regulation 10, or*
- (ii) *any individual creeping acquisition under regulation 11.*

**Jurisdictional bar after the Hon'ble SAT's order:**

(d) *On perusal of the Orders dated October 30, 2023 read with October 15, 2025, it is clear as under:*

- (i) *The PAC finding is quashed, and*
- (ii) *The entire SCN is exclusively founded on PAC and there is no contention alleged to purport that Noticee-1 and 2 individually crossed 15% or 5% nor any case to*



that effect was even made out in the SCN and hence there remains no valid charge in the SCN against Noticee-1 and 2 under regulations 10 or 11.

- (e) Enquiring into individual thresholds would amount to introducing a new charge, without a fresh Show Cause Notice and which is impermissible in law and violates principles of natural justice and not even permitted by Orders dated October 30, 2023 read with October 15, 2025 and on perusal of the existent SCNs, there is no case made out to purport that Noticee-1 and 2 individually crossed 15% or 5% nor any case to that effect was even made out in the SCN.
- (f) The Noticee-1 and 2 also denied that they individually crossed 15% or 5% and hence adjudication proceedings could be dropped against them. There is no iota of proof adduced by SEBI to prove otherwise in the proceedings relied and served upon the Noticees. Since neither regulation 10 nor regulation 11 was triggered by Noticee-1 and 2, no penalty under section 15A or 15H of the SEBI Act can be levied.
- (g) They never crossed 15% under regulation 10 and they together did not hold 15% or more of the share capital of Incap. They never crossed 5% incremental acquisition under regulation 11. There was no incremental acquisition of 5 % or more after their initial holding which would trigger regulation 11.
- (h) Since the only basis of SAST Regulations liability in the SCN was PAC, and PAC has been conclusively rejected by the Hon'ble SAT, no adjudication can survive against them. Accordingly, the proceedings against Noticee-1 and 2 be dropped in entirety and no penalty be imposed.

**Reply of Noticee-3:**

- (a) With regards to the trigger date of the acquisition of shares made by Noticee-3, from data provided in the Investigation Report, Noticee-3 submitted the following:

Noticee-3's trades between September 01, 2010 to February 23, 2011

**Table-1**

<b>Sr. No.</b>	<b>Date</b>	<b>Shares Acquired</b>	<b>% of Shares Acquired (Total no. of share as on 30.9.2010- Pg. 3 and 4 of IR- 38,13,900)</b>
1.	30.09.2010	1,50,000	3.93
2.	05.10.2010	71,800	1.88
3.	12.10.2010	98,400	2.58
4.	16.10.2010	93,700	2.46
5.	02.12.2010	17,257	0.45
6.	03.12.2010	2,728	0.07
7.	06.12.2010	2,23,215	5.85
<b>Total</b>		<b>6,75,100</b>	<b>17.23</b>



- (b) From the above table, it is evident that if at all, the alleged open offer got triggered by Noticee-3 only at one occasion which was on December 6, 2010, wherein Noticee-3 crossed 15% in aggregate. In light of having crossed 15% only on December 6, 2010, no violation of regulation 11 of SAST Regulations can be sustained. Thus, the said allegation be withdrawn.
- (c) As regards, alleged violation of regulation 10 of SAST Regulations, only one count survives as against the three triggers alleged in the SCN. This factor must be taken into account when considering appropriate penalty under sections 15H r/w 15J of SEBI Act.
- (d) Section 15H stipulates that the penalty shall be levied on a person who is "required" under this Act or any rules or regulations made thereunder to make a public announcement but fails to make a public announcement. Noticee-3 might have crossed the minimum threshold stipulated to make an open offer, however, he was not "required" to make an open offer, since the Ld. WTM in his order dated October 23, 2019, held that the directions to give open offer may not be in accordance with the underlying spirit of the Takeover regulation 1997. The said para is reproduced as follow:

"4.24.... When such Noticee along with 'persons acting in concert' with him, driven by the motive of market manipulation/ unfair trade practices crosses the stipulated thresholds and later reduces his position in the Target Company, directing him along with 'persons acting in concert' with him to make an open offer and acquire substantial number of shares and control over the Company, may not be in accordance with the underlying spirit of the Takeover Regulations 1997. Therefore, while their acquisition does violate the thresholds stipulated in the Takeover Regulations 1997, in the interest of the investors and the securities market, I am convinced that a different set of directions must allow against Noticee no. 2 and 'persons acting in concert' with him i.e. Noticees no. 1 (Abhay Javlekar) and 4."

Since Noticee-3 was not required to make an open offer, no penalty ought to be levied upon him for the alleged violation of regulation 10 and 11 of SAST Regulations, if any.

- (e) Section 15H stipulated a penalty of Rs. 25 Crore or three times the amount of profit whichever is higher, however, as per the law settled by the Hon'ble Supreme Court in the case of Adjudicating Officer, SEBI v. Bhavesh Pabari (Civil Appeal No. 11311 of 2013), the Hon'ble Supreme Court has held the Ld. AO has to take into account the factors stipulated under section 15J of SEBI Act. The said paragraph is reproduced below:-

"11. Therefore, to understand the conditions stipulated in clauses (a), (b) and (c) of Section 15-J to be exhaustive and admitting of no exception or vesting any discretion in the Adjudicating Officer would be virtually to admit/concede that in adjudications involving penalties under Sections 15-A, 15-B and 15-C, Section 15-J will have no application. Such a result could not have been intended by the legislature. We, therefore, hold and take the view that conditions stipulated in clauses (a), (b) and (c) of Section 15-J are not exhaustive and in the given facts of a case, there can be



circumstances beyond those enumerated by clauses (a), (b) and (c) of Section 15-J which can be taken note of by the Adjudicating Officer while determining the quantum of penalty.

12..... Section 15-J of the SEBI Act enumerates by way of illustration(s) the factors which the Adjudicating Officer should take into consideration for determining the quantum of penalty imposable. The imposition of penalty depends upon satisfaction of the substantive provisions as contained in Sections 15-A to Section 15-HA of the SEBI Act."

(f) Further, an explanation was also inserted in section 15J of SEBI Act as follows:-

"Explanation- For the removal of doubts, it is clarified that the power to adjudge the quantum of penalty under sections I SA to I SE, clauses (b) and (c) of section I SF, 15G, 15H and I SHA shall be and shall always be deemed to have been exercised under the provisions of this section."

It is thereby abundantly clear that the provisions of section 15J would automatically apply while levying of penalty under section 15H of the SEBI Act and it is humbly submitted that other factors which are not stated at the time of levying penalty in terms of judgment of the Hon'ble Supreme Court and explanation inserted may be considered.

Section 15J of the SEBI Act - Repetitive nature

(g) Noticee-3 submitted that repetitive nature of offence may also be considered, if any, as one of the factors before levying any penalty. The alleged violation, if any, by no means falls under the category of repetitive offence. Noticee-3 relied upon the judgment of Bhavesh Pabari (Supra), wherein the Hon'ble Supreme Court had specifically elaborated on the nature of 'repetitive offences' as under section 15J and distinguished the same from 'continuing offences'. The Hon'ble Supreme Court held as follows -

"13. There is a distinction between a continuing offence and a repeat offence. The continuing offence is a one which is of a continuous nature as distinguished from one which is committed once and for all. The term "continuing offence" was explained and elucidated by giving several illustrations in State of Bihar vs. Deokaran Nenshi & Ors. In case of continuing offence, the liability continues until the rule or its requirement is obeyed or complied with on every occasion when disobedience or non-compliance occurs and reoccurs, there is an offence committed. Continuing offence constitutes a fresh offence every time or occasion it occurs. In Union of India & Anr. Vs. Tarsem Singh, continuing offence or default in service law was explained as a single wrongful act which causes a continuing injury. A recurring or successive wrong, on the other hand, are those which occur periodically with each wrong giving rise to a distinct and separate cause of action. We have made reference to this legal position in view of clause (c) of Section 15-J of the SEBI Act which refers to repetitive nature of default and not a continuing default. The word "repetitive" as used therein would refer to a recurring or successive default. This factum has to be taken into consideration while deciding upon the quantum of penalty. .... "



*In view of the above, all the factors elucidated under section 15J of SEBI Act be considered and a minimum penalty as stipulated under SEBI Act be levied.*

Miscellaneous

- (h) *All the operations in his account were carried out by Mr. Arvind Goyal. He was the beneficial owner and Noticee-3 did not derive any benefit out of it. Noticee-3 was never indulged in any fraudulent practices relating to the securities. He had not made any gains or derived unfair advantage as a result of falsely alleged violations. There is nothing to indicate in the SCN that he had made any gains. He had also not caused any loss to the investors or group of investors.*
- (i) *During the course of hearing his AR tendered the compilation of documents which had also been submitted to the Hon'ble Tribunal on several occasions including KYC forms and consent forms containing details of Mr. Goyal, the letter relating to the Yoke Police complaint against Mr. Prem Agarwal, and extracts of the IR indicating that Mr. Goyal was trading through Mr. Javlekar's account. Noticee-3 submitted that these documents prove that Mr. Goyal was trading through his account. Mr. Goyal approached him to open trading account with Yoke Securities Ltd. and in return he promised to pay Noticee-3 a sum of Rs. 10,000/- p.m. on insistence of Mr. Goyal Noticee-3 opened a trading accounts with the broker in his name wherein email ID and telephone number of Mr. Goyal was provided. The KYC form was filled in by Mr. Goyal only and Noticee-3 had only signed the same. Further, Mr. Goyal also advised him to open a bank account with Indusind Bank. Mr. Arvind has kept the cheque book in his custody and the account was operated by Mr. Arvind only for the purpose of making and receiving various payments to and from the trading accounts used by Mr. Arvind in his name.*
- (j) *Noticee-3 has not committed any wrong and no charge has been established against him to warrant any action. In the facts and circumstances, any action on him would be unjustified and unwarranted. In view of foregoing submissions, the allegations in the SCN be dropped.*

Conclusion

- (k) *In view of the foregoing provisions, Noticee-3 denied that he had violated regulation 10 and 11 of SAST Regulations to warrant levy of any monetary penalty.*
- (l) *Further, Noticee-3 submitted that in case this matter is to be adjudicated as per the original SCN dated May 13, 2016, he may be granted time to file his further submissions for all the alleged violations and one more personal hearing be granted.*
9. Therefore, considering the request of Noticee-3, additional time for filing submissions and an opportunity for a personal hearing were granted to him. In response, Noticee-3 requested for clarifications regarding the scope of the instant proceedings. Noticee-3 was informed that as per the revised communique dated December 24, 2025, the alleged violations of regulations 10 and 11 of the SAST Regulations by him, to be adjudicated under section 15H(ii) of the SEBI Act.



Subsequently, Noticee-3 submitted that his previous reply dated January 12, 2026 would be sufficient and he did not file any further submissions in the matter.

### **CONSIDERATION OF ISSUES AND FINDINGS**

10. In this matter, I note that the Hon'ble SAT vide order dated October 30, 2023, *inter alia*, observed that:

*"We, however, find that Arvind Babulal Goyal, Pooja Goyal and Abhay Javlekar in their own capacity had acquired the shares. Whether they individually crossed the trigger of 15% / 5% under Regulations 10 and 11 of the SAST Regulations is required to be considered afresh. The AO is required to see whether or not Arvind Babulal Goyal and Pooja Goyal collectively as husband and wife and Abhay Javlekar in his individual capacity had triggered the obligation to make an open offer under Regulations 10 and 11 of the SAST Regulations respectively and if they had triggered the requirement of making an open offer under Regulations 10 and 11 of the SAST Regulations then appropriate penalty commensurate with the acquisition should be levied. Since, we are not in a position to find out the percentage of the acquisition made by these entities the matter is required to be decided afresh by the AO."*

11. Thereafter, Review Application Nos. 01 of 2024 and 22 of 2024 filed by SEBI and Mr. Abhay Javlekar, respectively, in this matter were dismissed by the Hon'ble SAT vide Order dated October 15, 2025, wherein it was held that:

*"... This Tribunal has passed a comprehensive order considering the relevant facts. Both orders passed by WTM as well as the A.O. are based on same set of facts and therefore, SEBI's contention that facts in A.O's order have not been considered is hyper technical and not a ground to review and upset a finding rendered on facts of the case by a coordinate bench. No error apparent on the face of record warranting interference while exercising review jurisdiction is pointed out. Hence, in our view, the review application filed by the SEBI is also meritless. In any event, the orders passed by the A.O. have been set aside and remitted for fresh disposal."*



12. I have carefully perused the charges levelled against the Noticees in the SCN, their replies, submissions made during personal hearing and the material available on record. The issues that arise for consideration in the present case are as follows:

I. Whether Noticee-1 and 2 as PAC (collectively as husband and wife) triggered the obligation to make an open offer under the provisions of the SAST Regulations and failed to do so, thereby violated regulation 10 and 11(1) of the SAST Regulations?

II. Whether Noticee-3 in his individual capacity triggered the obligation to make an open offer under the provisions of the SAST Regulations and failed to do so, thereby violated regulation 10 and 11(1) of the SAST Regulations?

III. Does the violation, if any, attract monetary penalty under section 15H(ii) of the SEBI Act?

IV. If so, what would be the monetary penalty that can be imposed upon the Noticees taking into consideration the factors stipulated in section 15J of the SEBI Act read with rule 5(2) of the Rules?

13. Before proceeding further, it is pertinent to refer to the relevant provisions of the SAST Regulations, which are alleged to have been violated by the Noticees, as under:

***“Acquisition of fifteen or more of the shares or voting rights of any company.***

***10. No acquirer shall acquire shares or voting rights which (taken together with shares or voting rights, if any, held by him or by persons acting in concert with him), entitle such acquirer to exercise fifteen percent or more of the voting rights in a company, unless such acquirer makes a public announcement to acquire shares of such company in accordance with the Regulations.”***

***“Consolidation of holdings***

***11. (1) No acquirer who, together with persons acting in concert with him, has acquired, in accordance with the provisions of law, 15 per cent or more but less than fifty five per cent. (55%) of the shares or voting rights in a company, shall acquire, either by himself or through or with persons acting in concert with him, additional shares or voting rights entitling him to exercise more than 5% of the voting rights, in any financial year ending on 31st March, unless such acquirer makes a public announcement to acquire shares in accordance with the Regulations.”***



14. The issues raised in this matter are dealt in the following paragraphs.

**Issue I. Whether Noticee-1 and 2 as PAC (collectively as husband and wife) triggered the obligation to make an open offer under the provisions of the SAST Regulations and failed to do so, thereby violated regulation 10 and 11(1) of the SAST Regulations?**

15. It was, *inter alia*, alleged in the SCN that Noticee-1 as one of the PACs triggered open offer obligations on September 30, 2010 under regulation 10 and on October 16, 2010 under regulation 11(1) of the SAST Regulations. It was alleged that the combined shareholding of Noticee-1 as PAC crossed 15% of issued capital of Incap on September 30, 2010 and further crossed 5% twice, first on October 16, 2010 and subsequently along with Pooja Goyal on December 6, 2010 in the scrip of Incap, which attracted the provision of regulation 10 and 11(1) of the SAST Regulations, however, no open offer was made under the SAST Regulations. Further, it was alleged that Noticee-2 lent her name to Noticee-1 and all the trading in Noticee-2's account was done by Noticee-1 only, therefore, Noticee-2 and 1 acted in concert with each other, i.e., PAC. Noticee-2 triggered open offer obligations on October 16, 2010 as per regulation 11(1) of the SAST Regulations.
16. In response to above allegations, Noticee-1 and 2 submitted that the PAC finding has been quashed the Hon'ble SAT and the SCN is exclusively founded on PAC and there are no allegations in the SCN that Noticee-1 and 2 individually crossed 15% or 5% nor any case to that effect was even made out in the SCN and hence there remains no valid charge against them in the SCN for violation of regulation 10 and 11 of the SAST Regulations. In this regard, it is noted that the Hon'ble SAT directed that the AO is required to see whether or not Arvind Babulal Goyal and Pooja Goyal collectively as husband and wife had triggered the obligation to make an open offer under regulations 10 and 11 of the SAST Regulations. Thus, the interpretation of the Noticee-1 and 2 that PAC finding has been quashed the Hon'ble SAT is misplaced. However, it is to be seen that whether the Noticee-1 and 2's acquisition of shares in Incap, collectively as husband and wife, triggered the obligation to make an open offer under the provisions of the SAST Regulations.



17. Accordingly, the details of acquisition of shares in the scrip of Incap by Noticee-1 and 2 during the period from December 01, 2010 to February 23, 2011 (hereinafter referred to as “Investigation period / IP”) are as under:

**Table-2**

<b>Acquisition of shares of Incap by Noticee-1 and 2</b>					
<b>First holders name</b>	<b>Date</b>	<b>Shares disposed of</b>	<b>Shares acquired</b>	<b>Total holdings</b>	<b>% of share capital</b>
Arvind Babulal Goyal	September 30, 2010	0	1,70,000	1,70,000	4.46%
Arvind Babulal Goyal	December 03, 2010	0	500	1,70,500	4.47%
Pooja Arvind goyal	December 03, 2010	0	100	1,70,600	4.47%

18. It is observed from the above table that Noticee-1 and 2, collectively as husband and wife, acquired a total of 1,70,600 shares of Incap during the IP. This figure constitutes 4.47% of the Company's total share capital. Hence, their collective holding as PAC did not exceed the 15% or 5% trigger limits specified under regulation 10 and 11 of the SAST Regulations. Therefore, I find that Noticee-1 and 2 did not trigger the obligation to make an open offer under the provisions of the SAST Regulations.
19. In view of the above, I hold that the allegation of violation of regulation 10 and 11(1) of the SAST Regulations by Noticee-1 and 2 is not established.

**Issue II. Whether Noticee-3 in his individual capacity triggered the obligation to make an open offer under the provisions of the SAST Regulations and failed to do so, thereby violated regulation 10 and 11(1) of the SAST Regulations?**

20. It was alleged in the SCN that Noticee-3 as one of the PAC triggered the open offer obligations on September 30, 2010 under regulation 10 and on October 16, 2010 under regulation 11(1) of the SAST Regulations. It was alleged that the combined shareholding of Arvind Babulal Goyal, Dharmendra Bhojak and Noticee-3 as PAC crossed 15% of issued capital of Incap on September 30, 2010 and further crossed



5% twice, first on October 16, 2010 and subsequently along with Pooja Goyal and Ramesh Dwarkades Daga on December 6, 2010 in the scrip of Incap, which attracted the provision of regulation 10 and 11(1) of the SAST Regulations, however, no open offer was made under the SAST Regulations. Therefore, Noticee-3 being PAC, allegedly failed to comply with the provisions of regulations 10 and 11(1) of the SAST Regulations.

21. It is noted that the SCN originally charged Noticee-3 for his failure to make the open offer as PAC with aforementioned persons, thereby allegedly violated the provisions of the SAST Regulations. However, pursuant to the direction of the Hon'ble SAT, it is to be determined as to whether the Noticee-3 in his individual capacity had triggered the obligation to make an open offer under regulations 10 and 11 of the SAST Regulations.
22. In response to above allegations, Noticee-3 submitted that the alleged open offer was triggered by him only at one instance, i.e., on December 6, 2010, when his aggregate shareholding crossed the 15% threshold. Thus, the alleged violation of regulation 10 of SAST Regulations survives only for said one instance as against the three triggers alleged in the SCN. During the personal hearing, AR of Noticee-3 argued that as per the SCN, Noticee-3 had allegedly triggered the open offer obligations under regulation 10 of the SAST Regulations only at one instance, i.e., on September 30, 2010. On subsequent two occasions, i.e., on October 16, 2010 and on December 6, 2010, Noticee-3 had allegedly triggered open offer requirements for subsequent acquisition of shares exceeding the 5% creeping acquisition limit and failed to make the open offer, thereby he was alleged to have violated the provisions of regulation 11(1) of the SAST Regulations. It was contended that since Noticee-3's acquisition resulted in crossing the 15% limit, which attracted regulation 10 of the SAST Regulations, invoking of regulation 11(1) of the SAST Regulations in the SCN is incorrect. Therefore, the charges framed in the SCN cannot be sustained.
23. The details of acquisition of shares in the scrip of Incap by Noticee-3 during the IP are as under:



**Table-3**

<b>Acquisition of shares of Incap by Noticee-3</b>					
<b>Sr. No.</b>	<b>Date</b>	<b>Shares disposed of</b>	<b>Shares acquired</b>	<b>Total number of shares</b>	<b>Cumulative % of share holding</b>
1	September 30, 2010	0	1,50,000	1,50,000	3.93%
2	October 05, 2010	0	71,800	2,21,800	5.82%
3	October 12, 2010	0	98,400	3,20,200	8.40%
4	October 16, 2010	0	93,700	4,13,900	10.85%
5	December 02, 2010	0	17,257	4,31,157	11.30%
6	December 03, 2010	0	2,728	4,33,885	11.38%
7	December 06, 2010	0	2,23,215	6,57,100	17.23%
<b>Total</b>		<b>0</b>	<b>6,57,100</b>	<b>6,57,100</b>	<b>17.23%</b>

24. As per the SCN, Noticee-3 allegedly triggered open offer obligation under regulation 10 of the SAST Regulations by acquiring 15% of the issued capital of Incap on September 30, 2010. However, as evident from the Table above, the shareholding of Noticee-3 on September 30, 2010 was just 3.93% of the issued capital of Incap and thus it did not cross the threshold to trigger open offer obligation under regulation 10 of the SAST Regulations.
25. Further, as per the SCN, Noticee-3 allegedly triggered open offer obligation under regulation 11(1) of the SAST Regulations at two specific dates, i.e., on October 16, 2010 and on December 6, 2010 by acquiring more than 5% of the issued capital of Incap. In this regard, it is noted from the above Table that on October 16, 2010, the total shareholding of Noticee-3 in Incap was 10.85% and thus he could not have triggered an open offer obligation by acquiring shares or voting rights entitling him to exercise voting rights more than 5% while already holding 15% of the shareholding of Incap.
26. Similarly, the allegation in the SCN was that Noticee-3 while holding 15% of issued capital of Incap (but less than 55%), on December 6, 2010, had acquired more than 5% additional shares of Incap, in violation of regulation 11(1) of the SAST Regulations. However, it is noted as per the Table above that on December 6, 2010, Noticee-3 had not acquired additional shares above 5% while holding 15%



or more shares in Incap, and thus, the acquisition by Noticee-3 did not violate regulation 11(1) of the SAST Regulations.

27. In view of the above, I hold that the allegation of violation of regulation 10 on September 30, 2010 and regulation 11(1) of the SAST Regulations on October 16, 2010 and on December 6, 2010 by Noticee-3 is not established. As the alleged violations against the Noticees are not established, issue II and III do not merit consideration.

### **ORDER**

28. Taking into account the facts and circumstances of the case, material available on record, submissions of the Noticees, findings made hereinabove and factors mentioned in section 15J of the SEBI Act, in exercise of the powers conferred upon me under section 15-I of SEBI Act read with rule 5 of the Rules, I conclude that the adjudication proceedings initiated against the Noticees (viz., Mr. Arvind Babulal Goyal, Mrs. Pooja Arvind Goyal and Mr. Abhay Javlekar) vide SCNs dated May 13, 2016, are disposed of without imposition of penalty.
29. In terms of rule 6 of the Rules, copy of this order is sent to the Noticees and also to SEBI.

**Place: Mumbai**  
**Date: March 25, 2026**

**JAI SEBASTIAN**  
**ADJUDICATING OFFICER**