BEFORE THE ADJUDICATING OFFICER

SECURITIES AND EXCHANGE BOARD OF INDIA

[ADJUDICATION ORDER NO. Order/SM/AD/2021-22/13408-13412]

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

SL No.	Name of Entity	PAN
1.	Gautam Gupta	AKQPG8560R
2.	Goldleaf International Private Limited	AABCG6705E
3.	Ajay Gupta	ABMPG0822F
4.	Shikha Gupta	ABWPG3108Q
5.	Bhavana Gupta	AVAPG1219J

In the matter of Supreme Texmart Limited

FACTS OF THE CASE IN BRIEF

1. Securities and Exchange Board of India (hereinafter being referred to as '**SEBI**') conducted an investigation in the scrip of Supreme Tex Mart Limited (hereinafter referred to as '"**Supreme Texmart/STML/Company"**) for the period from June 01, 2016 to October 31, 2016 (hereinafter referred to as '**Investigation**

Period/IP') to ascertain any violation of the provisions of Securities and Exchange Board of India Act, 1992 (hereinafter referred to as '**SEBI Act'**), SEBI, Prohibition of Insider Trading Regulations, 2015 (hereinafter referred to as " **PIT Regulations**") and SEBI (Substantial Acquisition of Shares and Takeover) Regulations, 2011 (hereinafter referred to as '**SAST Regulations'**) in respect of trading in the scrip of STML during the IP. The Company is listed on BSE Limited (hereinafter referred to as '**BSE'**) and National Stock Exchange of India Limited (hereinafter referred to as '**NSE'**).

2. Pursuant to investigation, SEBI observed that Gautam Gupta (hereinafter referred to as '**Noticee 1'**) , Goldleaf International Private Limited (hereinafter referred to as '**Noticee 2**'), Ajay Gupta (hereinafter referred to as '**Noticee 3'**), Shikha Gupta (hereinafter referred to as '**Noticee 4'**) and Bhavana Gupta (hereinafter referred to as '**Noticee 5'**) (Noticees 1 to 5 are hereinafter collectively referred to as '**Noticees**') had, as Persons Acting in Concert (**"PAC"**) transacted in the scrip of the STML on multiple occasions during the Investigation Period. However, it was observed that Noticees failed to make necessary disclosures in terms of SAST Regulations for these share transactions. Further it was also observed that Noticee 1 had failed to make requisite disclosures under Regulation 7(2)(a) of PIT Regulations. Thereafter SEBI initiated adjudication proceedings against Noticees for the alleged violations of provisions of Regulation 29(2) read with Regulation 29(3) of SAST Regulations committed by Noticees and against Noticee 1 for alleged violation of Regulation 7(2) (a) of PIT Regulations in respect of their transactions in the scrip of STML.

APPOINTMENT OF ADJUDICATING OFFICER

3. SEBI, vide Order dated March 28, 2019, appointed the Shri. B J Dilip as Adjudicating Officer under Section 15I of the SEBI Act, read with Rule 3 of the SEBI (Procedure for Holding Inquiry and Imposing Penalties by Adjudicating

Officer) Rules, 1995 (hereinafter referred to as 'Adjudication Rules') to inquire into and adjudge under the provision of Sections 15A(b), the aforesaid alleged violations by Noticees. Pursuant to the transfer of Shri B.J Dilip, the undersigned was appointed as Adjudicating Officer in the matter by the Competent Authority, vide Order dated December 29, 2020.

SHOW CAUSE NOTICE, REPLY AND PERSONAL HEARING

4. A show cause notice (hereinafter referred to as 'SCN'), dated December 08, 2020 was issued to Noticees under Rule 4 of the Adjudication Rules to show-cause as to why an inquiry should not be initiated against Noticees and penalty, if any, not be imposed upon Noticees under Sections 15A (b) of SEBI Act for the violations alleged to have been committed by them.

5. The SCN, *inter alia,* alleged the following :

   a. *During the course of investigation, it is observed that the Noticees, while acting as a PAC, had traded in the scrip of STML and shareholding of the Promoter group has changed. Further, the Noticees were required to disclose such changes in their shareholding in terms of Regulation 29(2) read with 29(3) of SAST Regulations on multiple occasions. The details of changes in shareholdings and required disclosures are provided in Table-1:*

Table -1:

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.29(2) of SEBI SAST Regulation, 2011	Disclosure Date
28/07/2016	27795808	40.74%	25000	0.04%	0	0	27770808	40.70%	No	NA
01/08/2016	27770808	40.70%	1300000	1.91%	0	0	26470808	38.80%	No	NA

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.29(2) of SEBI SAST Regulation, 2011	Disclosure Date
02/08/2016	26470808	38.80%	0	0.00%	1310000	1.92%	27780808	40.72%	No	NA
17/08/2016	27780808	40.72%	1100000	1.61%	0	0	26680808	39.10%	No	22/08/2016
18/08/2016	26680808	39.10%	1945000	2.85%	0	0	24735808	36.25%	Yes	22/08/2016[1]
19/08/2016	24735808	36.25%	1268180	1.86%	0	0	23467628	34.39%	No	NA
22/08/2016	23467628	34.39%	1491590	2.19%	0	0	21976038	32.21%	Yes	29/08/2016[2]
23/08/2016	21976038	32.21%	670000	0.98%	0	0	21306038	31.23%	No	NA
24/08/2016	21306038	31.23%	2159992	3.17%	0	0	19146046	28.06%	Yes	30/08/2016[3]
25/08/2016	19146046	28.06%	44903	0.07%	0	0	19101143	28.00%	No	NA
26/08/2016	19101143	28.00%	0	0.00%	0	0	19101143	28.00%	No	NA
29/08/2016	19101143	28.00%	300000	0.44%	0	0	18801143	27.56%	No	NA
30/08/2016	18801143	27.56%	0	0.00%	0	0	18801143	27.56%	No	NA
31/08/2016	18801143	27.56%	1050000	1.54%	0	0	17751143	26.02%	Yes	Not Disclosed
01/09/2016	17751143	26.02%	1819478	2.67%	0	0	15931665	23.35%	Yes	Not Disclosed
02/09/2016	15931665	23.35%	1646387	2.41%	0	0	14285278	20.94%	Yes	Not Disclosed
06/09/2016	14285278	20.94%	0	0.00%	0	0	14285278	20.94%	No	NA
06/10/2016	14285278	20.94%	1229051	1.80%	0	0	13056227	19.14%	No	Not Disclosed
07/10/2016	13056227	19.14%	126149	0.18%	0	0	12930078	18.95%	No	NA

1. *Disclosure is given for total of 19,25,000 shares, however disposed is 19,45,000.*
2. *Disclosure is given for total of 20,39,992 shares, however disposed is 14,91,590.*
3. *Disclosure is given for total of 16,35,000 shares, however disposed is 21,59,992 shares.*

b. *Further, Bombay Stock Exchange (hereinafter referred to as 'BSE') vide email dated August 31, 2018 and National Stock Exchange (hereinafter referred to as 'NSE') vide email dated September 14, 2018, have provided the details of disclosures received under SAST Regulations in the scrip during the investigation period (Annexure II). It is observed from both the replies, that the Noticees together as a PAC have made incorrect disclosure on August 22, 29 and 30, 2016. Further, the Noticees together as a PAC have failed to make the required disclosure on August 31, 2016, September 1 & 2, 2016, and October 6, 2016, under Regulation 29(2) read with 29(3) of SAST Regulations.*

Therefore, it is alleged that the Noticees as a PAC had failed to make the requisite disclosures under Regulation 29(2) read with 29(3) of SAST Regulations on multiple occasions.

c. *It was observed that during the course of investigation, there was change in shareholding of the Noticee 1, who was Promoter of STML. The aforesaid change in the Shareholding triggered disclosure requirements in terms of PIT Regulations, the details of which are furnished hereunder:*

Table – 2:

Name of Promoter / Promoter Group	***Date of transaction***	***Total value of Buy and Sell on BSE and NSE (Rs.)***	***Trigger of Regulation 7(2)(a) of PIT Regulations***	***Disclosure Date to Company***	***Violation by Promoter of Regulation 7(2)(a) of PIT Regulations***
Gautam Gupta	*25/08/2016*	*44,93,568*	*Yes*	*Disclosure Not made*	*Yes*

d. *It is observed from the above table that the transactions carried out by the Noticee on August 25, 2016 exceeded Rs. 10 lakhs in value, which triggered disclosure requirements under Regulation 7(2)(a) of PIT Regulations. In terms of Regulation 7(2)(a) of PIT Regulations promoter of a listed company is required to disclose to the company the number of such securities acquired or disposed of within two trading days of such transaction if the value of the securities traded, whether in one transaction or a series of transactions over any calendar quarter, aggregates to a traded value in excess of ten lakh rupees*

e. *However, it is observed that in respect of the aforesaid transactions which triggered disclosure requirements under PIT Regulations no disclosures were made by the Noticee to the Company. Therefore, it is alleged that by not disclosing the change in shareholding to the Company, the Noticee had violated the provisions Regulation 7(2)(a) of PIT Regulations.*

6. The SCN was sent to Noticees through Speed Post Acknowledgement due (herein after referred to as '**SPAD**') on December 08, 2020 and was duly served upon Noticees. The Noticees were given fifteen (15) days' time to make their submissions in respect of the allegations made in the SCN. The Noticees vide letter dated March 20, 2021, submitted a joint reply to the SCN. The submissions of Noticee in the aforementioned reply are summarized hereunder:

    a. *We deny , having not received any communication dated 27.05.2019, for appointment of Mr. B.J Dilip, as Adjudication Officer and thereafter appointment of Ms. Soma Majumder, as Adjudicating Officer as per communication dated 31.12.2020 is null and void. Appointment of Adjudicating Officer is not as per the SEBI Act and show cause notice issued by respective adjudicating officers are void ab intio and any proceedings conducted by the said officers shall be null and void.*
    b. *No specific instance of violation of Regulation 29(2) read with Regulation 29(3) of SAST Regulations had been mentioned against any of Noticees in the SCN.*
    c. *STML is under liquidation and Mr Ravinder Kumar Goel is the present Liquidator. All records/documents since 01.11.2019 are under his control.*
    d. *No source has been provided from where the figures mentioned in para 3.3 ,Table 1 in SCN dated 08.12.2020 have been arrived, in the absence of which the correctness of the information is doubtful.*
    e. *No annexure has been provided as detailed in para 3.3 of the Show Cause Notice dated 08.12.2020.*
    f. *Noticee's were not acquirer under SAST Regulations, therefore there was no default under the said Regulations.*

g. *Once company is under liquidation under IBC 2016, all the proceedings under any law is under moratorium and no action can be taken without the permission of Hon'ble NCLT.*

h. *Regulation 29 (3) was not applicable on the date of disposal of shares as the disposal of shares clause was not there in statute when the shares were sold by the Noticees. The words "or the disposal" were added to Regulation 29 (3) by way of amendment w.e.f 11.09.2018, i.e. after the transactions in question were made.*

i. *Regarding disclosure under Regulation 7 (2)(a) of PIT Regulations are concerned, promoters had duly informed the company by way of letter and the company had informed the Stock exchanges. However all relevant documents are with liquidator, hence same cannot be produced. We by previous letter dated 17.03.2021/18.03.2021 had requested you to instruct the Liquidator to give us access to records/documents pertaining to the matter. Further no form or manner was prescribed for such disclosures during the relevant time, which was later on inserted by SEBI PIT Amendment 2020, w.e.f July, 2020*

j. *The noncompliance was merely due to inadvertence and the consequent default is technical, venial and not blameworthy. There was no gain to Noticees due to impugned transactions. There were no repetitive defaults on part of Noticees.*

7. In the interest of natural justice, vide hearing notice dated March 10, 2021, Noticees were granted an opportunity of personal hearing before the undersigned on, March 22, 2021. In view of the difficulties posed due to Covid -19 pandemic and subsequent lockdown, hearing proceedings were conducted online through videoconferencing. On the scheduled date of hearing, Dr. S.P Sharma, appeared as authorized representatives (hereinafter referred to as "**AR"**) on behalf of Noticees. The AR reiterated the earlier submissions made by Noticees in their letter dated March 20, 2021.

CONSIDERATION OF ISSUES, EVIDENCE AND FINDINGS

8. I have carefully perused the charges levelled against Noticees, replies/ submissions filed by them and other documents/ evidence available on record. The issues that arise for consideration in the present case are:

   I. A) Whether the Noticees have violated the provisions of Regulation 29 (2) and 29 (3) of the SAST Regulations AND
      B) Whether Noticee 1 has violated the provisions of Regulation 7 (2)(a) of PIT Regulations??

   II. Do the violations, if any attract monetary penalty under section 15 A(b) of the SEBI Act?

   III. If so, what would be the monetary penalty that can be imposed taking into consideration the factors mentioned in Section 15 J of the SEBI Act?

ISSUE - I:

A. **Whether the Noticees have violated the provisions of Regulation 29 (2) and 29 (3) of the SAST Regulations?**

9. Before moving forward, it is pertinent to refer to the relevant provisions of the SAST Regulations which were in force at the relevant period of time are as reproduced herewith:

29 (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.

Regulation 29 (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

10. The first issue for consideration is whether Noticees have violated Regulation 29(2) read with Regulation 29(3) of SAST Regulations. It is alleged in the SCN that Noticees, as PAC, had exceeded the threshold levels as required under Regulation 29(2) of SAST Regulations in respect of their transactions in the scrip of STML on seven (7) occasions during the IP but had failed to comply with the disclosure requirements as required under the provisions of SAST Regulations.

11. I note that as per the SCN, in each of the aforementioned seven (7) occasions, there has been reduction in shareholding of PAC in STML by more than 2% of total shareholding in STML. I observe that Noticees, in their submissions have contended the applicability of Regulation 29 (2) and Regulation 29 (3) of SAST Regulations to the aforesaid transactions. As per Noticees, Regulation 29 (3) of SAST Regulations was not applicable on the date of disposal of shares as the 'disposal of shares' clause was not mentioned in requisite statute when the shares were sold by the Noticees. Noticees have contended that the word '*or the disposal'* was added to Regulation 29 (3) by way of amendment w.e.f 11.09.2018.

Thus, according to Noticees, since impugned transactions were disposal of shares and was made by the Noticees on or around July to October 2016, provisions of Regulation 29 (3) of SAST Regulations were not applicable to Noticees and thus there has been no violation of the same.

12. I observe from the available records that during the IP, there has been reduction in shareholding of Noticees in STML, exceeding 2% of total shareholding in STML, due to disposal of shares. I note that Regulation 29 (2) of SAST Regulations, specifically mentions about disclosure of acquisition as well as disposal of shares. However, I observe that Regulation 29 (3) of SAST Regulations, as applicable at the time of the impugned transactions, mentions the timelines for disclosures in case of acquisition of shares only and not for disposal of shares. In this regard, I would like to rely on the decision of Hon'ble SAT in **Vizwise Commerce Pvt Ltd Vs. SEBI (Appeal No. 383 of 2014, decided on January, 28, 2015)**, wherein, the Learned Member of Hon'ble SAT had held as follows:

" It may be pointed out that Regulation 29(3) of SAST Regulations is not in consonance with Regulation 29(2), since Regulation 29(2) requires intimation for every acquisition or disposal, but Regulation 29(3) requires such disclosure "to be made within two days of receipt of intimation of allotment of shares or the acquisition of shares or voting rights in the target company" and there is no time limit for disclosure of disposal of shares or voting rights, although there is a requirement under Regulation 29(2)"

13. I also note that the words "or the disposal" were inserted in Regulation 29 (3) of SAST Regulations by an amendment with effect from September 11, 2018.

14. In this context, I would further like to rely upon judgment of Hon'ble SAT in the matter of the **Ravi Mohan vs. SEBI (Appeal No. 97 of 2014, decided on December 16, 2015**) involving the interpretation of provisions of Regulation 7 (1A) of the erstwhile Takeover Regulations 1997, which is similar to Regulation 29 (2) and 29 (3) of SAST Regulations. The Hon'ble SAT in the aforesaid decision had held as follows :

".....

27. It is relevant to note that while inserting regulation 7(1A), SEBI has deemed it proper to amend regulation 7(2) with effect from 09.09.2002 by providing that the disclosure obligation under regulation 7(1) and 7(1A) shall be discharged within two days of the events specified under regulation 7(2). Thus, as a result of insertion of regulation 7(1A) and amendment of regulation 7(2), the disclosure obligation in relation to purchase or sale of shares referred to in regulation 7(1A) has to be made within two days of the events specified in regulation 7(2). On perusal of regulation 7(2) it is seen that the events enumerated therein relate only to acquisition of shares and do not relate to sale of shares or voting rights in excess of the limits prescribed under regulation 7(1A). As a result, even though regulation 7(1A) contemplates that an acquirer together with persons acting in concert with him when sell shares of the target company in excess of the limits prescribed under regulation 7(1A) must make disclosure within two days of such sale, in view of the amendment to regulation 7(2), the disclosure obligation under regulation 7(1A) has to be discharged within two days of the events specified under regulation 7(2). Since regulation 7(2) as amended does not contemplate any obligation to disclose sale of shares by an acquirer covered under regulation 7(1A), the question of discharging that obligation arising under regulation 7(1A) read with regulation 7(2) does not arise at all.

28..... *Thus, by 2002 amendment it is made clear that although disclosure of purchase or sale referred to under regulation 7(1A) has to discharged within two days of purchase or sale, of shares referred to therein, by amending regulation 7(2) it is provided that two days time to make disclosure under regulation 7(1A) shall commence on the happening of events specified under regulation 7(2). Since regulation 7(2) (as amended) does not set out any event relating to sale of shares specified under regulation 7(1A), the question of complying with regulation 7(1A) within two days of sale of shares does not arise at all*.

29..... *Therefore, when the Takeover Regulations, 1997 provides that the disclosure obligation specified under regulation 7(1A) has to be discharged in the manner specified under regulation 7(1A) read with regulation 7(2) and regulation 7(2) does not provide for disclosure in relation to sale of shares in excess of the limits prescribed under regulation 7(1A), SEBI is not justified in holding that the appellants by failing to make disclosure of sales covered under regulation 7(1A) within the stipulated time, have violated regulation 7(1A) read with regulation 7(2) of the Takeover Regulations, 1997. Consequently, SEBI is not justified in imposing penalty on the appellants*. .....

33. For all the aforesaid reasons, the issues raised in these appeals are answered as follows:-

a)...

b) Disclosure obligation under regulation 7(1A) has to be discharged in accordance with regulation 7(1A) read with regulation 7(2). Since regulation 7(2) does not contemplate for disclosure relating to sale of shares in excess of the limits set out under regulation 7(1A), appellants herein cannot be said to have failed to comply with regulation 7(1A) within the time stipulated under

regulation 7(1A) read with regulation 7(2). Consequently penalty imposed on the appellants cannot be sustained ....."

15. I note that Hon'ble SAT , subsequently in the matter of **Rakesh Kathotia vs. SEBI (Appeal No. 7 of 2016, decided on May 27, 2019)**, has decided as follows:

" ……..

29. However, the appellants cannot be faulted and penalised on this score at this stage. They have a decision in their favour in the case of Ravi Mohan (supra) which is still valid till date and has not been set aside by a superior forum. Further, the respondent SEBI has accepted the decision of this Tribunal in the case of Ravi Mohan (supra) which can be seen from the fact that a similar provision, namely, Regulation 29 of the Securities and Exchange Board of India (Substantial Acquisition of Shares and Takeovers) Regulations, 2011 was amended after Ravi Mohan's decision was given by this Tribunal in 2015……..

30. Regulation 29 of the Takeover Regulations, 2011 in more or less pari materia with the provision of Regulation 7 of the Takeover Regulations, 1997. The words "or the disposal" were added in Regulation 29(3) by an amendment w.e.f. September 11, 2018 after the decision of this Tribunal in Ravi Mohan's case (supra) decided in the year 2015"

16. I note that the ratio of the above judgments apply with equal force to the facts of the present case. In view of the aforesaid judgments, I find merit in the contentions of Noticees that Regulation 29 (2) read with Regulation 29(3) of SAST Regulations is not applicable to transactions done by the Noticees.

17. Therefore, I find that the allegation that Noticees have violated the provisions of Regulations 29(2) read with 29(3) of the SAST Regulations is not tenable.

18. Since the aforementioned violations of SAST Regulations, are not established against Noticees, Issues No. II and III require no further consideration against Noticees in this regard.

B. Whether Noticee 1 has violated the provisions of Regulation 7 (2)(a) of PIT Regulations?

19. Before moving forward, it is pertinent to refer to the relevant provisions of the PIT Regulations which read as under:

Relevant provisions of PIT Regulations:

Disclosures by certain persons

7. (2) *Continual Disclosures.*

(a) Every promoter, employee and director of every company shall disclose to the company the number of such securities acquired or disposed of within two trading days of such transaction if the value of the securities traded, whether in one transaction or a series of transactions over any calendar quarter, aggregates to a traded value in excess of ten lakh rupees or such other value as may be specified;

20. I note from the list of promoter group entities available on BSE and NSE that Noticee1 was one of the promoters of the STML. I also observe from available records that during the IP, Noticee 1 had traded in the shares of STML. The details of aforesaid transactions are reproduced hereunder:

Table – 3:

Name of Promoter / Promoter Group	Date of transaction	Total value of Buy and Sell on BSE and NSE (Rs.)	Trigger of Regulation 7(2)(a) of PIT Regulations	Disclosure Date to Company	Violation by Promoter of Regulation 7(2)(a) of PIT Regulations
Gautam Gupta	25/08/2016	44,93,568	Yes	Disclosure Not made	Yes

21. I observe from the above table that the transactions carried out by Noticee 1 on August 25, 2016 exceeded Rs. 10 lakhs in value. I further note that as per Regulation 7(2)(a) of PIT Regulations , a promoter of a listed company is required to disclose to the company the number of such securities acquired or disposed of within two trading days of such transaction if the value of the securities traded, whether in one transaction or a series of transactions over any calendar quarter, aggregates to a traded value in excess of ten lakh rupees

22. However, I observe from email from BSE dated August 31, 2018 and email from NSE dated September 14, 2018, that in respect of the aforesaid transactions which triggered disclosure requirements under PIT Regulations, no disclosures were made by Noticee 1. I note that Noticee 1 in his submissions has contended that he had duly informed the Company by way of letter and the Company had informed the BSE and NSE. Further, Noticee 1 has contended that since STML is under liquidation, vide order of National Company Law Tribunal Chandigarh Bench dated 08.08.2018 , all the relevant documents are with Liquidator and the same cannot be therefore produced. Noticee 1, in his contentions has also stated that no form or manner for disclosure was prescribed under Regulation 7 (2) (a) of PIT Regulations, which was later on inserted by SEBI, PIT Amendment, 2020, w.e.f. July, 2020.

23. I note that no substantive evidence has been produced by Noticee1 to indicate that he had made such disclosure to the company. I note that the fact that STML is under liquidation or that the documents are in the custody of Liquidator cannot be considered as an excuse for non-production of proof of disclosure. Moreover,

since, there is no evidence on record to show that Noticee1 had made any disclosure in terms of the aforesaid PIT regulations, the question of required form and manner of disclosure doesn't arise. Therefore, I am not inclined to accept the contentions of Noticee 1. I also observe that Noticee 1 has accepted that the aforesaid non-compliance was due to inadvertence and was technical.

24. In view of the foregoing, I find that the Noticee 1, pursuant to transaction dated August 25, 2016 in the scrip of STML in excess of ten lakhs, had failed to make the requisite disclosures under Regulation 7(2)(a) of PIT Regulations. Therefore, I conclude that the allegation that Noticee1 has violated Regulation 7(2)(a) of PIT Regulations, stands established.

ISSUE-II: Does the violation, if any, attract monetary penalty under Sections 15A(b) of SEBI Act?

25. I note that Noticee1 have submitted that he had neither accrued any illegal or undue profits nor caused loss to any investor owing to his nondisclosure with respect to Regulation 7(2)(a) of PIT Regulations. The Noticee 1 has also contended that aforesaid nondisclosure is purely technical and venial in nature. In this regard, I place my reliance on the order of the Hon'ble SAT in the matter of **Virendrakumar Jayantilal Patel vs. SEBI (Appeal No. 299 of 2014 order dated October 14, 2014)**, wherein Hon'ble SAT held 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.*"

26. Noticee 1 in its submission has quoted various judgements such as Hon'ble Supreme Court Judgement in the matter of SEBI v. Bhavesh Pabri, Hon'ble Supreme Court Judgement in the matter of Bharjatiya Steel Industries vs Commissioner , Adjudication Order in respect of Parvin Shah in matter of C Mahendra Exports Limited, and Hon'ble SAT decision in the matter of Reliance Industries Limited v SEBI etc. for waiver of penalty or for imposing minor penalties for the technical violations or violations committed by them inadvertently.

27. However, I note that the Hon'ble Supreme Court of India in the matter of **SEBI v/s 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.…". ,

28. In view of the judgment referred above and the fact that the Noticee 1 has violated Regulation 7(2)(a) of the PIT Regulations, I am of the view that a monetary penalty needs to be imposed upon the Noticee under Section 15A(b) of the SEBI Act, which reads as under:

SEBI Act

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,—*

(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;

ISSUE – III: If so, what would be the monetary penalty that can be imposed?

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

SEBI Act
Factors to be taken into account by the adjudicating officer.
Section 15J *- 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 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 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.

30. In view of the charges as established against Noticee1 and the facts and circumstances of the case, the quantum of penalty would depend on the factors referred in Section 15-J of the SEBI Act, stated as above. In the instant case, it is not possible from the material on record to quantify the amount of disproportionate gain or unfair advantage resulting from the default of Noticee1 in making

disclosures or the consequent loss caused to investors as a result of the default. Further, the material available on the record, does not show the said failure is repetitive.

31. PIT Regulations have put in place a framework for prohibition of insider trading in securities and the prohibitions provided in the PIT Regulations ensure a level-playing field in the securities market. With respect to the disclosure violations by Noticee1, I note that the purpose of these disclosures is to bring about transparency in the transactions of Directors/ Promoters/Acquirers/ employees and assist the Regulator to effectively monitor the transactions in the market. The 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."* The Hon'ble SAT, in the aforesaid order, has articulated the importance of true and timely disclosures, which assume greater significance when seen against such lapse by Noticee 1.

ORDER

32. Having considered all the facts and circumstances of the case, the material available on record, the submissions made by Noticees and also the factors mentioned in Section 15J of the SEBI Act as enumerated above, I, in exercise of the powers conferred upon me under Section 15-I of the SEBI Act read with Rule 5 of the AO Rules hereby impose a penalty of Rs. 1,00,000/- (Rupees One Lakh only) on Noticee 1 i.e. Gautam Gupta, under the provisions of Section 15A (b) of SEBI Act for the violation of Regulation 7(2)(a) of PIT Regulations. With regard to the

allegation of violation of Regulation 29(2) read with Regulation 29(3) of SAST Regulations against Noticees, i.e. Gautam Gupta, Goldleaf International Private Limited, Ajay Gupta, Shikha Gupta and Bhavana Gupta, the same does not stand established. Accordingly, the instant adjudication proceedings initiated vide SCN dated December 08, 2020 under SAST Regulations stand disposed off without any penalty. I am of the view that the aforementioned penalty imposed on Noticee 1 under PIT Regulations is commensurate with the lapse/omission on the part of Noticee 1.

33. Noticee 1 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 Noticee may contact the support at portalhelp@sebi.gov.in.

34. The said confirmation of e-payment made in the format as given in table below 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

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)	

35. 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 of Noticee 1.

36. In terms of the provisions of Rule 6 of the Adjudication Rules, a copy of this order is being sent to Noticees viz. Gautam Gupta, Gold Leaf International Private Limited, Ajay Gupta, Shikha Gupta, Bhavana Gupta and also to Securities and Exchange Board of India.

Place: Mumbai **SOMA MAJUMDER**

Date: September 16, 2021 **ADJUDICATING OFFICER**