

**BEFORE THE ADJUDICATING OFFICER**

**SECURITIES AND EXCHANGE BOARD OF INDIA**

[ADJUDICATION ORDER NO. Order/GR/BM/2022-23/21669-21684]

**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:

<b>Noticee No.</b>	<b>Noticee Name</b>	<b>Noticee No.</b>	<b>Noticee Name</b>
1.	Naaz Trading & Finance Ltd. (name changed to Powerhouse Fitness Limited) [PAN: AACCN0015B]	9.	N S Sureka HUF [PAN: Not available]
2.	Vinay Poddar [PAN: AADPP7891B]	10.	Raj Sureka HUF [PAN: Not available]
3.	Ashok Gupta [PAN: AAIPG7033R]	11.	Sashi Sureka [PAN: AACPN9753B]
4.	Sushma Gupta [PAN: AAJPG9621K]	12.	Akshat Gupta [PAN: AMYPG2411K]
5.	Ankush Gupta [PAN: AHCPG2531K]	13.	Simmi Poddar [PAN: AAFPP3705N]
6.	Mohit Sureka [PAN: AQRPS0406P]	14.	Ashok Gupta HUF [PAN: AAAHA4357A]
7.	Raj Sureka [PAN: AARPS8838F]	15.	Sushanku Enterprises Ltd. [PAN: AA ECS4434R]
8.	Rashi Sureka [PAN: AEFPS4958A]	16.	Subhtex India Ltd. [PAN: AABCS3969E]

In the matter of **SVC Resources Ltd**

(The aforesaid entities are hereinafter referred to by their respective names/numbers/ or collectively as “the Noticees”)

1. The Hon'ble Securities Appellate Tribunal (hereinafter referred to as 'SAT') in Appeal No. 426 of 2020 of Powerhouse Fitness Limited, Vinay Poddar, Ashok Gupta, Sushma Gupta, Ankush Gupta, Mohit Sureka, Raj Sureka, Rashi Sureka, N S Sureka HUF, Raj Sureka HUF, Sashi Sureka, Akshat Gupta, Simmi Poddar, Ashok Gupta HUF, Sushanku Enterprises Ltd. and Subhtex India Ltd. Vs. SEBI in the matter of SVC Resources Limited, quashed the SEBI adjudication order dated July 31, 2020 in the said matter along with the show cause notice in relation to the transactions which occurred in the year 2006-2007 and remitted back the matter to the AO to redetermine the violation, if any, with regard to the allotment of shares by the Company in the year 2013.

### **FACTS OF THE CASE**

2. The Securities and Exchange Board of India ("SEBI") had received a Draft letter of offer ("DLO") filed by Lorgan Lifestyle Ltd. in respect of SVC Resources Ltd. (herein referred to as "SVC" /the "Target Company"). On perusal of the letter of offer, SEBI observed that the Noticees had *prima facie* failed to comply with the provisions of SEBI (Prohibition of Insider Trading) Regulations 1992 ("PIT Regulations"), Securities and Exchange Board of India (Substantial Acquisition of Shares and Takeovers) Regulations, 1997 ("SAST Regulations, 1997"), Securities and Exchange Board of India (Substantial Acquisition of Shares and Takeovers) Regulations, 2011 ("SAST Regulations, 2011"), SEBI (Issue of capital and disclosure requirements) 2009 ("ICDR Regulations"). In view of the same, SEBI initiated adjudicating proceedings against the Noticees.

### **APPOINTMENT OF ADJUDICATING OFFICER**

3. Accordingly, SEBI in exercise of powers conferred upon it under Section 19 of the SEBI Act, 1992 read with Section 15(I) of the SEBI Act 1992 (hereinafter referred to as “**SEBI Act**”) and Rule 3 of SEBI (Procedures for Holding Inquiry and Imposing Penalties) Rules, 1995 (hereinafter referred to as '**Adjudication Rules**') appointed the undersigned as the AO vide order dated June 16, 2022 to inquire into and adjudge under section 15I of the SEBI Act for the alleged violation of Regulations 13(1), 13(2A), 13(3), 13(4) and 13(4A) of PIT Regulations, Regulation 12 read with 7(1), 7(1A), 7(2), 7(3), 8(3) of SAST Regulations, 1997, Regulations 3(1), 3(3), 29(2), 29(3) & 31(1), 31(2), 31(3) of SAST Regulation 2011, Regulation 72(1)(a) 73(1), 73(2), 73(3), 74(1), 77(1), 77(6), 78(1) of ICDR Regulations, by the Noticees and to impose penalties, if any, under Sections 15 A(b), 15H, 15HB of the SEBI Act.
  
4. In compliance of the Hon’ble SAT’s direction, Mr. Ashok Gupta (Noticee No. 3) appeared before the undersigned on behalf of all the Noticees on June 20, 2022.

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

5. Upon examination, it was noted that 7 out of the aforesaid 16 Noticees i.e. Noticee No. 1 (Powerhouse Fitness Limited), Noticee No. 6 (Mohit Sureka), Noticee No. 7 (Raj Sureka), Noticee No. 8 (Rashi Sureka), Noticee No. 9 (N S Sureka HUF), Noticee No. 10 (Raj Sureka HUF) and Noticee No. 11 (Sashi Sureka), were only alleged for the violations pertaining to transactions done during 2006-2007 and not for the transactions done in 2013, vide SCN No. EAD-4/ADJ/GR/RK/OW/29960/1-

18/2019 dated November 13, 2019. Further, it was noted that Noticee No. 2 (Vinay Poddar), Noticee No. 3 (Ashok Gupta), Noticee No. 4 (Sushma Gupta), Noticee No. 5 (Ankush Gupta), Noticee No. 12 (Akshat Gupta) and Noticee No. 13 (Simmi Poddar) were alleged for the violations pertaining to both 2006-07 as well as 2013 and Noticee No. 14 (Ashok Gupta HUF), Noticee No. 15 (Sushanku Enterprises Ltd.) and Noticee No. 16 (Subhtex India Ltd.) were only alleged for violations pertaining to 2013.

Further, vide mail dated July 22, 2022, Noticee No. 3, requested to issue specific fresh notice for violations, if any, made in the year 2013.

6. In view of the above and to remove any ambiguity with regards to the alleged violations and in accordance with the directions issued by Hon'ble SAT, a fresh SCN No. EAD-4/ADJ/GR/BM/44432,34,35,36,39,41,42,44,50,/1/2022 dated August 23, 2022 was issued only to the remaining 9 Noticees i.e. Noticee No. 2, Noticee No. 3, Noticee No. 4, Noticee No. 5, Noticee No. 12, Noticee No. 13, Noticee No. 14, Noticee No. 15 and Noticee No. 16 for the alleged violations of the provisions of Regulations 13(1), 13(2A), 13(3), 13(4) and 13(4A) of PIT Regulations and Regulations 3(1), 3(3), 29(2), 31(1), 31(2) and 31(3) of SAST Regulations 2011 for the transactions done in 2013 under Sections 15 A(b) and 15H(ii) of the SEBI Act which are summarized as below:

a) The Board of Directors of the Target Company (SVC Resources Ltd.) allotted 10,844,426 equity shares to erstwhile promoters, its relative and entity controlled by promoters, namely Ms. Sushma Gupta, Ashok Gupta HUF, Sushanku Enterprises Ltd, Mr. Ashok B Gupta and Mr. Akshat A. Gupta on May 08, 2013.

Pursuant to the aforesaid allotment the holding of promoter group was increased from 6.19% to 18.86%. The promoter group i.e. Noticee No. 2, 3, 4, 5, 12, 13, 14 and 15 were under obligation to file disclosure to the company and the stock exchange under Regulation 29(2) of SAST Regulations 2011 within two working days of such purchase as the change in shareholding exceeded 2% of total shareholding from the last disclosure. However, no disclosures were made by them under the said Regulation.

- b) Subsequently, on August 05, 2013, the Board of directors of the Company further allotted 2,97,00,000 (26.98%) equity shares to Subhtex India Limited (Noticee No. 16). As disclosed on BSE, Subhtex India Limited was shown as a part of promoter group in the Quarter ended September 2013. Pursuant to the said allotment the holding of promoter group further increased from 18.86% to 40.93% resulting in open offer obligation under Regulation 3(1) of Takeover Regulations 2011 (for holding more than 25% shares) and disclosure obligations under Regulation 29(2) of Takeover Regulations 2011 (for change in more than 2% shareholding). Accordingly, Noticee No. 2, 3, 4, 5, 12, 13, 14, 15 and 16 were under obligation to make open offer under regulation 3(1) read with 3(3) of the Takeover Regulations, 2011 and file disclosure to the company and the stock exchange within two working days of such purchase as the change in shareholding exceeded 2% of total shareholding from the last disclosure. However, no such open offer was made by them under the said Regulations.
- c) During the Quarter March to June 2012, erstwhile promoters holding changed more than 2% due to invocation of pledge. As per NSDL holding statements, Akshat Gupta (Noticee No. 12) pledged 16,00,000 shares to Stock Holding

Corporation of India Ltd., on February 02, 2012. The pledge was invoked on May 10, 2012. Accordingly, the promoters i.e. Noticee No. 2, 3, 4, 5, 12 and 13 were under obligation to file disclosure to the company and the stock exchange within seven working days under Regulation 31(1) (for creation of pledge) and 31(2) (for invocation of pledge) of SAST Regulations 2011. However, no disclosures were made by them under the said Regulation.

- d) Subsequently, on July 05, 2012, Ashok Gupta and Sushma Gupta (Noticee No. 3 & 4) together sold 22,60,270 (3.25%) equity shares of the Target Company, which is more than 2% of the threshold limit prescribed under Regulation 29(2) of SAST Regulations, 2011. Similarly, during the March 2014 to June 2014, erstwhile promoters sold more than 2% equity shares of the Target Company. As per statement holding provided by CDSL, the limit of 2% was breached on May 13, 2014. Accordingly, the promoters i.e. Noticee No. 2, 3, 4, 5, 12 and 13 were under obligation to file disclosure to the company and the stock exchange under Regulation 29(2) of SAST Regulations 2011 within two working days of such sale as the change in shareholding exceeded 2% of total shareholding from the last disclosure.
- e) For buying and selling the shares of the Target Company, Noticee No. 2, 3, 5, 12 and 13 were alleged to have violated Regulations 13(1), 13(2A), 13(3), 13(4), 13(4A) of PIT Regulations.
- f) With respect to allotment of shares to promoters and its relative made on May 08, 2013 and August 08, 2013, Noticee No. 4, 12, 14, 15 and 16 were alleged to have violated Regulations 13(1), 13(2A), 13(3), 13(4), 13(4A) of PIT Regulations.

7. Ashok Gupta, Sushma Gupta, Vinay Poddar and Simmi Poddar vide various mails dated September 27, 2022, November 10, 2022 and November 11, 2022 sent reply in the similar lines as below:
  - a) They are not the promoters of SVC nor they were the promoter at any given time in the past and the company was taken over by the management in a hostile manner.
  - b) No new shares have been allotted to some of the Noticees by SVC Resources Ltd. in the year 2012/13
  
8. In the interest of natural justice, opportunity of personal hearing was granted to all the 9 Noticees vide hearing notice dated October 25, 2022 on November 10, 2022. However, the aforesaid Noticees sought for adjournment and accordingly, the hearing was rescheduled on November 18, 2022. Mr. Ashok Gupta (Noticee No. 3) attended the said hearing on behalf of all the Noticees and requested one week time to make submissions in the matter which was acceded to and accordingly he was advised to submit the reply within one week along with authorization letter from all the other 8 Noticees. However, no reply was received by that date. Thereafter, vide email dated November 28, 2022, another opportunity was granted to submit the reply along with authorization letter by November 29, 2022. However, again no reply was received from the Noticees.
  
9. In view of the above, I am of the view that principles of natural justice have been duly complied with, as SCN and hearing Notice were duly served upon the Noticees and

sufficient opportunity was also granted to the Noticees to reply to the SCN and appear for hearing.

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

10. Before proceeding in the matter, it is pertinent to note that Hon'ble SAT have quashed the SEBI adjudication order dated July 31, 2020 along with the show cause notice in the matter in relation to the transactions which occurred in the year 2006-2007. Further, as mentioned above in the preceding paragraphs, Noticee Nos. 1, 6, 7, 8, 9, 10 and 11 were only alleged for the violations pertaining to transactions done during 2006-2007.
11. In view of the above, and since there are no allegations against Noticee Nos. 1, 6, 7, 8, 9, 10 and 11 for the violations pertaining to the transactions done in 2013, the proceedings against the said Noticees emanating from the SCN No. EAD-4/ADJ/GR/RK/OW/29960/1-18/2019 dated November 13, 2019 are hereby disposed of and the current proceeding is proceeded with for the remaining 9 entities i.e. Noticee Nos. 2, 3, 4, 5, 12, 13, 14, 15 and 16.
12. I have taken into consideration the facts and circumstances of the case and the material available on record and the issues that arise for consideration in the present case are:
  - (a) Whether the Noticee Nos. 2, 3, 4, 5, 12, 13, 14, 15 and 16 have violated the provisions of Regulations 13(1), 13(2A), 13(3), 13(4) and 13(4A) of PIT

Regulations and Regulations 3(1), 3(3), 29(2), 31(1), 31(2) of SAST Regulations 2011?

- (b) Do the violations, if any, attract monetary penalty under Section 15A(b) and 15H(ii) of the SEBI Act, as applicable?
- (c) If so, what would be the monetary penalty that can be imposed taking into consideration the factors mentioned in Section 15J of SEBI Act?

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

#### **1. SAST Regulations, 2011**

##### **Regulation 3**

*(1) No acquirer shall acquire 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, entitle them to exercise twenty-five per cent or more of the voting rights in such target company unless the acquirer makes a public announcement of an open offer for acquiring shares of such target company in accordance with these regulations.*

*(3) For the purposes of sub-regulation (1) and sub-regulation (2), acquisition of shares by any person, such that the individual shareholding of such person acquiring shares exceeds the stipulated thresholds, shall also be attracting the obligation to make an open offer for acquiring shares of the target company irrespective of whether there is a change in the aggregate shareholding with persons acting in concert.*

## Regulation 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.*

**Regulation 31:**

(1) *The promoter of every target company shall disclose details of shares in such target company encumbered by him or by persons acting in concert with him in such form as may be specified.*

(2) *The promoter of every target company shall disclose details of any invocation of such encumbrance or release of such encumbrance of shares in such form as may be specified.*

(3) *The disclosures required under sub-regulation (1) and sub-regulation (2) shall be made within seven working days from the creation or invocation or release of encumbrance, as the case may be to,—*

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

*(b) the target company at its registered office.*

**2. SEBI PIT Regulations 1992:**

**Regulation 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.*

(2) .....

*(2A) Any person who is a promoter or part of promoter group of a listed company shall disclose to the company in Form B the number of shares or voting rights held by such person, within two working days of becoming such promoter or person belonging to promoter group.*

*(3) Any person who holds more than 5% shares for voting rights in any listed company shall disclose to the company in Form C the number of shares or voting rights held and change in shareholding or voting rights, even if such change results in shareholding falling below 5%, if there has been change in such holdings from the last disclosure made under sub- regulation (1) or under this sub-regulation; and such change exceeds 2% of total shareholding or voting rights in the company.*

*(4) Any person who is a director or officer of a listed company, shall disclose to the company and the stock exchange where the securities are listed in Form D, the total number of shares or voting rights held and change in shareholding or voting rights, if there has been a change in such holdings of such person and his dependents (as defined by the company) from the last disclosure made under sub-regulation (2) or under this sub-regulation, and the change exceeds Rs. 5 lakh in value or 25,000 shares or 1% of total shareholding or voting rights, whichever is lower.*

*(4A) Any person who is a promoter or part of promoter group of a listed company, shall disclose to the company and the stock exchange where the securities are listed in Form D, the total number of shares or voting rights held and change in shareholding or voting rights, if there has been a change in such holdings of such person from the last disclosure made under Listing Agreement or under sub-regulation (2A) or under this sub-regulation and the change exceeds Rs. 5 lakh in value or 25,000 shares or 1% of total shareholding or voting rights, whichever is lower.”;*

14. It is observed that the Board of Directors of the Target Company allotted shares to erstwhile promoters/its relatives and entity controlled by promoters that resulted in change in shareholding which required disclosure under Regulations 3 and 29 of Takeover Regulations 2011. The details pertaining to this is stated herein below:

a) From the email dated June 16, 2015 received from the target company, it was observed that the Board of Directors of the Target Company allotted 1,08,44,426 equity shares to erstwhile promoters, its relative and entity controlled by promoters i.e. Noticee No. 4, 12, 14 and 15 on May 08, 2013. Pursuant to the aforesaid allotment the aggregate holding of erstwhile promoters i.e. Noticee No. 2, 3, 4, 5, 12, 13, 14 and 15 was increased from 6.19% to 18.86%. Accordingly, the said promoters were under an obligation to file disclosure to the company and the stock exchange under Regulation 29(2) of SAST Regulations 2011 within two working days of such purchase as the change in shareholding exceeded 2% of total shareholding from the last disclosure. However, as per the email dated January 20, 2016 received from the BSE, no such disclosures were made by them under the said Regulation and hence i.e. Noticee No. 2, 3, 4, 5, 12, 13, 14 and 15 are found to have violated Regulation 29(2) read with 29(3) of SAST Regulations 2011.

b) Subsequently, from the aforementioned email dated June 16, 2015, it was also observed that on August 05, 2013, the Board of directors of the Company further allotted 2,97,00,000 (26.98%) equity shares to Noticee No. 16. As disclosed on BSE, the said Noticee has been shown as a part of 'promoter group' in the Quarter ended September 2013. Pursuant to the said allotment the aggregate holding of

the promoters i.e. Noticee No. 2, 3, 4, 5, 12, 13, 14, 15 and 16 further increased from 18.86% to 40.93% resulting in open offer obligation under regulation 3(1) of Takeover regulations 2011 (for holding more than 25% shares) and disclosure obligations under regulation 29(2) of Takeover regulations 2011 (for change in more than 2% shareholding). Accordingly, the promoters were under a collective obligation to make open offer under regulation 3(1) read with 3(3) of the Takeover Regulations, 2011 and file disclosure to the company and the stock exchange within two working days of such purchase. However, as per the email dated January 20, 2016, received from BSE, it appears that no such open offer was made by them and hence the Noticees No. 2, 3, 4, 5, 12, 13, 14, 15 and 16 are found to have violated Regulations 3(1) read with 3(3) and 29(2) read with 29(3) of the Takeover Regulations, 2011.

15. It is further observed that due to pledging of shares by one of the promoters (Noticee No. 12) on February 02, 2012 and invoking of pledge on May 10, 2012 by Stock Holding Corporation of India Ltd, a change in shareholding of more than the prescribed limit had occurred, which required disclosure that has not been effected, as described herein below:

a) After examination of transactions statements received from NSDL, vide letter dated August 01, 2017, it was observed that Akshat Gupta (Noticee No. 12) had pledged 16,00,000 shares to Stock Holding Corporation of India Ltd., on February 02, 2012. The pledge was invoked on May 10, 2012. Therefore, during the quarter March to June 2012, erstwhile promoter's holding changed by more than 2% due to invocation of the said pledge. Accordingly, the erstwhile promoters i.e. Noticee No. 2, 3, 4, 5, 12 and 13 were under obligation to file

disclosure to the company and the stock exchange within seven working days under Regulation 31(1) (for creation of pledge) and 31(2) (for invocation of pledge) of SAST Regulations 2011. However, no disclosures were made by them either at the time of creation and/or at the time of invocation of the pledge and hence it is observed that Noticee No. 2, 3, 4, 5, 12 and 13 have violated Regulation 31(1) and 31(2) read with 31(3) of SAST Regulations 2011.

b) Again, from the aforementioned transactions statements received from NSDL, it was further observed that, subsequently, on July 05, 2012, Ashok Gupta and Sushma Gupta (Noticee No. 3 & 4) together sold 22,60,270 (3.25%) equity shares of the Target Company, which is more than 2% of the threshold limit prescribed under Regulation 29(2) of SAST Regulation, 2011. Accordingly, the erstwhile promoters i.e. Noticee No. 2, 3, 4, 5, 12 and 13 were under obligation to file disclosure to the company and the stock exchange under Regulation 29(2) of SAST Regulations 2011 within two working days of such sale as the change in shareholding exceeded 2% of total shareholding from the last disclosure and hence it is observed that Noticee No. 2, 3, 4, 5, 12 and 13 have violated Regulation 29(2) read with 29(3) of SAST Regulations 2011.

c) Similarly, from the statement of holding provided by the Registrar and Transfer Agent (“RTA”) of the company vide email dated August 11, 2017 and transactions statements received from CDSL vide email dated July 20, 2017, it was observed that during the March 2014 to June 2014, erstwhile promoters sold more than 2% equity shares of the Target Company. Hence, the limit of 2% was breached on May 13, 2014 and accordingly, the erstwhile promoters i.e. Noticee No. 2, 3, 4, 5, 12 and 13 were under obligation to file disclosure to the company and the stock exchange

under Regulation 29(2) of SAST Regulations 2011 within two working days of such sale as the change in shareholding exceeded 2% of total shareholding from the last disclosure. However, no such disclosure was made by them and hence it is observed that Noticee No. 2, 3, 4, 5, 12 and 13 have violated Regulation 29(2) read with 29(3) of SAST Regulations 2011. The details of these transactions is mentioned in below table:

Sl. No.	Name of promoter	Mar-12		Jun-12		Sep-12		Mar-14		Jun-14	
		no shares	%	no shares	%	no shares	%	no shares	%	no shares	%
1	Ashok Gupta	23,33,020	3.36	22,93,290	3.29	10,33,020	1.49	10,33,020	1.49	10,33,020	1.49
2	Sushma Gupta	11,06,846	1.59	11,06,846	1.59	1,06,846	0.15	1,06,846	0.15	1,06,846	0.15
3	Ankush Gupta	22,53,333	3.24	22,53,333	3.24	22,53,333	3.24	22,53,333	3.24	0	0
4	Akshat Gupta	21,80,666	3.14	5,80,666	0.84	5,80,666	0.84	6,04,419	0.86	3,83,222	0.55
5	Simmi Poddar	1,82,000	0.26	1,82,000	0.26	1,82,000	0.26	1,82,000	0.26	1,82,000	0.26
6	Poddar Vinay	1,50,666	0.22	1,50,666	0.22	1,50,666	0.22	1,50,666	0.22	1,50,666	0.22
	<b>Total</b>	<b>82,06,531</b>	<b>11.81</b>	<b>65,66,801</b>	<b>9.44</b>	<b>43,06,531</b>	<b>6.20</b>	<b>43,30,284</b>	<b>6.22</b>	<b>18,55,754</b>	<b>2.67</b>
	<b>Change in %</b>			-2.37 (pledge)		-3.24				-3.55	

16. From the email dated June 26, 2015 received from the BSE and email dated June 16, 2015 received from the Target Company, it was observed that promoters of the Target Company had failed/delayed to disclose their transactions (as mentioned in the below table) to the company and the BSE, and thus failed to comply with relevant provisions of PIT Regulations as mentioned below:

<b>Name of the person/entity</b>	<b>Date of transaction</b>	<b>Transaction</b>	<b>Regulation applicable</b>	<b>Compliance status</b>
Ashok Gupta	1/6/2012	Sold 39730 (0.06%) shares in 3 transaction	13(4) & 13(4A)	Not complied
Akshat Gupta	12/8/2013	Bought 140596 (0.2%) shares	13(4) & 13(4A)	Not complied
Akshat Gupta	02/9/2013	Bought 51,652	13(4) & 13(4A)	Not complied
Ankush Gupta	17/6/2014	Sold 139807 (0.2%)	13(4A)	Not complied
Vinay Poddar	16/7/2014	Sold 109000 (0.16%) shares	13(4A)	Not complied
Simmi Poddar	21/7/2014	Sold 100000 (0.14%)	13(4A)	Not complied
Simmi Poddar	19/8/2014	Sold 50000 (0.07%) shares	13(4A)	Not complied
Akshat Gupta	09/9/2014	Sold 135000 (0.19%) shares	13(4A)	Disclosed with the delay of 1 day

17. Hence, from the above table, it is observed that Notice No. 3 and 12 have violated Regulations 13(4) and 13(4A) of PIT Regulations and Noticee No. 2, 5 and 13 have violated Regulation 13(4A) of PIT Regulations.

18. Further, with respect to allotment of shares to promoters and its relatives made on May 08, 2013 and August 05, 2013, which was subsequently cancelled by the Hon'ble CLB vide order dated June 05, 2015, it was observed from the email dated June 16, 2015, received from the Target Company as well as from the aforesaid order of the Hon'ble CLB, that the Noticee No. 3, 4, 12, 14, 15 & 16 have failed to make disclosures to the company and the BSE under PIT Regulations (as detailed in the table below). :

<b>Allotment made on May 08, 2013</b>		
<b>Name</b>	<b>No. of shares</b>	<b>Violation of PIT reg.</b>
Sushma Gupta	3992335 (4.97%)	13(3) & 13(4A)
Ashok Gupta HUF	1929658 (2.40%)	13(2A)
Ashok Gupta	1557034 (1.94%)	13(4) & 13(4A)
Akshat Gupta	711407 (0.89%)	13(4) & 13(4A)
Sushanku Enterprices Ltd	2653992 (3.30%)	13(2A)
<b>Allotment made on August 05, 2013</b>		
Subhtex India Ltd	2,97,00,000 (26.98%)	13(1) and (2A)

19. Hence, from the above table, with respect to aforementioned allotment of shares on May 08, 2013 and August 05, 2013 it is observed that Noticee No. 3 and 12 have violated Regulations 13(4) and 13(4A) of PIT Regulations, Noticee No. 4 has violated Regulations 13(3) and 13(4A) of PIT Regulations, Noticee No. 14 and 15 have violated Regulations 13(2A) of PIT Regulations and Noticee No. 16 has violated Regulations 13(1) and 13(2A) of PIT Regulations.

20. I find that the Noticee No. 3 in its reply has contended that the company was taken over by the management in a hostile manner and therefore an inquiry should be initiated against the company for the defaults and not against the shareholders who have lost heavily. However, these facts do not pertain to the present case.

Further, Noticee has contended that they are not the promoters of SVC nor they were the promoter at any given time in the past. In this regard, I note that the shareholding pattern disclosed on BSE shows the Noticees as promoters of the Target Company. I further note that, in a meeting with SEBI, Noticee No. 3 informed that he along with his family members acquired shares and control of the Target Company.

In view of the above, I don't find any merit in the above contentions of the Noticee.

21. Noticee No. 2 and 13 has contended that no new shares have been allotted to them by SVC Resources Ltd. in the year 2012/13. In this regard, I note that both the said Noticees were part of the promotor group and accordingly were responsible for the violations alleged against them. Therefore, the above contention of the said Noticees cannot be accepted.

22. I further note that none of the aforesaid observations pertaining to the non-compliance of disclosure requirements have been specifically controverted by any of the Noticees in any of their responses to the SCN. This further strengthens the conclusions arrived at with respect to such non-compliances in this order.

23. Hence, as explained in the above paragraphs, I find that the violations of Regulations 13(1), 13(2A), 13(3), 13(4) and 13(4A) of PTT Regulations and Regulations 3(1), 3(3), 29(2), 29(3) & 31(1), 31(2), 31(3) of SAST Regulation 2011 is established against Noticee Nos. 2, 3, 4, 5, 12, 13, 14, 15 and 16. The Hon'ble Supreme Court of India in the matter of Chairman, SEBI vs. Shriram Mutual Fund {[2006] 5 SCC 361} held that *“In our view, the penalty is attracted as soon as contravention of the statutory obligations as contemplated by the Act is established and, therefore, the intention of the parties committing such violation becomes immaterial ..... Hence, we are of the view that once the contravention is established, then the penalty has to follow and only the quantum of penalty is discretionary”*.
24. In view of the same, I am convinced that it is a fit case to impose monetary penalty on Noticee Nos. 2, 3, 4, 5, 12, 13, 14, 15 and 16 under section 15 H(ii) and 15 A(b) which reads as follows:

**15A. Penalty for failure to furnish information, return,**

**etc.-** *If any person, who is required under this Act or any rules or*

*regulations made*

*thereunder,-*

*(a)...*

*(b) to file any return or furnish any information, books or other documents within the time specified therefor in the regulations, fails to file return or furnish the same within the time specified therefor in the regulations, he shall be liable to a penalty of one lakh rupees for each day during which such failure continues or one crore rupees, whichever is less];*

**Penalty for non-disclosure of acquisition of shares and takeovers.**

**15H.** *If any person, who is required under this Act or any rules or regulations made thereunder, fails to, -*

*(ii) make a public announcement to acquire shares at a minimum price;*

*he shall be liable to a penalty which shall not be less than ten lakh rupees but which may extend to twentyfive crore rupees or three times the amount of profits made out of such failure, whichever is higher.*

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

**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.*

*(d)*

*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.*

26. The material available on record also has not quantified the amount of disproportionate gain or unfair advantage made by the Noticee and the loss suffered by the investors as a result of the non-compliance committed by the Noticee. The violations of the disclosure requirements by the Noticees have happened multiple times. This multiple non-compliance in disclosure and open offer obligations by the promoters of a listed entity cannot be viewed lightly as the same adversely affects the disclosure based regime of the securities market and the rights of investors at large.

## **ORDER**

27. I note that each of the Noticee Nos. 2, 3, 4, 5, 12, 13, 14, 15 and 16 have several counts of non-disclosures under relevant Regulations and/or non-compliance of open offer obligations established against themselves. Accordingly, the number of instances of violations of disclosure norms and/or open offer obligations are being taken into account for computation of the amount of penalty in accordance with the minimum amount of penalty stipulated under the statute for such violations. Having considered all these facts and circumstances of the case, the material available on record, the factors mentioned in Section 15J of the SEBI Act read with the interpretation of the said provision of law by the Hon'ble Supreme Court of India in the matter of *Bhavesh Pabari Vs. SEBI* (decided on February 28, 2019) and in exercise of the powers conferred upon me under Section 15-I of the SEBI Act read with Rule 5 of the Adjudication Rules, I hereby impose the following penalties on Noticee Nos. 2, 3, 4,

5, 12, 13, 14, 15 and 16 for the proceeding initiated vide SCN No. EAD-4/ADJ/GR/RK/OW/29960/1-18/2019 dated November 13, 2019 and SCN No. EAD-4/ADJ/GR/BM/44432,34,35,36,39,41,42,44,50,/1/2022 dated August 23, 2022:

<b>Noticee</b>	<b>Violation</b>	<b>Penal Provisions</b>	<b>Penalty (Rs.)</b>
Vinay Poddar [PAN: AADPP7891B]	Regulations 31(1) & 31(2) read with 31(3), Regulation 29(2) read with 29(3), 3(1) read with 3(3) of SAST Regulations 2011 and Regulation 13(4A) of PIT Regulations.	Section 15A(b) and 15H(ii) of the SEBI Act	Rs. 3,40,000/-  (Rs. Three lacs and forty thousand only)
Ashok Gupta [PAN: AAIPG7033R]	Regulations 31(1) & 31(2) read with 31(3), Regulation 29(2) read with 29(3), 3(1) read with 3(3) of SAST Regulations 2011 and Regulation 13(4A) of PIT Regulations.	Section 15A(b) and 15H(ii) of the SEBI Act	Rs. 3,60,000/-  (Rs. Three lacs and sixty thousand only)

Sushma Gupta [PAN: AAJPG9621K]	Regulations 31(1) & 31(2) read with 31(3), Regulation 29(2) read with 29(3), 3(1) read with 3(3) of SAST Regulations 2011 and Regulation 13(3), 13(4A) of PIT Regulations.	Section 15A(b) and 15H(ii) of the SEBI Act	Rs. 3,40,000/-  (Rs. Three lacs and forty thousand only)
Ankush Gupta [PAN: AHCPG2531K]	Regulations 31(1) & 31(2) read with 31(3), Regulation 29(2) read with 29(3), 3(1) read with 3(3) of SAST Regulations 2011 and Regulation 13(4A) of PIT Regulations.	Section 15A(b) and 15H(ii) of the SEBI Act	Rs. 3,40,000/-  (Rs. Three lacs and forty thousand only)
Akshat Gupta [PAN: AMYPG2411K]	Regulations 31(1) & 31(2) read with 31(3), Regulation 29(2) read with 29(3), 3(1) read with 3(3) of SAST Regulations, 2011 and Regulations 13(4), 13(4A) of PIT Regulations.	Section 15A(b) and 15H(ii) of the SEBI Act	Rs. 3,80,000/-  (Rs. Three lacs and eighty thousand only)

Simmi Poddar [PAN: AAFPP3705N]	Regulations 31(1) & 31(2) read with 31(3), Regulation 29(2) read with 29(3), 3(1) read with 3(3) of SAST Regulations, 2011 and Regulation 13(4A) of PIT Regulations.	Section 15A(b) and 15H(ii) of the SEBI Act	Rs. 3,40,000/-  (Rs. Three lacs and forty thousand only)
Ashok Gupta HUF [PAN: AAAHA4357A]	Regulations 3(1) read with 3(3) of SAST Regulations, 2011 and Regulation 13(2A) of PIT Regulations.	Section 15A(b) and 15H(ii) of the SEBI Act	Rs. 2,60,000/-  (Rs. Two lacs and sixty thousand only)
Sushanku Enterprises Ltd. [PAN: AAECs4434R]	Regulations 3(1) read with 3(3) of SAST Regulations, 2011 and 13(2A) of PIT Regulations	Section 15A(b) and 15H(ii) of the SEBI Act	Rs. 2,60,000/-  (Rs. Two lacs and sixty thousand only)
Subhtex India Ltd. [PAN: AABCS3969E]	Regulations 3(1) read with 3(3) of SAST Regulations, 2011 and 13(1), 13(2A) of PIT Regulations.	Section 15A(b) and 15H(ii) of the SEBI Act	Rs. 2,40,000/-  (Rs. Two lacs and forty thousand only)

28. The amount of penalty shall be paid either by way of demand draft in favour of “SEBI - Penalties Remittable to Government of India”, payable at Mumbai, or by e-payment in the account of “SEBI - Penalties Remittable to Government of India”, A/c No. 31465271959, State Bank of India, Bandra Kurla Complex Branch, RTGS Code SBIN0004380 within 45 days of receipt of this order.
29. The said demand draft or forwarding details and confirmations of e-payments made (in the format as given in table below) should be forwarded to “The Division Chief, Enforcement Department (EFD1 – DRA I), Securities and Exchange Board of India, SEBI Bhavan, Plot No. C –4 A, “G” Block, Bandra Kurla Complex, Bandra (E), Mumbai –400 051.”

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	

30. In the event of failure to pay the said amount of penalty within 45 days of the receipt of this Order, consequential proceedings including, but not limited to, 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.

31. In terms of the provisions of Rule 6 of the Adjudication Rules, a copy of this order is being sent to the Noticees and also to the Securities and Exchange Board of India.

**Date: November 30, 2022**

**G Ramar**

**Place: Mumbai**

**ADJUDICATING OFFICER**