BEFORE THE SECURITIES APPELLATE TRIBUNAL
MUMBAI

Date of Hearing : 21.09.2023
Date of Decision : 17.10.2023

Misc. Application No. 149 of 2021
And
Misc. Application No. 191 of 2023
And
Appeal No. 584 of 2020

1. G. R. K. Reddy
   Old no. 24, New No. 17,
   South Mada Street,
   Srinagar Colony, Saidapet,
   Chennai – 600015.

2. GRK Reddy Sons (HUF)
   Old no. 24, New No. 17,
   South Mada Street,
   Srinagar Colony, Saidapet,
   Chennai – 600015.

3. Global Infoserve Ltd.
   Sri Sai Subhodaya
   Apartments, 1st Floor,
   No. 57 /2B, East Coast Road,
   Thiruvanmiyur,
   Chennai - 600041.

4. Marg Capital Markets Ltd.
   Sri Sai Subhodaya
   Apartments, 1st Floor,
   No. 57 /2B, East Coast Road,
   Thiruvanmiyur,
   Chennai - 600041.

5. Marg Projects and Infrastructure Ltd.
   Sri Sai Subhodaya
   Apartments, 1st Floor,
   No. 57 /2B, East Coast Road,
   Thiruvanmiyur,
   Chennai - 600041.

6. V P Rajani Reddy
   Old no. 24, New No. 17,
   South Mada Street, Srinagar
   Colony, Saidapet,
   Chennai – 600015.

7. G Madhusudan Reddy
   Old no. 24, New No. 17,
   South Mada Street, Srinagar
   Colony, Saidapet,
   Chennai – 600015.

8. Exemplar Worldwide Ltd.
   Basement, Sri Sai Subhodaya Apartments,
   No. 57 /2B, ECR Road,
   Thiruvanmiyur, Chennai - 600041.

9. Akshya Infrastructure Ltd.
   Basement, Sri Sai Subhodaya Apartments,
   No. 57 /2B, ECR Road,
   Thiruvanmiyur, Chennai - 600041. ….. Appellants

Versus

Securities & Exchange Board of India
SEBI Bhavan, Plot No. C-4A, G Block,
Bandra Kurla Complex, Bandra (East),
Mumbai - 400 051. … Respondent

With
Appeal No. 578 of 2020

1. G. R. K. Reddy
   Old no. 24, New No. 17,
   South Mada Street, Srinagar

Colony, Saidapet,
Chennai – 600015.

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Versus

Securities & Exchange Board of India
SEBI Bhavan, Plot No. C-4A, G Block,
Bandra Kurla Complex, Bandra (East),
Mumbai - 400 051. … Respondent

With
Misc. Application No. 192 of 2023
And
Appeal No. 921 of 2022

1. Mr. G. R. K. Reddy
Old No. 24, New No. 17,
South Mada Street, Srinagar
Colony, Saidapet,
Chennai – 600015.

2. GRK Reddy Sons (HUF)
Old No. 24, New No. 17,
South Mada Street, Srinagar
Colony, Saidapet,
Chennai – 600015.

3. Global Infoserve Ltd.
Sri Sai Subhodaya
Apartments, 1st Floor,
No. 57 /2B, East Coast Road,
Thiruvanmiyur,
Chennai - 600041.

4. Marg Capital Markets Ltd.
Sri Sai Subhodaya

Apartments, 1st Floor,
No. 57 /2B, East Coast Road,
Thiruvanmiyur,
Chennai - 600041.

5. Marg Projects and Infrastructure Ltd.
Sri Sai Subhodaya
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6. Ms. V P Rajani Reddy
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Sri Sai Subhodaya Apartments,
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9. Akshya Infrastructure Ltd.
Sri Sai Subhodaya Apartments,
1st Floor, No. 57 /2B, East Coast Road,
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Versus

Securities & Exchange Board of India
SEBI Bhavan, Plot No. C-4A, G Block,
Bandra Kurla Complex, Bandra (East),
Mumbai - 400 051. … Respondent

Mr. Somasekhar Sundaresan, Advocate with Mr. Paras Parekh, Mr. Samyak Pati and Ms. Shonan Bangera, Advocates i/b RHP Partners for the Appellants.

Mr. Shiraz Rustomjee, Senior Advocate with Ms. Shreya Parikh, Mr. Manish Chhangani, Mr. Sumit Yadav, Mr. Abhay Chauhan and Mr. Atul Kumar Agrawal, Advocates i/b The Law Point for the Respondent.

CORAM : Justice Tarun Agarwala, Presiding Officer
Ms. Meera Swarup, Technical Member

Per : Justice Tarun Agarwala, Presiding Officer

1. The appellants have challenged three orders relating to the same issue and, consequently, all the appeals are being taken up together.

2. Appeal No. 584 of 2020 has been filed against the order dated November 15, 2019 passed by the Whole Time Member (hereinafter referred to as 'WTM') directing the appellants to make a mandatory open offer as well as voluntary open offer in terms of the Securities and Exchange Board of India (hereinafter referred to as 'SEBI') Letter of Observation dated November 30, 2012. Appeal No. 578 of 2020 has been filed against the order dated March 16, 2020 passed by the Adjudicating Officer (hereinafter referred to as

'AO') for the same violation wherein the appellants have imposed a penalty of Rs. 74,75,00,000/- under Section 15H(ii) of the Securities and Exchange Board of India Act, 1992 (hereinafter referred to as 'SEBI Act'). Appeal No. 921 of 2022 has been filed against the order dated March 21, 2021 passed by the AO imposing a penalty of Rs. 1 crore under Section 15HB of the SEBI Act for non-compliance of the SEBI order dated November 15, 2019 (which is under challenge in the Appeal No. 584 of 2020).

3. For facility, the facts enumerated in Appeal No. 584 of 2020 have been taken into consideration. On October 20, 2011, appellant nos. 9, namely, Akshaya Infrastructure Ltd. (hereinafter referred to as 'Akshaya') who is one of the promoters of M/s. MARG Ltd. (the target company) made a public announcement of voluntary open offer for acquisition of 76,51,572 equity shares of the target company at a price of Rs. 91/- per share. The acquisition cost pursuant to the open offer was around Rs. 69.62 crore.

4. Pursuant to the public announcement, a draft letter of offer dated October 28, 2011 was submitted by appellant nos. 9 for acquisition of the aforesaid mentioned equity shares. The voluntary open offer under the Securities and Exchange Board of India (Substantial Acquisition of Shares and Takeovers) Regulations, 1997

(hereinafter referred to as 'SAST Regulations') was made with a view to consolidate the shareholding of the appellant's group. The public announcement was filed with the respondent through the manager to the issue.

5. It transpires that SEBI raised certain issues to which the appellants duly replied clarifying the facts and background pertaining to the creeping acquisition limit of 5% under Regulation 11 of the SAST Regulations on March 30, 2007, October 12, 2007 and February 19, 2011. Apparently, the respondent were satisfied with the explanation. Further, no response was made by the respondent to the draft letter of offer.

6. On account of passage of time and on account of delay on the part of the respondent in finalizing the draft letter of offer, the appellants on March 29, 2012 withdrew the draft letter of offer and the withdrawal letter was duly filed with SEBI through the merchant banker on April 2, 2012.

7. After more than a year from the submission of the draft letter of offer and after eight months from the withdrawal of the draft letter of offer, the respondent issued an observation letter dated November 30, 2012 contending that the open offer was triggered by the appellants under Regulation 11(1) of the SAST Regulations on

March 30, 2007, October 12, 2007 and February 19, 2011 and, accordingly, directed the appellants to revise the offer price of the voluntary open offer and include the aforesaid triggered details in the draft letter of offer.

8. The letter of observation dated November 30, 2012 was challenged by the appellants in Appeal No. 3 of 2013 before this Tribunal. This Tribunal by an order dated June 19, 2013 quashed the letter of observation issued by SEBI dated November 30, 2012 and permitted the withdrawal of the voluntary open offer and withdrawal of the amount of Rs. 76.46 crore deposited in the escrow account in pursuance of the draft letter of open offer. The Tribunal further did not make any observation on the merit of the issue regarding the alleged triggers dated March 30, 2007, October 12, 2007 and February 19, 2011 and kept open the contention of the parties. The relevant portion of the order of the Tribunal dated June 19, 2013 is extracted hereunder :-

> *"We, however, make it clear that we do not intend to make any observation on the merit of the issue regarding the three Alleged Triggers dated March 30, 2007, October 12, 2007 and February 19, 2011 and the contentions of parties in this regard are kept open. The Appeal, thus, stands allowed in terms of prayers contained in paras 7(a), 7(b), & 7(c) thereof. No costs."*

9. SEBI challenged the order of the Tribunal before the Hon'ble Supreme Court and vide order dated April 25, 2014, the appeal of SEBI was allowed and the order of the Tribunal was set aside. The Hon'ble Supreme Court held that the public offer cannot be permitted to be withdrawn because it had become uneconomical and held that permitting such withdrawal would be detrimental to the interests of the shareholders and the integrity of the securities market. The Hon'ble Supreme Court also observed that the three earlier acquisitions would be decided in accordance with law.

10. Pursuant to the order of the Hon'ble Supreme Court, it is alleged that the appellants approached SEBI requesting that they may be permitted to implement the open offer and vide letter dated June 1, 2015 contended that in view of the change in the circumstances, the appellants should be allowed to carry out the open offer on the current market price prevailing at that time. The request of the appellants remained pending and vide letter dated July 11 2015, a reminder was again issued to SEBI to consider the change in circumstances and financial position. Vide letter dated June 9, 2015, the respondent informed the appellants that their request cannot be acceded to.

11. Thereafter, SEBI issued a show cause notice dated February 25, 2016 directing the appellants to show cause as to why suitable directions should not be issued under Section 11 and 11B of the SEBI Act read with Regulations 44 and 45 of the SAST Regulations for non-compliance of the voluntary offer made by the appellants vide public announcement dated October 28, 2011. During the pendency of the proceedings, a supplementary show cause notice dated May 11, 2018 was issued directing the appellants to show cause as to why suitable direction under Section 11 and 11B of the SEBI Act read with Regulations 44 and 45 of the SAST Regulations should not be issued for failure to make the public announcement with regard to the breach of 5% creeping acquisitions limit for the financial year 2006-07, 2007-08 and 2010-11.

12. On the same cause of action and on the same violation, the AO also issued a show cause notice dated June 18, 2018 to show cause why penalty under Section 15H(ii) should not be imposed for violation of the SAST Regulations.

13. The WTM after considering the matter passed the order dated November 15, 2019 directing the appellants to make a consolidated open offer for the alleged creeping acquisition that took place in the financial year 2006-07, 2007-08, 2010-11 and 2012-13. The WTM

directed that the open offer should be made at the highest open offer price under Regulation 11(1) of the SAST Regulations. The WTM held that there was a creeping acquisition of more than 5% in the financial year 2006-07, 2007-08 and 2010-11 and that the target company was under obligation to complete the voluntary open offer as per the direction of the Hon'ble Supreme Court.

14. The AO by an order dated March 16, 2020 also found that the creeping acquisition and non-compliance of the voluntary offer was in violation of the Regulation 11(1) of the SAST Regulations and accordingly imposed a penalty of Rs. 74.75 crores under Section 15H(ii) against 23 entities including the appellants.

15. For non-compliance of the WTM order dated November 15, 2019, the AO issued another show cause notice dated June 4, 2020 and imposed a penalty of Rs. 1 crore under Section 15HB of the SEBI Act.

16. We have heard Mr. Somasekhar Sundaresan, the learned counsel with Mr. Paras Parekh, Mr. Samyak Pati, Ms. Shonan Bangera, the learned counsel for the appellants and Mr. Shiraz Rustomjee, the learned senior counsel with Ms. Shreya Parikh, Mr. Manish Chhangani, Mr. Sumit Yadav, Mr. Abhay Chauhan, Mr. Atul Kumar Agrawal, the learned counsel for the respondent.

17. The contention of the appellants is, that the direction of the WTM to make a combined open offer at the highest price was not appropriate in the facts and circumstances of the case. It was urged that other directions under Regulations 44 and 45 of the SAST Regulations could have been passed which was not considered at all by the WTM. It was urged that at this stage, it was admitted by both the parties that the appellants were not in a sound financial condition to make an open offer as the company had a negative net worth and the appellants were financially incapable of making an open offer. It was urged that the company had no income for the last five years and an escrow account in which the amount of Rs. 17. 45 crore were kept for the purpose of making an open offer had been taken over by Axis Bank which led to litigation with them. It was urged that the amount is now attached by the revenue authorities towards their alleged dues. In the meanwhile, the lenders enforced the pledges and encumbrances against the company which has resulted the promoter holding to come down to 12.5%. It was also urged that no directions for making an open offer for the three alleged triggers in the financial year 2006-07, 2007-08 and 2010-11 could have been issued at this belated stage. It was contended that the acquisition of the additional shares was available in the public domain from the very inception and, in any case, became known to the respondent when the

voluntary open offer was made in 2012. But no action was taken by them and the show cause notice was issued in the year 2018 after 11 years from the date of the first trigger in the financial year 2006-07 and six years after voluntary open offer in 2012. The learned counsel urged that there has been an inordinate delay and since much water has flown in the matter, it was not known as to whether the shareholders as on the triggered date are still the shareholders of the target company or not and, therefore, there was no justification on the part of the respondent in issuing the show cause notice belatedly.

18. The learned counsel for the appellants further contended that the issue at hand is now squarely covered by a decision of the Hon'ble Supreme Court in the matter of ***SEBI vs. Sunil Krishna Khaitan and Ors. [(2022) SCC Online SC 862]*** wherein the Hon'ble Supreme Court after considering the provisions of Regulations 44 and 45 of the SAST Regulations and Section 11 and 11B of the SEBI Act categorically held that the exercise of power under Regulation 44 is discretionary and not mandatory and that direction under Regulation 44 are required to be issued considering the relevant factors, including, the interest of the securities market and protection of the investors. The Hon'ble Supreme Court held that Regulation 44 was not a strict liability provision. Further, the Hon'ble Supreme Court held that the word "may" is not "shall" and, therefore, it is not

necessary that in each and every case a direction to make an open offer is to be issued. Considering the facts and circumstances and the relevant factors, other directions stipulated in Regulations 44 and 45 of the SAST Regulations could be issued.

19. Learned counsel further urged that the factors contemplated under Section 15H(ii) and 15J of the SEBI Act have not been considered and that the AO has arbitrarily and without any application of mind has imposed a penalty of Rs. 74.75 crore taking the cost of acquisition equivalent to the amount of penalty which is not permissible. It was urged that under Section 15H a minimum penalty of an amount of Rs. 10 lakh can be imposed which may extend to Rs. 25 crore or three times the amount of profits. In the instant case, these factors nor the factors under Section 15J of the SEBI Act have been considered and instead the alleged cost of acquisition has been taken as the basis for imposition of penalty.

20. It was also urged that the order of the AO imposing a penalty of Rs. 1 crore for non-compliance of the WTM order was wholly erroneous. Since the appellants had challenged the order of the WTM in an appeal before this Tribunal, the AO should have been waited for the outcome of the result before proceeding to pass an order under Section 15HB. It was also contended that, in any case,

the penalty under Section 15HB cannot be imposed for non-compliance of any order of the WTM and that the said provision cannot be used for the purpose of enforcement of an order passed by the WTM.

21. On the other hand, the learned counsel appearing for the respondent submitted that there is no error either in the order of the WTM or of the AO and that the orders had been passed in accordance with the provisions of the Act and the Regulations and the directions contained in the order of the Hon'ble Supreme Court. It was urged that the voluntary offer had to be completed as per the directions of the Hon'ble Supreme Court which cannot be withdrawn and, therefore, such orders for making an open offer was passed and, consequently, other directions contained under Regulation 44 was not considered. It was also urged that merely because it had become uneconomical to make an open offer did not mean that the open offer could not be made. It was contended that the Hon'ble Supreme Court had rejected such arguments that the voluntary open offer cannot be withdrawn on the ground that it had become uneconomical and that such measure was not provided under Regulation 27 of the SAST Regulations. It was urged that the voluntary offer was required to be made as per the directions of the Hon'ble Supreme Court and that the creeping acquisition which violated Regulation

11(1) of the SAST Regulations was mandatory and, consequently, a direction to make a combined open offer was made by the appellants. It was urged in such a situation the principle of law enunciated by the Hon'ble Supreme Court in ***Sunil Khaitan (supra)*** was not applicable. The learned counsel further urged that the penalty imposed was appropriate in the facts and circumstances of the case which does not require any modification.

22. Before we proceed further, it would be appropriate to refer to the provisions of the Regulations 11, 44 and 45 of the SAST Regulations which are extracted hereunder :-

> *"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.*
>
> *[(2) An acquirer, who together with persons acting in concert with has acquired, in accordance with the provisions of law, fifty five per cent (55%) or more but less than seventy five per cent (75%) of the shares or voting rights in a target company, may acquire either by himself or through persons acting in concert with him any additional share or voting right, only if he makes a public announcement to acquire shares or voting rights in accordance with these regulations :*

Provided *that no acquirer shall acquire shares or voting rights, through market purchases and preferential allotment pursuant to a resolution passed under Section 81 of the Companies Act, 1956 or any other applicable law, 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 more than fifty five percent of the voting rights in the company :*

Provided further *that if the acquirer has acquired shares or voting rights through such market purchases or preferential allotment beyond fifty five percent of the voting rights in the company, he shall forthwith disinvest the shares acquired in excess of fifty five per cent and shall be liable for action under these Regulations and the Act.*

Explanation : In case of acquisition through preferential allotment the limit of fifty five per cent voting rights as provided under sub-regulation (ii) shall be reckoned with reference to the increased share capital pursuant to such preferential allotment.

*"**44. Directions by the Board.***

Without prejudice to its right to initiate action under Chapter VIA and section 24 of the Act, the Board may, in the interest of securities market or for protection of interest of investors, issue such directions as it deems fit including:-

(a) directing appointment of a merchant banker for the purpose of causing disinvestment of shares acquired in breach of regulation 10, 11 or 12 either through public auction or market mechanism, in its entirety or in small lots or through offer for sale;

(b) directing transfer of any proceeds or securities to the Investors Protection Fund of a recognised stock exchange;

(c) directing the target company or depository to cancel the shares where an acquisition of shares pursuant to an allotment is in breach of regulation 10, 11 or 12;

(d) directing the target company or the depository not to give effect to transfer or further freeze the transfer of any such shares and not to permit the acquirer or any nominee or any proxy of the acquirer to exercise any voting or other rights attached to such shares acquired in violation of regulation 10, 11 or 12;

(e) debarring any person concerned from accessing the capital market or dealing in securities for such period as may be determined by the Board;

(f) directing the person concerned to make public offer to the shareholders of the target company to acquire such number of shares at such offer price as determined by the Board;

(g) directing disinvestment of such shares as are in excess of the percentage of the shareholding or voting rights specified for disclosure requirement under regulation 6, 7 or 8;

(h) directing the person concerned not to dispose of assets of the target company contrary to the undertaking given in the letter of offer;

(i) directing the person concerned, who has failed to make a public offer or delayed the making of a public offer in terms of these regulations, to pay to the shareholders, whose shares have been accepted in the public offer made after the delay, the consideration amount along with interest at the rate not less than the applicable rate of interest payable by banks on fixed deposits.

45. Penalties for non-compliance.

(1) Any person violating any provisions of the regulations shall be liable for action in terms of the regulations and the Act.

(2) If the acquirer or any person acting in concert with him, fails to carry out the obligations under the regulations, the entire or a part of the sum in the escrow account shall be liable to be forfeited and the acquirer or such a person shall also be liable for action in terms of the regulations and the Act.

(3) The board of directors of the target company failing to carry out the obligations under the regulations shall be liable for action in terms of the regulations and the Act.

(4) The Board may, for failure to carry out the requirements of the regulations by an intermediary, initiate action for suspension or cancellation of registration of an intermediary holding a certificate of registration under section 12 of the Act :

***Provided** that no such certificate of registration shall be suspended or cancelled unless the procedure specified in the regulations applicable to such intermediary is complied with.*

(5) For any mis-statement to the shareholders or for concealment of material information required to be disclosed to the shareholders, the acquirers or the directors where the acquirer is a body corporate, the directors of the target company, the merchant banker to the public offer and the merchant banker engaged by the target company for independent advice would be liable for action in terms of the regulations and the Act.

(6) The penalties referred to in sub-regulations (1) to (5) may include :—

(a) criminal prosecution under section 24 of the Act;

(b) monetary penalties under section 15H of the Act;

(c) directions under the provisions of section 11B of the Act;

(d) directions under section 11(4) of the Act;

(e) cease and desist order in proceedings under section 11D of the Act;

(f) adjudication proceedings under section 15HB of the Act."

23. Admittedly, creeping acquisition was made in the financial year 2006-07, 2007-08 and 2010-11. The said acquisition was intimated to the stock exchange and, therefore, it was in the public domain. If there was a violation of Regulation 11, then the respondent should have acted upon it at the earliest opportune moment and the reason being is, that the open offer is required to be made within four days from the date of the trigger of the creeping acquisition.

24. In so far as the voluntary offer is concerned, admittedly, the appellant no. 9 made a voluntary offer and a draft letter of offer was issued. But no response was made by SEBI within a reasonable period and it took more than a year for the respondent to respond. In the meanwhile, the open offer became uneconomical according to the

appellant and they withdrew the voluntary open offer. The withdrawal of the voluntary open offer was not accepted and a letter of observation was issued by SEBI on November 30, 2012 after more than 13 months from the issuance of the draft letter of offer dated October 28, 2011 and after 8 months from the date of withdrawal of the voluntary offer on March 29, 2012.

25. In this scenario, when time is the essence and an open offer is required to be made within four days under Regulation 14, the factors contemplated under Regulations 44 and 45 was required to be considered in the facts and circumstances of the case for the non-compliance of Regulation 11. We are of the opinion that if the acquisition triggers the requirement of making an open offer under Regulation 11 is not done at the earliest opportune moment then, in that case, the authority has the discretion to pass appropriate orders other than an order of open offer as per the Regulation 44 which, in our opinion, was not done in the instant case.

26. In the matter of ***Sunil K. Khaitan (supra),*** warrants were issued which triggered the requirements of compliance of Regulations 10 and 11 of the SAST Regulations since the said provisions were violated. SEBI issued a show cause notice to show cause as to why suitable direction under Section 11 and 11B of the

SEBI Act read with Regulations 44 and 45 of the SAST Regulations should not be issued. The WTM after considering the matter issued an order directing the company and its directors to make combined public announcement to acquire shares in compliance of the Regulations 10 and 11. The order was challenged in appeal before the appellate Tribunal wherein the Tribunal held that Regulation 10 was not violated but Regulation 11(1) was violated. This Tribunal held that since there was a delay of 5 years in the issuance of the show cause notice, the direction to make an open offer was not justified and, consequently, imposed a penalty of Rs. 25 lakh.

27. The Hon'ble Supreme Court considered the matter and held that the use of the word "may" in Regulation 44 reflects that SEBI has been conferred a discretion and that the word "may" is not "shall" and, therefore, it is not mandatory that in every case of violation and breach of Regulations 10, 11 and 12 of the SAST Regulations, a direction under Regulation 44 should be issued. In an appropriate case, appropriate orders for direction under Regulation 44 and / or penalty under Chapter VI-A could be imposed in as much as Regulation 44 only provides a discretionary power and is not mandatory in nature. The Hon'ble Supreme Court further held that other directions under Regulation 44 are required to be considered after taking into consideration the relevant factors including the

interest of the securities market and protection of the investors. The Hon'ble Supreme Court held as under :-

> *"72. The use of the word 'may' in Regulation 44 and the wording of Sections 11(1), 11B and 11(2)(h) reflect that the Board has been conferred a discretion, which in turn also means and should be interpreted as imposing a duty, an aspect which we will elucidate in the subsequent paragraphs. Use of the word 'may' over the years is normally construed as permissive and not imperative. The words 'may' or 'shall' by their very etymological foundation denote discretion and mandatory nature of an act respectively. This Court has, therefore, held that the courts should not readily interpret the word 'may' as 'shall' unless such interpretation is necessary to avoid absurdity, inconvenient consequences or as mandated by the intent of the legislature which is gathered from the other parts of the statute."*

> *"73. Use of the word 'may' and not 'shall' in Regulation 44 is significant. It is not mandatory that in case of every violation and breach of Regulations 10, 11 and 12, direction under Regulation 44 shall be issued. The interpretation gets fortified in view of the words and object of the Regulation 44 which empowers the Board to issue directions as it deems fit. Section 11(1), while broadly defining the functions of the Board, states that it is the duty of the Board to protect interest of investors in securities and to promote the development of, and regulate the securities market by such measures as it thinks fit. Section 11B, which deals with the power of the Board to give directions, states that the Board, after making or causing an inquiry, may issue directions if it is satisfied that it is necessary in the interest of the investors, or orderly development of the securities market; to prevent the affairs of any intermediary or other persons referred to in Section 12 from conducting affairs in a manner detrimental to the*

interest of the investors or to secure proper management of such intermediary or persons. Section 11(2)(h) provides that the Board is entitled to take measures for regulating substantial acquisition of shares and takeover of companies. Regulation 44 states that the Board while issuing directions, has to keep in mind the interest of the securities market and its role as a protector of interest of investors. We will read the word 'or' between the expression 'in the interest of securities market or protection of investors' as 'and'. The Board, therefore, when it decides to exercise its power under Regulation 44 and issues directions under the said Regulation has to keep the two facets in mind, namely, (i) interest of the securities market; and (ii) protection of interest of the investors. The exercise of discretion of the Board, in fact, would not be restricted to the two facets mentioned above as the power and functions of the Board are far broader as they include promotion, development and regulation of securities market as a whole and regulating substantial acquisition of shares and takeover of companies."

"74. Discretion is an effective and an important tool which the legislature confers and vests with the executive for effective and good governance, administration, and in the present case - regulation, of the securities market which has complex commercial and economic facets. Therefore, the law provides an option to the Board and the authorities to adopt one or the other alternatives. However, this does not mean that the Board or the authorities enjoy unfettered and unchecked discretionary jurisdiction to act according to private or personal opinion in a vague and fanciful manner. Discretion, when of wide amplitude, and when it can have civil and penal consequences, must be exercised in a legal and regular manner. Exercise of discretion is always governed by rules, which means that the exercise of discretion should be fair and reasonable as the legislature while conferring discretion never intends that the authorities would not act whimsically, arbitrarily, but on the precept that they shall act only when it appears to be necessary in

public interest. Legal exercise of discretion is one, where the authority examines and ascertains the facts, is aware of the law, and then decides objectively and rationally what serves the interest better. This is true even when the statutes are silent and only the power is conferred to act in one way or the other. Reasonableness as a standard is tested by reference to the community standards at the time of exercise of discretion. This means that discretion should be exercised within the limit to which an honest man competent to discharge his office ought to confine himself. It will be also true to state that the greater the harm or penal consequences, greater is the duty and obligation of the public authority to ensure that discretion is used as an effective tool in regulation or administration but does not cause confusion, chaos and instability."

"75. In the context of Regulations 44 and 45, it implies that the Board has the power to make a choice between different courses of action or inaction. This choice is not unfettered but is always held subject to implied limitations inherent in every statute, limitations set by the common law and the constitutional mandate of rule of law. The underlying rationale of giving discretion is to ensure that the Board exercises the discretion in consonance with legitimate values of public law, which include need to maintain legal certainty and consistency which are at the heart of the principle of rule of law. These have to be balanced with other equally legitimate public law value, which is the object and purpose of the enactment. The need for the said flexibility is given and is necessary to meet unusual and practical situations and to do justice in a particular case. The remedial order passed by the Board as the regulator must also meet the said parameters in addition to meeting the requirements of the enactment."

"76. Clearly, therefore, Regulation 44 differs from Section 15-H, which is somewhat a strict liability provision that applies if a person fails to comply with

the clauses (i) to (iv). It may be, however, noted that Section 15-H prescribes the lower as well as the higher monetary penalty limits. These stipulations have undergone modifications and changes from time to time. As per the amendments made by Act No. 59 of 2002, with retrospective effect from 29 October 2002, the penalty which can be imposed is not to be less than Rs. 10,00,000/- but may extend up to Rs. 25,00,00,000/- or three times the amount of profits made out of such failure, whichever is higher. The phase 'profits made out of such failure' in Section 15-H indicates that while imposing quantum of penalty the authority should consider the profit made by the acquirer on account of failure to comply with the requirements mentioned in clauses (i) to (iv) of Section 15-H."

"78. In this context, reliance placed by the Board on the judgments which relate to and arise from the orders passed by the adjudicating officer under Chapter VI-A of the Act are of no relevance, as Regulation 44 is a discretionary power and not mandatory in nature. Not only this, the directions under Regulation 44 are required to be issued considering relevant factors, including, interest of the securities market and protection of the investors in mind. Regulation 44 is not a strict liablity provision."

"82. We entirely agree with the reasoning given by the Appellate Tribunal for setting aside the directions given in the penultimate paragraph of the orders passed by the Whole Time Member. As noticed above, the violation alleged in Appeal No. 23 of 2013 in the case of Sunil Krishna Khaitan relates to the years 2006-2007. The order issuing the directions was passed on 31 December 2012, nearly eight years after the alleged violation."

"83. The direction given by the Board vide letter dated 17 December 2012 in the case of Madhuri S. Pitti in the form of direction to modify the draft letter

of offer submitted to the Board for approval on 19 September 2011 pursuant to the public announcement made by PLL on 9 September 2011, it must be stated, is rather odd and defies objectivity and logic. The Appellate Tribunal is right in noticing that there was lack of clarity on the part of the Board as to the provision under which the power has been exercised, as the Board's power under Regulation 18 of the Takeover Regulations 1997 is to specify changes, if any, in the letter of offer, without there being any obligation on the part of the Board to do so, and thereupon the merchant banker and the 'acquirer' are required to carry out such changes before the letter of offer is despatched to the shareholders. As per sub-regulation (2), the letter of offer is to be despatched to the shareholder not earlier than 21 days from the date of submission of the letter of offer to the Board in terms of sub-regulation (1). In this case, directions of the Board for amendment of the letter of offer was issued after a lapse of more than one year as the draft letter of offer was submitted on 19 September 2011 and the directions were issued vide letter dated 17 December 2012. Further, these directions were for the reason that the acquirer had failed to comply with Regulation 10 of the Takeover Regulations 1997 in the remote past, that is, in the year 2006 and 2007. Clearly, this is whimsical and arbitrary exercise of discretion by the Board which would have led to chaos and confusion."

28. The Hon'ble Supreme Court in paragraph nos. 82 of the ***Sunil Khaitan's matter (supra),*** agreed with the reasoning of this Tribunal for setting aside the direction of the WTM for making an open offer and accepted that the order of the WTM issuing directions after 8 years of the alleged violation was not proper. In paragraph nos. 83 of the ***Sunil Khaitan's judgment (supra),*** the Hon'ble

Supreme Court further held that in the matter of ***Madhuri S. Pitti,*** the direction to modify the draft letter of offer after a lapse of more than one year were whimsical and arbitrary exercise of the discretion by the Board.

29. The aforesaid principle is squarely applicable in the instant case. The three alleged creeping acquisitions of 2006-07, 2007-08 and 2010-11 were in the public domain. These acquisitions were known to the stock exchange and, consequently, to the respondent, but no action was taken by the respondent. Further, the creeping acquisition became known when the voluntary offer was made by the appellants on October 28, 2011. The letter of observation was issued by the respondent on November 30, 2012. But no action further to the letter of observation was taken and it was only on May 11, 2018 that the show cause notice was issued to show cause why appropriate direction under Regulation 11 and 11B read with Regulations 44 and 45 of the SAST Regulations should not be issued. Proceedings were initiated after 11 years from the date of the first trigger in the financial year 2007-08 and 7 years after the date of the 3rd trigger. Further, show cause notice against the non-compliance of the voluntary offer was issued on July 10, 2016 after four years. In such a situation when the open offer is required to be made within four days from the date of the public announcement then, in our view,

direction to make an open offer at this belated stage is not the appropriate direction. Other directions as contemplated under Regulations 44 and 45 of the SAST Regulations read with Chapter VI of the SEBI Act could have been issued.

30. Consequently, in our view, there is an inordinate delay in the issuance of the show cause notice for non-compliance of the creeping acquisition under Regulation 11 as well as voluntary offer. If compliance had been made within a reasonable period then the appropriate directions under Regulation 44 other than open offer or imposition of penalty could have been made. But direction to make an open offer at this belated stage, in our opinion, is arbitrary and without any application of mind.

31. We also find that other factors contemplated under Regulations 44 and 45 have not been considered at all by the WTM and the short reason being is, that the voluntary open offer was required to be complied with.

32. There is no doubt that the voluntary offer cannot be withdrawn and that is what the Hon'ble Supreme Court held in the earlier round of litigation. But that does not mean that the factors contemplated under Regulations 44 and 45 of the SAST Regulations cannot be considered while initiating proceedings under Regulation

11 and 11B of the SEBI Act read with Regulations 44 and 45 of the SAST Regulations. In our opinion, it is obligatory upon the WTM to consider all relevant factors and circumstances and pass an appropriate order which would be best suited to the facts and circumstances prevailing at that time.

33. In the instant case, we find that the company had a negative net worth and were financially incapable to make an open offer having no income for last five years. The escrow account in which an amount of Rs. 17.45 crore was deposited was initially usurped by Axis Bank which led to litigation with them by the appellants. As on date, the account is attached by the revenue authorities. Further, the lenders invoked the pledge which led to the holding of the promoters to come down to 12.5% making unviable for them to make an open offer. These facts are admitted by the respondent. But no consideration to these facts has been taken. In our opinion, these facts have to be taken into consideration while issuing an appropriate direction under Regulations 44 and 45 of the SAST Regulations and under Regulation 11 and 11B of the SEBI Act and / or under Chapter VI-A while imposing a penalty.

34. The Hon'ble Supreme Court now in ***Sunil Krishna Khaitan (supra)*** has made it clear that it is not necessary that in every case a

direction to make an open offer is to be issued. It is the duty of SEBI to apply its mind to the facts and circumstances of the case while issuing a direction and justify with reasons that as to why such directions are appropriate. In our opinion, the WTM lost sight of the differences between relevance of attendant facts for determining the issue of whether the open offer has been triggered and whether a direction to make the offer must be issued.

35. Admittedly, the company was raising funds. The infusion of funds was by way of equity / warrants convertible into equity. The funds infused by the promoters had been invested for the benefit of the target company for the purpose of funding its projects. To meet its short term funding, working capital and capital expenditure, the target company required raising of money and to meet such funding, the company resorted to raising of funds through GDR, etc. as per applicable laws. While infusing funds, the appellants had pledged their substantial holding to various financial institutions and failure to meet the financial obligations of the lenders created multiple action against the company which could not been foreseen and which eventually led to the invocation of the pledge shares of the promoters. At the time of making the voluntary offer, the promoters were holding 54.50% which fell down to 12.57% after the invocation of the pledge with the lenders recovering Rs. 109.5 crore. Such

factors became relevant and were required to be considered while passing appropriate orders under Section 11 read with Regulations 44 and 45 of the SAST Regulations.

36. In ***R. V. Lifestyle Ltd. & Ors. vs. SEBI Appeal No. 576 of 2019 decided on November 23, 2021,*** this Tribunal held :-

> *"12. In our view, the direction given in the impugned order directing the appellants to make an open offer at this stage is not purposeful. Much water has flown. It is not known as to whether the shareholders as on the trigger date are still the shareholders or not. We find that the transactions occurred between April and May 2009. The show cause notice was issued on September 30, 2015 after more than five years. The information of acquisition of the additional shares was available in the public domain and, therefore, there was no justification on the part of the respondent in issuing the show cause notice belatedly. We find that the information was sought by the respondent in 2012 and in spite of getting the information it took the respondent another three years to issue the show cause notice."*

37. The Hon'ble Supreme Court in the matter of ***SEBI vs. Akshaya Infrastructure Pvt. Ltd.*** (i.e. appellant No. 9) had dealt on the issue of withdrawal of voluntary offer while interpreting Regulation 27(1)(d) of the SAST Regulations and held that an offer once made could not be withdrawn merely on the basis of economic unviability and reiterated its judgment in ***Nirma Industries Ltd. and Anr. vs. SEBI [(2013) 8 SCC 20]***. The said findings have nothing to

do with the present controversy in as much as the present matter pertains to the appropriateness of the directions of the WTM to make an open offer for non-compliance of the triggered obligations. In view of subsequent events, compliance of the open offer in the present facts and circumstances at the present time becomes impossibility and, therefore, a direction to make an open offer is not an appropriate direction.

38. We also find that much water has flown since the initial triggering of the open offer requirement. It is not known as to whether the shareholders as on the triggered date are still the shareholders are not. The triggered date occurred in the year 2007 and, therefore, as on date the direction to make an open offer is not a viable or appropriate direction.

39. In ***Clariant International Ltd. & Anr. vs. SEBI [(2014) 8 SCC 524],*** the Hon'ble Supreme Court clarified that the direction to make an open offer should not be resorted to where the public shareholding of the target company has been altered since the time of requirements of making an open offer. In the instant case, the shareholding of the appellants has been reduced from 54.40% to 12.57% and this factor being a relevant factor ought to have been considered.

40. The order of the AO imposing a penalty of Rs. 74.75 crore is also arbitrary and has been passed without any application of mind and without considering the provisions of Section 15H and without taking into consideration the factors mentioned in Section 15J of the SEBI Act. For facility, Sections 15H and 15J of the SEBI Act are extracted hereunder :-

> *"**15H. Penalty for non-disclosure of acquisition of shares and take-overs.** — If any person, who is required under this Act or any rules or regulations made thereunder, fails to —*
>
> *(i) disclose the aggregate of his shareholding in the body corporate before he acquires any shares of that body corporate; or*
>
> *(ii) make a public announcement to acquire shares at a minimum price,*
>
> *(iii) make a public offer by sending letter of offer to the shareholders of the concerned company; or*
>
> *(iv) make payment of consideration to the shareholders who sold their shares pursuant to letter of offer, he shall be liable to a penalty [which shall not be less than ten lakh rupees but which may extend to twenty-five crore rupees or three times the amount of profits made out of such failure, whichever is higher]."*

> ***"15J. Factors to be taken into account while adjudging quantum of penalty.] -** While adjudging the quantum of penalty under [15-I or section 11 or section 11-B, the Board or the adjudicating officer] shall have due regard to the following factors, namely :—*

(a) the amount of disproportionate gain or unfair advantage, wherever quantifiable, made as a result of the default;

(b) the amount of loss caused to an investor or group of investors as a result of the default;

(c) the repetitive nature of the default."

41. A perusal of the provisions of Section 15H clearly indicates that for failure to make a public announcement to acquire shares at a minimum price under Section 15H(ii), a penalty of not less than Rs. 10 lakh which can extend up to Rs. 25 crore or three times of the amount of profits made out of such failure could be imposed. There are two factors involved, namely, the penalty could range from Rs. 10 lakh to Rs. 25 crore or three times of amount of profits. In the instant case, profit has not been calculated by the AO. The AO has considered the costs of acquisition to be around Rs. 67 crore and after adding interest had imposed a penalty of Rs. 74.75 crore. In our opinion, the AO has exceeded the powers that can be exercised under Section 15H(ii). The maximum penalty is Rs. 25 crore or three times of the amount of profits. In the absence of calculation of the profits the imposition of penalty is wholly arbitrary.

42. The second order of the AO imposing a penalty of Rs. 1 crore for non-compliance of the order of the WTM is patently erroneous.

In the first instance, we are of the opinion that when the order of the WTM was challenged before this Tribunal, there was no occasion for the respondent to issue a show cause notice and impose a penalty during the pendency of the appeal before this Tribunal. Such action, in our opinion, was wholly arbitrary and has unnecessarily caused harassment upon the appellants.

43. Further, in our opinion, penalty under Section 15HB cannot be issued for enforcement of an order of the WTM passed under Section 11 and 11B of the SEBI Act read with Regulations 44 and 45 of the SAST Regulations.

44. According to the respondent, for non-compliance of the directions of the WTM, a penalty under Section 15HB could be issued. It was urged, that under Section 15HB whoever fails to comply with the directions issued by the Board for which no separate penalty has been provided, shall be liable to pay a penalty.

45. Directions issued under Section 11B are under Chapter-II of the SEBI Act, which gives powers to the Board to issue such directions as are necessary to protect the interest of the investors in securities and to promote the development of, and to regulate the securities market by such measures as it thinks fit. Such directions

issued under 11B are in the nature of orders which are passed after due enquiry.

46. Black's Law Dictionary Seventh Edition defines 'direction' to mean an order. The word 'order' has also been defined in the same Black's Law Dictionary Seventh Edition as a command, direction or instruction, a written direction or command delivered by a court or judge. Thus, direction and order are synonymous terms and are interchangeable.

47. In ***Rajinder Nath vs. Commissioner Of Income Tax [(1979) 4 SCC 282],*** the Supreme Court held that a direction is an order issued by the authority or Court which is empowered to give while deciding the case before it.

48. Section 15HB is under Chapter-VIA of the SEBI Act, which provides for penalties and adjudication. A perusal of Chapter-VIA would indicate that penalties have been provided for specific violations, for example, under Section 15A, a penalty is provided for failure to furnish information, return, etc. Under Section 15B penalty is provided for failure by any person to enter into agreement with clients. Penalty is provided under Section 15C for failure to redress investors' grievances and so forth. Section 15HB is a residuary clause meaning thereby that where specific penalties have not been

provided elsewhere under Chapter-VI, then a penalty could be awarded under Section 15HB for failure to comply with any provisions of the Act, Rules, Regulations or directions issued by the Board.

49. The word ‘directions’ issued by the Board under Section 15HB is different and distinct from the directions issued under Section 11B after due enquiry and adjudication. There are many directions issued under the Regulations and the Circulars requiring a person to do an act in a certain manner. For example, a person is required to comply with a certain provision within a stipulated period. Failure to comply with such directions issued by the Board under the Act, Regulations, Rules or Circulars if not complied with may invite penalty. If penalty is not specified under Chapter-VIA from Section 15-A to Section 15-HAA for failure to comply with such type of directions then penalty can be imposed after adjudication under the residuary clause Section 15HB.

50. In our opinion, Section 15HB cannot be invoked for noncompliance of any directions issued under Section 11B after enquiry and adjudication.

51. We are further of the opinion that Section 11B(2) was amended w.e.f. March 8, 2019 which gave powers to the Board (in

the instance case to the WTM) to levy penalty under Section 15HB. This power was not utilized and, therefore, AO could not exercise such power under Section 15HB.

52. We are also of the opinion that the penalty imposed by the AO is excessive and arbitrary. The AO has not considered the hardship and the situation prevailing at the time of the passing of the impugned order.

53. In similar circumstances, for failure to make an open offer the respondent has imposed much lower penalties for violation under Section 15H(ii) of the SEBI Act which is apparent from the table below :-

Sr. No.	Parties	Date of order	Violation	Amount of Penalty (Rs.)
1.	Sunil Krishna Khaitan	June 19, 2013	Regulation 11(1) of the Takeover Regulations, 1997	25 Lakhs
2.	Shri Fateh Lal Shah & Ors.	May 23, 2018	Regulations 3(1) and 4 of the Takeover Regulations, 2011	6 Lakhs
3.	ISG Traders Ltd.	March 8, 2017	Regulations 3(1), 3(3) and 13(1) of the Takeover Regulations, 2011	10 Lakhs
4.	R V Lifestyle Ltd. & Ors. vs. SEBI	May 15, 2019	Regulation 11(1) of Takeover Regulations, 1997	30 Lakhs
5.	Pradeep B. Ranka & Ors.	March 23, 2018	Regulation 11(2) read with 14(1) of the Takeover Regulations, 1997	10 Lakhs
6.	Vaman Madhav Apte & Ors.	October 31, 2014	Regulation 11(2) of the Takeover Regulations, 1997	10 Lakhs
7.	Intercon Finance Pvt. Ltd. & Ors.	December 24, 2019	Regulation 11(2) of the Takeover Regulations, 1997	5 Lakhs
8.	Assam Timber Products Pvt. Ltd. & Ors.	August 22, 2017	Regulation 11(2) of the Takeover Regulations, 1997	11 Lakhs
9.	Kaminiben Atulbhai Patni & Ors.	January 30, 2022	Regulations 3(1) and 4 of the Takeover Regulations, 1997	10 Lakhs

10.	Mooldhan Advisory Systems Pvt. Ltd. & Ors.	December 12, 2017	Regulations 10 and 14 of the Takeover Regulations, 1997	25 Lakhs
11.	Ushdev Trade Ltd. vs. SEBI	September 14, 2010	Regulations 10 and 14 of the Takeover Regulations, 1997	5 Lakhs
12.	TGV Projects & Investments Ltd. & Ors.	April 20, 2009	Regulation 11(2) of the Takeover Regulations, 1997	5 Lakhs
13.	Capetown Trading Company Pvt. Ltd. vs. SEBI	June 28, 2019	Regulation 12 of the Takeover Regulations, 1997	20 Lakhs
14.	Jayanti Lal Bhandari & Ors.	October 3, 2017	Regulation 12 of the Takeover Regulations, 1997	5 Lakhs
15.	Vashi Construction Pvt. Ltd. & Ors.	January 19, 2012	Regulation 10 of the Takeover Regulations, 1997	20 Lakhs
16.	Baader Bank Aktiengesellschaft vs. SEBI	October 10, 2019	Regulation 10 of the Takeover Regulations, 1997	25 Lakhs
17.	G. P. Shah Investment Pvt. Ltd. & Ors. vs. SEBI	March 16, 2020	Regulations 3(2) of the Takeover Regulations, 2011	5 Crores
18.	Hemant Kothari vs. SEBI	September 12, 2014	Regulation 10 of the Takeover Regulations, 1997	40 Lakhs
19.	Kunal Pradeep Savla vs. SEBI	April 13, 2019	Regulation 11(2) of the Takeover Regulations, 1997	7 Lakhs
20.	Mega Resources Ltd. vs. SEBI	September 7, 2017	Regulation 11(2) of the Takeover Regulations, 1997	50 Lakhs
21.	Shilpa Mahavir Deshlahra vs. SEBI	September 15, 2020	Regulations 3(2) of the Takeover Regulations, 2011	5 Crores
22.	Unijules Life Sciences Ltd. vs. SEBI	November 1, 2012	Regulations 10, 11 and 14 of the Takeovers Regulations, 1997	50 Lakhs
23.	Dr. V. K. Sukumaran vs. SEBI	August 24, 2021	Regulations 3(2) of the Takeover Regulations, 2011	10 Lakhs

54. From the aforesaid table, in the matter of ***Sunil Krishna Khaitan (supra),*** the direction to make an open offer was set aside by the Tribunal and a monetary penalty of Rs. 25 lakh was imposed which was upheld by the Hon'ble Supreme Court. Similarly, in the ***Vaman Madhav Apte & Ors. vs. SEBI,*** the imposition of Rs. 10 lakh on account of failure to make an open offer was upheld by this Tribunal as well as by the Hon'ble Supreme Court by its order dated May 3, 2019. Similarly, in the matter of ***Mooldhan Advisory Systems Pvt. Ltd. & Ors.,*** the direction of penalty of Rs. 25 lakh

passed was upheld by this Tribunal. We also find that direction to make an open offer was issued in the case of ***Parsoli Corporation*** and against its promoters Zafar Sareshwala and Uvesh Sareshwala. These entities lost at every round all the way to the Hon'ble Supreme Court with concurrent judicial finding in SEBI's favour. On account of non-compliance of the open offer SEBI closed the matter with imposition of monetary penalty of Rs. 25 lakh.

55. In view of the aforesaid, the impugned orders passed by the WTM issuing a direction to make an open offer and the imposition of the penalties by the AO cannot be sustained and are quashed in so far as the appellants are concerned. The appeals are allowed. At this belated stage, in our opinion, the appropriate direction is to award a composite penalty for the violations. The minimum penalties specified under Section 15H(ii) is Rs. 10 lakh to a maximum of Rs. 25 crore. Considering the penalties imposed by SEBI as given in the aforesaid table which is not disputed, this Tribunal apart from exercising the powers of the Board can also exercise powers to make such orders and give such directions as may be necessary or expedient to secure the ends of justice as specified under Rule 21 of the Securities Appellate Tribunal Procedure Rules, 2000. These powers had been conferred upon the Tribunal with a view to do complete justice between the parties which is equitable in nature to

be exercised to ensure justice between the parties or to prevent miscarriage of justice. Considering the fact that the dispute is from the year 2007 onwards and the matter has lingered for more than 15 years, we are of the opinion that a quietus must be reached and the matter is finally laid to rest. Considering these facts and the penalties imposed by SEBI as given in the aforesaid table and considering the size of the open offer that was required to be made, we are of the opinion that substantial justice would be done if a penalty of Rs. 40 lakh is imposed upon the appellants to be paid jointly and severally within eight weeks from today. We direct accordingly. In the circumstances of the case, parties shall bear their own costs.

Justice Tarun Agarwala
Presiding Officer

Ms. Meera Swarup
Technical Member

17.10.2023
PTM