BEFORE THE ADJUDICATING OFFICER SECURITIES AND EXCHANGE BOARD OFINDIA ADJUDICATION ORDER NO. PM/NR/2020-21/9750

UNDER SECTION15-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

Maxworth Investment Ltd.,
(PAN: AAHCM0498G)

In the matter of Karuturi Global Ltd.,

BACKGROUND

1. Securities and Exchange Board of India (hereinafter referred to as **'SEBI'**) observed from the quarterly shareholding pattern of Karuturi Global Ltd., *(hereinafter referred to as "Target Company" / "KGL"),* a Company listed at National Stock Exchange (NSE), for the quarter ending period June 2015 and September 2015, that the shareholding of Maxworth Investment Ltd., (*hereinafter referred to as "Noticee")* which held 4,10,00,000 shares of KGL constituting 5.06% of the share capital of KGL as at the quarter ending period June 2015, had decreased to 1,18,75,000 shares i.e., 1.16% of the share capital of KGL as at the quarter ending period September 2015.

2. The change in shareholding of the Noticee had triggered disclosure requirements under SEBI (Substantial Acquisition of Shares & Takeovers), 2011 *(hereinafter referred to "SAST Regulations").* It was observed that the Noticee failed to make the requisite disclosures under SEBI (SAST) Regulations to the Stock Exchange where the shares of the target company are listed i.e., NSE and to the target company. Therefore, it was alleged that the Noticee had violated the provisions of Regulation 29 (2) read with Regulation 29 (3) of SEBI (SAST) Regulations, 2011

APPOINTMENT OF ADJUDICATING OFFICER

3. Pursuant to examination, SEBI initiated Adjudication Proceedings against the Noticee and appointed the undersigned as the Adjudicating Officer vide Order dated October 17, 2019 under Section 19 of SEBI Act read with Sub-section (1) of Section 15-I of the SEBI Act, 1992 and Rule 3 of the SEBI (Procedure for Holding Inquiry and Imposing Penalties) Rules, 1995 (hereinafter referred to as *"SEBI Adjudication Rules"*) to inquire into and adjudge the alleged violation committed by the Noticee, under Section 15A(b) of the SEBI Act.

SHOW CAUSE NOTICE, REPLY AND HEARING

4. A Show Cause Notice (hereinafter referred to as *"SCN"*) bearing ref. no. EAD/ADJ/PM/AB/OW/0000013128/2020 dated August 12, 2020 was served on the Noticee under Rule 4 of SEBI Adjudication Rules to show cause as to why an inquiry be not held against it in terms of Rule 4 of the SEBI Adjudication Rules and penalty be not imposed under Section 15 A (b) of the SEBI Act, 1992 for the violation alleged to have been committed by it. In view of the prevailing circumstances owing to Covid-19 pandemic, the SCN was sent to the Noticee through digitally signed email at it's Email IDs: jessica.chiatrustnet@gmail.com and jesphin.silva@portcullis-trustnet.com on August 12, 2020. I note that while the SCN sent to Email ID the email sent to jesphin.silva@portcullis-trustnet.com bounced, the SCN sent to the Email ID jessica.chiatrustnet@gmail.com did not bounce. Vide the aforesaid SCN, the Noticee was given a timeframe of 21 days to submit its reply, if any, to the charges alleged in the SCN. I note from the records that the Noticee did not file its reply.

5. In the interest of natural justice and in terms of Rule 4(3) of SEBI Adjudication Rules, the Noticee was given an opportunity of personal hearing on November 12, 2020, which was communicated to the Noticee at it's Email ID jessica.chiatrustnet@gmail.com on October 29, 2020, sent through digitally signed email. I note that the email sent to the Noticee at the abovementioned Email ID did not bounce. In view of the prevailing circumstances owing to Covid-19 pandemic, the hearing was scheduled through videoconferencing on

Webex platform on November 12, 2020 and the link for joining the hearing along with the login credentials were sent to the Noticee through email at it's Email ID jessica.chiatrustnet@gmail.com on November 11, 2020. However, I note that the Noticee neither submitted it's reply nor appeared for the hearing.

6. In this context, I would like to rely upon the observations of The Hon'ble Securities Appellate Tribunal (SAT) in the matter of Classic Credit Ltd., vs. SEBI (Appeal 68 of 2003 decided on December 08, 2006) wherein the Hon'ble SAT, inter alia, observed that - *"..... the appellants did not file any reply to the second show-cause notice. This being so, it has to be presumed that the charges alleged against them in the show-cause notice were admitted by them".*

7. The Hon'ble SAT has again in the matter of Sanjay Kumar Tayal & Others vs SEBI (Appeal 68 of 2013 decided on February 11, 2014), interalia, observed that – *"…….As rightly contended by Mr. Rustomjee, learned senior counsel for respondents, appellants have neither filed reply to show cause notices issued to them nor availed opportunity of personal hearing offered to them in the adjudication proceedings and, therefore, appellants are presumed to have admitted charges levelled against them in the show cause notices……..".*

8. In view of the above, I note that the Noticee, even after due service of Notices, has neither provided any reply to the allegations made in the SCN nor availed the opportunity of personal hearing to advance it's submissions before me. Therefore, I am convinced that the principle of natural justice has been duly followed in the matter, as enough opportunities were provided to the Noticees to reply to the SCN and to appear for hearing. In such circumstance, the allegations in the SCN against the Noticee are taken up for consideration, on the basis of the material available on record

CONSIDERATION OF ISSUES

9. I have taken into consideration the facts and material available on record. I observe that the allegation levelled against the Noticee is that it has failed to make the requisite disclosures under the relevant provisions of SEBI (SAST) Regulations, 2011.

After perusal of the material available on record, I have the following issues for consideration, viz.,

I. Whether the Noticee has violated the provisions of Regulation 29 (2) read with Regulation 29 (3) of SEBI (SAST) Regulations, 2011?

II. Does the violation, if any, attract monetary penalty under Section 15 A (b) of SEBI Act.?

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

ISSUE-I: Whether the Noticee has violated the provisions of Regulation 29 (2) read with Regulation 29 (3) of SEBI (SAST) Regulations?

10. Before moving forward, it is pertinent to refer to the relevant provisions of SEBI (SAST) Regulations, 2011, which reads as under:

Regulation 29 (2) of SEBI (SAST) Regulations, 2011

Any person, who together with persons acting in concert with him, holds shares or voting rights entitling them to five per cent or more of the shares or voting rights in a target company, shall disclose the number of shares or voting rights held and change in shareholding or voting rights, even if such change results in shareholding falling below five per cent, if there has been change in such holdings from the last disclosure made under sub-regulation (1) or under this sub-regulation; and such change exceeds two per cent of total shareholding or voting rights in the target company, in such form as may be specified.

Regulation 29 (3) of SEBI (SAST) Regulations, 2011

"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".

11. I note that it is obligatory on the part of any person who holds more than 5% of shareholding, to make the requisite disclosure to the Stock Exchange and to Company, in case of any change in shareholding in excess of 2% or more within 2 working days.

12. I note that the Noticee is a shareholder of KGL holding 4,10,00,000 shares representing 5.06% of the shareholding of KGL as at the quarter ending period June 2015. The shareholding of the Noticee decreased to 1,18,75,000 shares representing 1.16% of the shareholding of KGL as at the quarter ending period September 2015. The total change in the shareholding of the Noticee was 3.9%. Pursuant to change in shareholding in excess of 2% or more, the Noticee is obligated to make the requisite disclosures in terms of Regulation 29 (2) of SEBI (SAST) Regulations to NSE and to the target company. I note from the email of NSE dated June 27, 2017 and from the email of KGL dated August 17, 2017 that no disclosures were received by NSE & KGL from the Noticee pursuant to it's change in shareholding in excess of more than 2% in the target company. There is no material even to indicate any subsequent disclosures about the transaction in reasonable time. Thus, this is case of complete failure on the part of the Noticee who is public shareholder in KGL.

13. From the above findings and also from the confirmations provided by NSE & KGL, it is established that the Noticee failed to make the requisite disclosures under Regulation 29 (2) of SEBI (SAST) Regulations pursuant to change in more than 2% shareholding in the target company.

14. In the matter of Appeal No. 66 of 2003 -Milan Mahendra Securities Pvt. Ltd. vs. SEBI–the Hon'ble SAT, vide its order dated April 15, 2005 also held that, *"the purpose of these disclosures is to bring about transparency in the transactions and assist the Regulator to effectively monitor the transactions in the market."*

15. Further, the Hon'ble SAT in its Order dated September 30, 2014, in the matter of Akriti Global Traders Ltd. Vs SEBI had observed that:

"*Obligation to make disclosures under the provisions contained in SAST Regulations, 2011 as also under PIT Regulations, 1992 would arise as soon as there is acquisition of shares by a person in excess of the limits prescribed under the respective regulations and it is immaterial as to how the shares are acquired. Therefore, irrespective of the fact as to whether the shares were purchased from open market or shares were received on account of amalgamation or by way of bonus shares, if, as a result of such acquisition/ receipt, percentage of shares held by that person exceeds the limits prescribed under the respective regulations, then, it is mandatory to make disclosures under those regulations.*"

16. In view of the foregoing, I conclude that the Noticee by not making the requisite disclosures upon change in more than 2% shareholding in the target company has violated the provisions of Regulation 29 (2) read with Regulation 29 (3) of SEBI (SAST) Regulations.

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

17. It is a well-known fact and practice that as per the requirements of SEBI (SAST) Regulations, there is a requirement of timely disclosure of change in shareholding beyond certain threshold limits. It is obligatory on the part of the person to make timely disclosures to Stock Exchange and to the Company. By not making the requisite disclosures under SEBI (SAST) Regulations, the

Noticee failed to comply with the statutory requirements of Law. The timely disclosure is mandated under these Regulations for the benefit of the investors at large. There can be no dispute that compliance with the provisions of the Regulations is mandatory and it is the duly of SEBI to enforce compliance of these Regulations.

18. Since the violation of the statutory obligation under the provisions of SEBI (SAST) Regulations has been established against the Noticee, the Noticee is liable for monetary penalty under Section 15 A (b) of SEBI Act. The provisions of Section 15 A (b) of SEBI Act are reproduced hereunder.

Penalty for failure to furnish information, return, etc.

Section 15A of SEBI Act– *If any person, who is required under this Act or any rules or regulations made thereunder:-,*

(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 which shall not be less than one lakh rupees but which may extend to one lakh rupees for each day during which such failure continues subject to a maximum of one crore rupees*

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

19. While determining the quantum of monetary penalty under Section 15 A (b) of SEBI Act, I have considered the factors stipulated in Section 15-J of SEBI Act, which reads as under:

Section 15J - Factors to be taken into account by the Adjudicating Officer

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.

20. The material made available on record 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 Noticee's default. There is also no material made available on record to assess the amount of loss caused to investors or the amount of disproportionate gain or unfair advantage made by the Noticee as a result of default. However, it is important to note that timely disclosure of information, as prescribed under the statute, is an important regulatory tool intended to serve a public purpose. Timely disclosures are also an essential part of the proper functioning of the securities market and failure to do so prevents investors from taking a well-informed investment decision.

21. Therefore, I am not inclined to view the lapse on the part of the Noticee leniently and consider it necessary to impose monetary penalty which would act as deterrent to the Noticee in future.

ORDER

22. Having considered all the facts and circumstances of the case, I, in exercise of the powers conferred upon me under Section 15I of the SEBI Act read with Rule 5 of the SEBI Adjudication Rules, hereby impose a penalty of ₹2,00,000/- (Rupees Two lakhs only) on the Noticee i.e., Maxworth Investment Ltd., for violation of the provisions of Regulation 29 (2) read with Regulation 29 (3) of SEBI (SAST) Regulations, 2011, under Section 15A(b) of SEBI Act.

23. The said penalty imposed on the Noticee, as mentioned above, is commensurate with the violation committed and acts as a deterrent factor for the Noticee and others in protecting the interest of investors.

24. The Noticee shall remit / pay the said amount of penalty within 45 days from the date of receipt of this Order, either by way of Demand Draft in favour of "SEBI - Penalties Remittable to Government of India", payable at Mumbai, OR through online payment facility available on the SEBI website **www.sebi.gov.in** on the following path by clicking on the payment link.

ENFORCEMENT → Orders → Orders of AO → PAY NOW

25. The Noticee shall forward said Demand Draft or the details / confirmation of penalty so paid through e-payment to the Division Chief, Enforcement Department-I, DRA-III, SEBI, in the format as given in table below

Account No. for remittance of penalties levied by Adjudication Officer

Bank Name	State Bank of India
Branch	Bandra-Kurla Complex
RTGS Code	SBIN0004380
Beneficiary Name	SEBI – Penalties Remittable To Government of India
Beneficiary A/c No	31465271959

26. In terms of Rule 6 of the SEBI Adjudication Rules, copies of this order are sent to the Noticee and also to SEBI.

Date: December 1, 2020
Place: Mumbai

PRASANTA MAHAPATRA
ADJUDICATING OFFICER