

**BEFORE THE ADJUDICATING OFFICER  
SECURITIES AND EXCHANGE BOARD OF INDIA  
[ADJUDICATION ORDER NO. Order/BS/DP/2023-24/28940]**

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**UNDER SECTION 15 I OF SECURITIES AND EXCHANGE BOARD OF INDIA ACT, 1992 READ WITH RULE 5 OF SECURITIES AND EXCHANGE BOARD OF INDIA (PROCEDURE FOR HOLDING INQUIRY AND IMPOSING PENALTIES) RULES, 1995 AND SECTION 23-I OF SECURITIES CONTRACTS (REGULATION) ACT, 1956 READ WITH RULE 5 OF SECURITIES CONTRACTS (REGULATION) (PROCEDURE FOR HOLDING INQUIRY AND IMPOSING PENALTIES) RULES, 2005**

**In respect of:**

**Piramal Pharma Limited  
[PAN: AALCP0909M]  
Piramal Ananta, Agastya Corporate Park,  
Opposite Fire Brigade,  
Kamani Junction, LBS Marg,  
Kurla West,  
Mumbai – 400070**

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**FACTS OF THE CASE**

1. Securities and Exchange Board of India (hereinafter referred to as “**SEBI**”) conducted an examination with respect to non-disclosure of certain material information by Piramal Enterprises Limited (hereinafter referred to as “**Company/PEL**”). Comments were sought from the company as well as Piramal Pharma Limited (hereinafter referred to as “**Noticee**”). Based on the reply received from the Noticee, certain non-compliances of SEBI (Listing Obligation and Disclosure Requirements) Regulations, 2015 (hereinafter referred to as “**LODR Regulations**”) and the circulars framed thereunder were observed.

**APPOINTMENT OF ADJUDICATING OFFICER**

2. Vide communique dated May 29, 2023, SEBI appointed the undersigned as the Adjudicating Officer under Section 15I of Securities and Exchange Board of India Act, 1992 (hereinafter

referred to as “**SEBI Act**”) read with Rule 4(1) of SEBI (Procedure for Holding Inquiry and Imposing Penalties), 1995 (hereinafter referred to as “**Rule**”) and Section 23I of Securities Contract (Regulations) Act, 1956 (hereinafter referred to as “**SCRA**”) to enquire into and adjudge under Section 15A(b) of SEBI Act and Section 23A(a) of SCRA , the following violations:

- a. Regulations 4(1)(d), 30(3) and 30(4) read with Clause 8 of Para B of Part A of Schedule III of LODR Regulations;
- b. Regulations 4(1)(d), 30(3) and 30(4) read with Clauses 2 and 8 of Para B of Part A of Schedule III of LODR Regulations;
- c. Regulation 34(2)(f) read with Regulation 4(1)(c) of LODR Regulations and SEBI Circular CIR/CFD/CMD/10/2015 dated November 04, 2015.

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

3. Based on the findings by SEBI, a Show Cause Notice dated May 31, 2023 (hereinafter referred to as 'SCN') was issued to the Noticee under Rule 4(1) of the Adjudication Rules to show cause as to why an inquiry should not be held and penalty be not imposed on them under Section 23A(a) of SCRA read with Section 15A(b) of SEBI Act for the alleged violation of the provisions of LODR Regulations and the circular thereunder. The SCN, *inter alia*, alleged the following:

- a. Noticee was incorporated on March 4, 2020. It was a material subsidiary of the company (Piramal Enterprises Ltd.) for FY 2020-21 and 2021-22 in accordance with company’s Policy for Determining Material Subsidiaries.
- b. National Green Tribunal (NGT) had imposed a penalty of Rs. 8.32 crores on the company (Piramal Enterprises Ltd.) vide its Order dated November 13, 2019.

- c. The same was not disclosed on the Exchange since “the incident was not a material event in terms of the Company’s Code for Fair Disclosure of Information and Determination of Materiality” (“Materiality Policy”).
- d. The unit in Digwal, Telangana faced closure directions by the TSPCB vide its Order dated November 29, 2018. The Order was received on the same day by the company.
- e. The Digwal plant was granted permission to restart production in January 2019.
- f. Further, vide letter dated February 14, 2023, it was informed by the company that the Digwal Plant was transferred to the books of the Noticee as part of the sale and transfer of the pharmaceutical business of the company by way of restructuring of the pharmaceutical business during the year 2020. The demerger process in 2022 did not bring any change in it i.e, Digwal plant continues to be with the Noticee.
- g. Further, as per Clause 4 of Composite Scheme of Arrangement of 2022 with respect to the aforesaid demerger available on NSE, it is stated that, “*All the liabilities relating to the Demerged Undertaking [pharma business of PEL], as on the Appointed Date [April 01, 2022] shall become the liabilities of the Resulting Company [PPL] by virtue of this Scheme*”.
- h. In the light of the above, it was alleged that the Noticee did not disclose the material event of imposition of penalty of Rs. 8.32 Crores by the National Green Tribunal vide order dated November 13, 2019 on account of environmental pollution. Therefore, it is alleged that by not disclosing the aforesaid material event, the Noticee has violated the provisions of Regulation 4(1)(d), 30(3) and 30(4) read with Clause 8 of Para B of Part A of Schedule III of LODR Regulations.
- i. It was further alleged that the Noticee did not disclose the material event of shutting down of a plant situated at Digwal, Telngana in 2019 on account of environmental pollution vide an order of Telangana State Pollution Control Board dated November 29, 2018. Therefore, it is alleged that by not disclosing the aforesaid material event, the Noticee has violated the provisions of Regulation 4(1)(d), 30(3) and 30(4) read with Clauses 2 and 8 of Para B of Part A of Schedule III of LODR Regulations.

- j. With respect to the incorrect Business Responsibility Reports (BRR) regarding the imposition of penalty and shutting down of plant in Annual Reports for FY 2018-19 and FY 2019-20, comments were sought from the Noticee. And vide letter dated February 21, 2023, the Noticee had informed that :

*PPL was incorporated only on March 04, 2020 and was listed on the stock exchanges only on October 19, 2022. Therefore, evidently, PPL was not a listed company in the FY 2018-19, FY 2019-20 and FY 2020-21.*

Further, the Noticee commented on the incorrect BRR disclosures as follows:

*PPL expresses its inability to respond to this SEBI query as it relates to the time period before the existence / incorporation of PPL.*

- k. However, as Clause 4 of the Composite scheme of arrangement “*All the liabilities relating to the Demerged Undertaking [pharma business of PEL], as on the Appointed Date [April 01, 2022] shall become the liabilities of the Resulting Company [PPL] by virtue of this Scheme*”.
- l. Hence, it was alleged the Noticee made a misrepresentation in Business Responsibility Reports (BRR) with respect to imposition of penalty and shutting down of plant and therefore, violated the provisions of Regulation 34(2)(f) read with Regulation 4(1)(c) of LODR Regulations and SEBI Circular CIR/CFD/CMD/10/2015 dated November 04, 2015.
4. Upon receipt of SCN, the Noticee, vide letter dated June 13, 2023 sought inspection of the list of documents provided in the said letter. Vide email dated June 19, 2023, Noticee was informed that it can undertake the inspection of the relied upon documents on June 20, 2023.
5. Vide email dated June 19, 2023, Noticee sought rescheduling of inspection on June 21, 2023. Noticee undertook the inspection of the documents on June 21, 2023.
6. Subsequently, vide notice dated July 03, 2023, Noticee was granted an opportunity of personal hearing on July 14, 2023 and also advised to file reply to the SCN on or before the date of

hearing. Vide email dated July 13, 2023, Noticee confirmed the attendance of the personal hearing granted and provided the list of Authorized Representative(s) to be present for the hearing.

7. Further, in response to the SCN, the Noticee vide letter dated July 14, 2023, *inter alia*, submitted the following:

- i. The Company I PPL could not have made the disclosure in question as it did not exist at the relevant time. The TSPCB and NGT Orders (dated November 29, 2018 and November 13, 2019 respectively) were issued prior to the Company's incorporation and before it became a listed entity on October 19, 2022. Hence, the allegation of non-disclosure cannot be legally sustained and cannot be considered as misrepresentation.*
- ii. Misrepresentation requires an active misstatement or partial and fragmentary statements of facts, where the withholding of a relevant fact renders the stated fact wholly false. However, this is not the case here, as the TSPCB and NGT Orders were not issued against the Company / PPL and did not affect it.*
- iii. Furthermore, the Digwal plant was operational before the Company's incorporation, and any penalty owed to TSPCB had already been paid substantively by PEL and remainder by PPL prior to it becoming a 'listed entity'. Therefore, since the information was already disclosed in the publicly available Information Memorandum (IM), there was no obligation for PPL to disclose the temporary closure and reopening of the Digwal Plant or the imposed penalty at the time of its public listing. These events occurred before the Plant was transferred to PPL's books and before PPL even existed. The only relevant disclosure, if at all, during PPL's public listing was the pending payment of the penalty to TSPCB. By disclosing the*

*pending dispute with TSPCB and the penalty imposed by the NGT Order in the publically available IM, PPL complied with the LODR Regulations.*

- iv. Under Regulation 4 of the LODR Regulations, 'Principles governing disclosures and obligations' have been prescribed. In essence, the Company has a duty to disclose facts correctly and not suppress material facts. In this case, the Company did not issue disclosures in relation to the TSPCB and NGT Orders because it was not and could not have been a material fact for the Company. It cannot be expected from the Company to make disclosures of events, that transpired in 2019, in Business Responsibility Report of 2023. Therefore, 'Principles governing disclosures and obligations' have not been violated and alleging in the broad brush its violation would be a perversity in the facts and in law. Yet the company/PPL has disclosed the same in the recent Business Responsibility Report dated July 06, 2023 without prejudice basis as an abundant caution.*
- v. Upon careful examination of the regulation 34(2) of the LODR Regulations, it is clear that the obligation to disclose a Business Responsibility Report applies only to the top one thousand listed entities. Since the Company/PPL was incorporated on March 04, 2020, and listed on October 19, 2022 (in the Financial Year 2022-2023), it cannot be alleged that the Company failed to file the correct Annual Reports or a Business Responsibility Report.*
- vi. The requirement for a Business Responsibility Report for the Company will only arise for the first time in FY 2022-23 in accordance with Regulation 34 of the LODR Regulations.*
- vii. The figures available publicly in the Annual Report of PEL, then it can ex facie be seen that even for PEL, the TSPCB and NGT Orders were not 'material' and disclosable as per its materiality policy. The same has been encapsulated below:*

<b>Parameter</b>	<b>Revenue (Rs. in crores)</b>	<b>Profit Before Tax (Rs. in crores)</b>	<b>Loss incurred by Digwal</b>
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	<b>Consolidated Revenue</b>	<b>Threshold as per PEL Materiality Policy (10%)</b>	<b>Consolidated Profit Before Tax</b>	<b>Threshold as per PEL Materiality Policy (25%)</b>	<b>unit due to alleged material event</b>
<b>FY 2018-19</b>	13,528.14	1352.81#	2,011.87	502.97	Rs. 8.32 penalty (NGT Order) Does not fall under the materiality threshold
<b>FY 2019-20</b>	13,068.00	1306.80	918.00	229.50	

*# The figures are as per the SEBI Examination Report; however, they slightly differ from the publicly available Annual Report of the PEL, consolidated revenue being INR 13,215 crores and consolidated profit before tax being INR 2478 crores. In any case, materiality threshold is not attracted.*

- viii. The above evidences that there was no impact of the TSPCB and NGT Orders on the PEL as it did not affect the operation of the PEL. Therefore, when the TSPCB and NGT Orders were passed against PEL in relation to the unit operating at Digwal, the orders did not have a material effect in terms of the Code for Fair Disclosure of Information and Determination of Materiality ("Materiality Policy") of PEL. Thus, there was no liability of disclosure arising due to TSPCB and NGT Orders as on the Appointed Date and which could be said to have been transferred to PPL by virtue of the Composite scheme of arrangement. In any case, statutory liability to disclose on the stock exchange can never be transferred in absence of an express provision in law, such as "otherwise provided under Regulation 3 of the LODR Regulations.*
- ix. In this context, reliance is placed on the judgement passed by the Hon'ble Securities Appellate Tribunal in the matter of SKDC Consultants Limited v. SEBI wherein SKDC Consultants Limited had taken over the ongoing running business of a proprietary concern with effect from April I, 1998 with all the assets and*

*liabilities of the proprietary concern and the alleged violation committed by the proprietary concern related to the period November I December 1995, whereas SKDC Consultants Limited was incorporated on February 18, 1998. In that context it was held that the penal liability arising from the alleged violations committed by the proprietary concern prior to the incorporation of SKDC Consultants Limited cannot be fastened upon the company.*

8. The ARs of the Noticee, appeared for the hearing on July 14, 2023 and during the hearing, the ARs reiterated the submissions made vide reply dated July 14, 2023. The Noticee submitted that the Noticee was not even incorporated on the date of the violation. The Noticee was incorporated in March 2020. The Noticee is a resultant company pursuant to the scheme of demerger of Piramal Enterprises Ltd. (PEL) and has different Board of Directors and shareholders and therefore, the statutory obligation to make the disclosures has to be independently assessed. The Noticee further submitted that the penalty imposed by National Green Tribunal was not even material as per the materiality policy of PEL.

## **CONSIDERATION OF ISSUES AND EVIDENCE**

9. I have carefully perused the charges levelled against the Noticee in the SCN, its replies and the material / documents available on record. In the instant matter, the following issues arise for consideration and determination:-
  - I. **Whether Noticee has violated the provisions of LODR Regulations and circular thereunder?**
  - II. **Do the violations, if any, on the part of the Noticee attract monetary penalty under sections 15A(b) of SEBI Act and 23A(a) of SCRA?**
  - III. **If so, what would be the quantum of monetary penalty that can be imposed on the Noticee after taking into consideration the factors mentioned in section 15J of the SEBI Act and 23J of SCRA?**



10. Before proceeding further, I would like to refer to the relevant provisions of the SAST Regulations:

**“LODR Regulations**

***Principles governing disclosures and obligations.***

*4. (1) The listed entity which has listed securities shall make disclosures and abide by its obligations under these regulations, in accordance with the following principles:*

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*(c) The listed entity shall refrain from misrepresentation and ensure that the information provided to recognised stock exchange(s) and investors is not misleading.*

*(d) The listed entity shall provide adequate and timely information to recognised stock exchange(s) and investors.*

***Disclosure of events or information.***

30. ...

*(3) The listed entity shall make disclosure of events specified in Para B of Part A of Schedule III, based on application of the guidelines for materiality, as specified in sub-regulation (4).*

*(4) (i) The listed entity shall consider the following criteria for determination of materiality of events/ information:*

*(a) the omission of an event or information, which is likely to result in discontinuity or alteration of event or information already available publicly; or*

*(b) the omission of an event or information is likely to result in significant market reaction if the said omission came to light at a later date;*

*(c) In case where the criteria specified in sub-clauses (a) and (b) are not applicable, an event/information may be treated as being material if in the opinion of the board of directors of listed entity, the event / information is considered material.*

*(ii) The listed entity shall frame a policy for determination of materiality, based on criteria specified in this sub-regulation, duly approved by its board of directors, which shall be disclosed on its website.*

**Annual Report.**

34....

*(2) The annual report shall contain the following:*

...

*(f) for the top one thousand listed entities based on market capitalization, a business responsibility report describing the initiatives taken by the listed entity from an environmental, social and governance perspective, in the format as specified by the Board from time to time...*

...

**SCHEDULE III**

**PART A: DISCLOSURES OF EVENTS OR INFORMATION: SPECIFIED SECURITIES**

...

***B. Events which shall be disclosed upon application of the guidelines for materiality referred sub-regulation (4) of regulation (30):***

...

*2. Change in the general character or nature of business brought about by arrangements for strategic, technical, manufacturing, or marketing tie-up, adoption of new lines of business or closure of operations of any unit/ division (entirety or piecemeal) (emphasis supplied).*

...

*8. Litigation(s) / dispute(s) / regulatory action(s) with impact.”*

**I. Whether Noticee has violated the provisions of LODR Regulations and circular thereunder?**

11. From the reply of the Noticee and the material available on record, I note that the events of shutting down of Digwal plant by Telengana State Pollution Control Board and imposition of penalty of Rs. 8.32 Crore by the National Green Tribunal took place on November 29, 2018 and November 13, 2019, respectively. The said orders have been perused and it is noted that the said orders were passed against the company, Piramal Enterprises Ltd. The orders nowhere mentioned the name of the Noticee.
12. Further, from the record and on the basis of the submissions made by the Noticee it is observed that Noticee was incorporated on March 04, 2020 as a subsidiary of PEL to carry out the pharmaceutical business of the Piramal Group. However, by virtue of the Composite Scheme of Arrangement of 2022, the pharmaceutical business was completely demerged from the company i.e. Piramal Enterprises Ltd. The Noticee was subsequently listed on the stock exchange on October 19, 2022.
13. It is alleged that the Noticee did not make disclosure of the material events i.e. shutting down of Digwal Plant by the TSPCB and imposition of penalty of Rs. 8.32 Crore by NGT. It was further alleged that the Noticee did not make disclosure of the aforesaid material events in its Business Responsibility Report.
14. Noticee in its reply has submitted that it could not have made disclosure in question as it did not exist at the relevant time. The TSPCB and NGT orders were issued prior to the incorporation of the Noticee and before it became a listed entity on October 19, 2022. Further, the Digwal plant was operational before the incorporation of the Noticee and the penalty owed to TSPCB had already been paid substantively by PEL and remainder was paid by the Noticee before it became the 'listed entity'. The Noticee further submitted that the obligation to disclose

a BRR applies only to top one thousand listed entities. Since the Noticee was incorporated on March 04, 2020 and listed on October 19, 2022, it cannot be alleged that the Noticee failed to file the correct Annual Reports or a Business Responsibility Report.

15. I have carefully examined the allegations levelled against the Noticee, the material available on record and reply of the Noticee. Admittedly, Noticee was not incorporated at the time of aforesaid material events let alone being listed. From the careful reading of provisions of LODR Regulations alleged to have been violated by the Noticee, it is noted that any compliance required to be made under LODR Regulations, has to be made by the “listed entity”. The Noticee not being a listed company at the time of event could not have made the disclosures under LODR Regulations. Considering the fact that at the relevant time, the pharmaceutical business vested with PEL. I am of the opinion that the responsibility to make disclosure with respect to the aforesaid events falls with PEL.
16. However, as per Clause 4 of Composite Scheme of Arrangement of 2022 with respect to the aforesaid demerger available on NSE, it is stated that, *“All the liabilities relating to the Demerged Undertaking [pharma business of PEL], as on the Appointed Date [April 01, 2022] shall become the liabilities of the Resulting Company [PPL] by virtue of this Scheme”*.
17. Though, it is axiomatic as seen from the aforesaid clause of Composite Scheme of Arrangement, that the transferee company inherits the assets and liabilities of the transferor company, it is to be seen whether the Noticee could perform its duty of disclosures at the relevant time. The liability is passed on to the transferee company pursuant to the scheme of arrangement, however, as regards the liability for making the disclosure under the provision of the LODR in concerned, it is pertinent to note that the Noticee was not a listed company at the relevant time. It is observed that the Noticee which was listed on October 19, 2022, made the disclosures of the aforesaid events to the stock exchange in July 2023. Therefore, considering the above factual situation, I tend to agree with the submissions of the Noticee that the Noticee

cannot be held liable for the events which took place before its incorporation and being listed. Noticee while making the submissions, had relied on the order of Hon'ble SAT dated February 28, 2001, in the matter of SKDC Consultants Vs. SEBI (Appeal no. 27 of 2000) wherein Hon'ble SAT observed that:

*“It is not possible to assign the "failure" in complying with a statutory requirement to some one else who was not responsible for the same and make him suffer the penalty attendant to such failure. **If there is any liability to pay penalty by way of punishment, that cannot be transferred to a successor as it remains the liability of the person who committed the offence. The liability is personal to the offender.** Therefore, the adjudication order holding the Appellant in default for not complying with provisions of rule 4 (1) (b) and imposing monetary penalty on it for the said default cannot be sustained. **The fact that the assets and liabilities of SKDC have been taken over by the Appellant does not mean that it is responsible for the offence committed by SKDC and liable to suffer the penal consequences.**”*

18. In the light of the aforesaid order of Hon'ble SAT, I tend to agree with the Noticee that no liability can be fastened on the Noticee at the relevant point in time.
19. Therefore, on the basis of the order discussed above, the facts and circumstances of the case, I am inclined to accept the contentions of the Noticee. In view of the same, I am of the view that this is not a fit case for imposition of monetary penalty on the Noticee on the basis of the material available on record.
20. Since, the allegations against the Noticee are not proved, I do not find it necessary to deal with the other issues raised in para 9.

## **ORDER**

21. In view of my findings noted in the preceding paragraphs, I hereby dispose of the adjudication proceedings initiated against the Noticee vide Show Cause Notice dated May 31, 2023 without imposition of any monetary penalty. However, it is clarified that this order shall not in any way prejudice or affect the right of SEBI to initiate fresh adjudication proceedings in respect of the alleged violation if it deems fit in the facts and circumstances of the case. In terms of the provisions of rule 6 of the Adjudication Rules, a copy of this order is being sent to the Noticee and also to the Securities and Exchange Board of India.

**Date : August 31, 2023**  
**Place : Mumbai**

**Biju S**  
**Adjudicating Officer**