National Stock Exchange of India
Circular

Department: Investigation	
Download Ref No: NSE/INVG/56021	Date: March 16, 2023
Circular Ref. No: 71/2023	

To All NSE Members

Sub: **SEBI Order in the matter of Vas Infrastructure Limited**

SEBI vide its order no. WTM/AB/IVD/ID5/24638/2022-23 dated March 16, 2023 has hereby debarred following entities from accessing the securities market and also restrained from buying, selling or otherwise dealing in securities either directly or indirectly for a period of one (1) year from the date of this order;

Sl. No	Name of the Entities	PAN
1	Vasparr Shelter Limited	AABCV2888D
2	Vas Educomp Pvt. Limited (formerly known as Vasparr Trading Pvt. Limited)	AABCV2889C
3	Pushpanjali Drums Pvt. Limited	AAECP1908D
4	Yashraj Containeurs Limited	AAACV4846L
5	Raj J. Valia	AENPV8400N
6	Madhav J. Valia	AENPV8401P
7	Jayesh V. Valia	AAFPV5698G
8	Jayest V. Valia (HUF)	AACHJ8696M

This Order comes into force with immediate effect.

The detailed order is available on SEBI website (http://www.sebi.gov.in).

Further, the consolidated list of such entities is available on the Exchange website http://www.nseindia.com home page at the below mentioned link:

https://www.nseindia.com/regulations/member-sebi-debarred-entities

National Stock Exchange of India

Members are advised to take note of the above and ensure compliance.
In case of any further queries, members are requested to contact the following officials:

Mr. Rajkumar Jain (Extension: 23457), Mr. Anand Jangir (Extension: 22385)
Direct No: 022-26598417/18 Fax: 022-26598195

For and on behalf of
National Stock Exchange of India Limited

Anand Jangir
Manager

ANNEXURE: - SEBI Order in the matter of Vas Infrastructure Limited

WTM/AB/IVD/ID5/24638/2022-23

SECURITIES AND EXCHANGE BOARD OF INDIA

ORDER

Under Sections 11(1), and 11B of Securities and Exchange Board of India Act, 1992 and Regulation 44 of the Securities and Exchange Board of India (Substantial Acquisition of Shares and Takeovers) Regulations, 1997 read with Regulations 35 of the Securities and Exchange Board of India (Substantial Acquisition of Shares and Takeovers) Regulations, 2011, in the matter of Vas Infrastructure Limited

Sr. No.	**Name of the Noticee**	**PAN/ DIN**
1.	Vasparr Shelter Limited	AABCV2888D
2.	Vas Educomp Pvt. Limited (formerly known as Vasparr Trading Pvt. Limited)	AABCV2889C
3.	Pushpanjali Drums Pvt. Limited	AAECP1908D
4.	Yashraj Containeurs Limited	AAACV4846L
5.	Precision Containeurs Limited	AAACV4766F
6.	Raj J. Valia	AENPV8400N
7.	Madhav J. Valia	AENPV8401P
8.	Jayesh V. Valia	AAFPV5698G
9.	Jayest V. Valia (HUF)	AACHJ8696M

The aforesaid entities are hereinafter referred to individually by their respective names/Noticee numbers and collectively as "the Noticees".

1. Present proceedings emanate from an order dated September 15, 2022 passed by Hon'ble Supreme Court in Civil Appeal No. 1331 of 2022 titled as SEBI Vs. R V Lifestyle Ltd. & Ors. wherein it was held as under:

> "….We have heard the learned senior counsel for the parties for quite some time.
>
> In the peculiar facts and circumstances brought to our notice, we find no reason to interfere. The appeal is accordingly dismissed.
>
> Pending applications also stand disposed of…"

2. Prior to this while issuing notice to the respondents in the aforesaid Civil Appeal, by an order dated February 25, 2022, Hon'ble Supreme Court *inter alia* had directed as under:

> "……….In the meanwhile, the operation and effect of the order impugned dated 23.11.2021 passed by the Securities Appellate Tribunal, Mumbai in Appeal No.576 of 2019 shall remain stayed………"

3. Aforesaid Civil Appeal No. 1331 of 2022 - SEBI Vs. R V Lifestyle Ltd. & Ors. was filed by Securities and Exchange Board of India (hereinafter referred to as "**SEBI**") impugning the order dated November 23, 2021 passed by Hon'ble Securities Appellate Tribunal, Mumbai (hereinafter referred to as "**Hon'ble SAT**") in Appeal No. 576 of 2019 whereby Hon'ble SAT directed as follows:

> "…………..16. In our view, considering the long lapse of time in culminating the proceedings, the directions to make an open offer was thus not appropriate in the circumstances of the case.
>
> 17. For the reasons stated aforesaid, the impugned order cannot be sustained and is quashed. The appeal is allowed. The matter is remitted to the WTM to issue an appropriate direction as provided under Regulation 44 other than the direction to make an open offer. Such order may be passed by the WTM within four months from today after giving an opportunity of hearing to the appellants. In the circumstances of the case, the parties shall bear their own costs………..."

4. Aforesaid Appeal No. 576 of 2019 was filed before the Hon'ble SAT, by the

Noticees herein, impugning the SEBI order dated September 30, 2019 whereby the Noticees were *inter alia* directed as under:

> "………25. In view of the above, I, in exercise of the powers conferred upon me under Sections 11 and 11B readwith Section 19 of the SEBI Act, 1992 and Regulation 44 of SAST Regulations, 1997 read with Regulation 35 of SAST Regulations, 2011, hereby direct that,-
>
> a) The Noticees shall make a public announcement to acquire shares of the target company, within a period of 45 days from the date of this order;
>
> b) The Noticees shall along with the offer price, pay interest at the rate of 10% per annum, for the period starting from the date when the Noticees incurred the liability to make the public announcement and till the date of payment of consideration, to the shareholders who were holding shares in the target company on the date of violation and whose shares are accepted in the open offer, after adjustment of dividend paid, if any. …………"

5. By virtue of dismissal of Civil Appeal No. 1331 of 2022 by Hon'ble Supreme Court vide its order dated September 15, 2022, as quoted in para 1 above, the order dated November 23, 2021 passed by Hon'ble SAT in Appeal No. 576 of 2019, as quoted in para 2 above stood revived, whereby the matter was remanded to the SEBI to issue an appropriate direction as provided under Regulation 44 of SEBI (Substantial Acquisition of Shares and Takeovers) Regulations, 1997 (hereinafter referred to as "**SAST Regulations, 1997**") other than the direction to make an open offer. In view of the aforesaid order dated September 15, 2022 passed by Hon'ble Supreme Court, the Noticees were given an opportunity of hearing on October 19, 2022. The Noticees were also advised to file written submissions/ reply on the issue of directions to be issued in terms of Hon'ble SAT order dated November 23, 2021 before the date of hearing. However, vide email dated October 19, 2022, the authorized representative of the Noticees requested that hearing in the matter be kept in abeyance till the disposal of their settlement

application pending in an unconnected matter wherein Noticees herein were involved. As the request of Noticees to keep the hearing in abeyance till settlement proceedings in another unconnected matter are completed was unreasonable and having regard to the fact that Hon'ble Supreme Court vide order dated September 15, 2022 had upheld the order dated November 23, 2021 of Hon'ble SAT wherein SEBI was directed to pass an order in the matter within four months after giving hearing to the Noticees, vide an email dated October 21, 2022, the Noticees were advised to file written submissions in 10 days on the issue of directions to be issued in terms of order dated November 23, 2021 of Hon'ble SAT failing which it shall be presumed that the Noticees do not wish to make any submissions and the matter may be proceeded based on the material available on record. Thereafter, vide email dated November 08, 2022, the authorized representative of the Noticees requested for two weeks' time for filing written submissions and also requested for a personal hearing in the matter. Accordingly, vide hearing notice dated November 11, 2022, another opportunity of personal hearing was granted to the Noticees on December 01, 2022 and the Noticees were also advised to file written submissions/ reply on the issue of directions to be issued in terms of order dated November 23, 2021 of Hon'ble SAT before the date of hearing. Vide email dated November 29, 2022, authorised representative of the Noticees *inter alia* again requested to adjourn the personal hearing in the matter on the ground of pending settlement proceedings in the matter of Vas Infrastructure Limited (hereinafter referred to as "**VIL**" or "**the target company**"). Authorised representative also requested to not proceed further without granting a personal hearing which may be scheduled after the settlement application is decided by SEBI. Since, in terms of Regulation 8 of SEBI (Settlement Proceedings) Regulations, 2018, when settlement proceedings are pending in respect of enforcement proceedings, only passing of final order is kept in abeyance, therefore, the Noticees were advised to appear for hearing on the date already fixed for hearing i.e. December 01, 2022. It was also informed to the Noticees that if they fail to file their written submissions by December 08, 2022, the hearing in the matter shall stand concluded and the matter shall be proceeded in accordance with law without affording any further opportunity of hearing or filing reply. Authorized representative of the Noticees appeared for hearing on December 01, 2022. Hearing of the Noticees got concluded on the said date and Noticees were given seven days' time to file their written submissions. Vide email dated December 09, 2022, Noticees have filed their written submissions in the matter. Meanwhile, since the time to comply with order dated November 23, 2021 of Hon'ble SAT was expiring on January 15, 2023 and the settlement applications filed by the appellants were under consideration, SEBI filed Miscellaneous Application no. 102 of 2023 in Appeal no. 576 of 2019 for extension of time to comply with order dated November 23, 2021 of Hon'ble SAT. Vide order dated January 30, 2023, Hon'ble SAT directed SEBI to decide the settlement applications within two months from the order and in case of rejection of settlement application then an appropriate order to be passed within four weeks thereafter. The settlement applications, filed in the present matter were rejected by SEBI on March 10, 2023.

6. I note that in the written submissions dated December 09, 2022, the Noticees have *inter alia* submitted as under:

(i) Precision Containeurs Ltd. ("Precision")/ Noticee no. 5, is one of the promoter group entities of the Noticees and is presently undergoing Corporate Insolvency Resolution Process ("CIRP"). It is submitted that the present submissions are not non behalf of Precision as there is no consent from the resolution professional of Precision ("RP") or the Committee of Creditors of Precision ("CoC") for the same.

(ii) It is submitted that 25,00,000 warrants allotted to the Noticees were converted into equity shares, as described below:

Sr. No.	***Noticee***	***No. of warrants converted into equity***

		On April 11, 2009	On May 30, 2009
1.	R. V. Lifestyle Ltd. (*earlier known as Vasparr Shelter Ltd.*)	6,00,000	-
2.	Vas Educomp Ltd.	5,00,000	-
3.	Pushpanjali Drums Pvt. Ltd.	4,00,000	-
4.	Yashraj Containeurs Ltd.	83,400	-
5.	Precision Containeurs Ltd.	83,400	5,00,000
6.	Raj J. Valia	83,300	-
7.	Madhav J. Valia	83,300	-
8.	Jayesh V. Valia,	83,300	-
9.	Jayesh V. Valia (HUF)	83,300	-
	Total	**25,00,000**	

(iii) The conversion of the warrants of VIL ("Acquisition") increased the shareholding of Appellants from 41.82% (as on March 31, 2009) to 51.52 % (as on April 11, 2009) and to 53.45% (as on May 30, 2009) i.e., increase by 11.63%, which is in violation of Regulation 11(1).

(iv) Without prejudice to the other contentions herein, it is submitted that in the larger interest of resolving all outstanding issues with SEBI, the Noticees herein, in addition to several others, in relation to inter-alia the present matter against VIL have filed for settlement under the Settlement Regulations, which application has come to be formally filed on November 25, 2022.

(v) Therefore, notwithstanding the consideration of the issues by Ld. WTM, it is submitted that the passing of the order herein may be kept in abeyance pending the consideration of the Settlement Application filed with SEBI which, it is believed, shall entail in conclusion of all proceedings swiftly and in a bona fide manner and prevent any further proliferation of litigations arising out any order that may be passed in the present proceedings.

(vi) Such recourse, it is submitted would also be in line with Regulation 8(1) of the SEBI (Settlement Proceedings) Regulations, 2018.

(vii) It is submitted that the directions under:

a. Regulations 44(f), (h) and (i) emanate from the requirement to make an open offer, which has been set aside by the Orders.
b. Regulation 44(g) is not relevant to the present matter as there is a breach of Regulation 11(1) and not Regulations 6, 7 or 8.
c. Regulations 44(c), (d) and (e) would not serve any purpose in furtherance of public interest.
d. Regulation 44(a) entails further costs that are avoidable

(viii) The best possible option therefore in the present case would be to issue directions under Regulation 44(b) where shares more than the 5% limit may be directed to be transferred by the Noticees to SEBI to be given to the investor protection fund ("IPF") or to be sold and the proceeds thereof be deposited with the IPF.

(ix) It is submitted that above direction shall not only be commensurate to the inadvertent nature of the breach but also in line with precedents laid down by SEBI as well as the Hon'ble SAT where direction of this nature has been applied. Reliance in this regard is placed on the following rulings, copies of which are enclosed herewith:

S. No.	***Ruling***	***Nature of violation***	***Direction issued***
1)	**In the matter of Kaycee Industries Limited** (*Order of the Ld. WTM dated January 5, 2015*)	Acquisition of 5.23% shares by way of preferential allotment resulted in breach of 0.23%.	Direction to sell excess shares i.e., 0.23% and transfer the entire proceeds of such sale to the Investor Protection and Education Fund.
2)	**In the matter of Bheema Cements Ltd.** (*Order of the Ld. WTM dated July 19, 2011*)	Acquisition of 4.9% by promoters of the target company in violation of 11(partnership act 2).	In terms of Regulation 32(1)(b) of the Takeover Code 2011, it was directed that shares acquired in violation of the Regulation be

			sold and the proceeds be transferred to the Investor Protection and Education Fund.
3)	**SBEC Systems (India) Ltd. v. SEBI** (*SAT Order dated January 29, 2020*)	Promoter shareholding increased by 9.4% as well as an additional acquisition of 1.31% by one of the promoters.	In terms of Regulation 32(1)(b) of the Takeover Code 2011, it was directed that shares acquired in violation of the Regulation be sold and the proceeds be transferred to the Investor Protection and Education Fund.
4)	**Therm Flow Engineers Pvt. Ltd. v. SEBI** (*SAT Order dated May 01, 2019*)	Acquisition of 0.30% shares, for a price exceeding the exempted limit and violating Regulation 3(1) r/w 3(3) of the Takeover Code 2011.	In terms of Regulation 32(1)(b) of the Takeover Code 2011, it was directed that excess shares of 0.04, in violation, be sold and the proceeds be transferred to the Investor Protection and Education Fund.
5)	**Vakrangee Holdings Pvt. Ltd. v. SEBI** (*SAT Order dated June 08, 2021*)	Acquisition of 1% share in excess of the permitted threshold which was rectified within 18 days by sale of those shares through the exchange platform.	Proceeds of the sale directed to be deposited to the investor protection fund.

(x) In view of the above, it is humbly submitted that a direction to disinvest the shares and depositing the proceeds, in the facts and circumstances of the case, meets the ends of justice and therefore such a direction may be passed under Regulation 44.

(xi) Regulation 11(1) of the Takeover Code permits acquisition up to 5% shares in a given financial year. Therefore, in case of the Noticees herein, in relation to the total acquisition of 11.63%, up to 5% of the same constitutes valid acquisition and it is only with respect to the excess 6.63%, being over the threshold prescribed in Regulation 11(1), against which any direction needs to be passed.

(xii) The break-up of the shares within and excess of the threshold limit is tabulated below:

Total	Up to 5%	Excess of 5%
25,00,000	9,42,000	15,58,000

(xiii) It is submitted that the shareholding of promoter/promoter group of VIL presently is 73,20,312 equity shares constituting 48.38% of the paid up capital of VIL. Since the obligations of the promoter and promoter group as acquirers and PACs is joint and several, it is submitted that the direction to effect the transfer of 6.63% shares be made joint and several.

(xiv) This direction is sought *inter alia* in line with the 1997 Takeover Regulations and because Precision is undergoing CIRP proceedings. The RP has informed the Noticees that the Noticees cannot represent Precision in any proceedings without the leave of the RP and the CoC.

(xv) The Noticees undertake that the directions in relation to the transfer of the 6.63% shares would be effected without altering any shareholding of Precision by the other Noticees.

Consideration of Submissions and findings:

7. I have considered the aforementioned orders dated September 15, 2022 and November 23, 2021 passed by Hon’ble Supreme Court and Hon’ble SAT, respectively, in the matter, submissions made by the authorised representative of the Noticees (except Noticee no. 5) during the hearing held on December 01, 2022 and written submissions dated December 09, 2022 filed on behalf of the Noticees.

8. Before proceeding further it would be appropriate to mention here that SEBI order dated September 30, 2019 was passed against 9 entities. In the said SEBI order, it was found that the Noticees being persons acting in concert ("**PACs**") acquired 2000000 shares of the target company pursuant to conversions of warrants on April 11, 2009 and as a result, their shareholding in the target company increased from 41.82% as on March 31, 2009 to 51.52% as on April 11, 2009, i.e. as increase of 9.7% for which they did not make any open offer to the shareholders of the target company which resulted in violation of Regulation 11(1) of SAST Regulations, 1997. Accordingly, vide order dated September 30, 2019, SEBI directed the Noticees to make a public announcement to acquire shares of the target company. Appeal no. 576 of 2019 was also filed before Hon'ble SAT by the 9 entities impugning the SEBI order dated September 30, 2019. Hon'ble SAT vide its order dated November 23, 2021 held that violation of Regulation 11(1) was proved, however, considering the long lapse of time in culminating the proceedings, Hon'ble SAT found that the directions to make an open offer was not appropriate and remitted the matter to the WTM, to issue an appropriate direction as provided under Regulation 44 of SAST Regulations, 1997 other than the direction to make an open offer. Thereafter, Civil Appeal No. 1331 of 2022 was filed by SEBI impugning the order dated November 23, 2021 passed by Hon'ble SAT, making the 9 entities as the Noticees. Hon'ble Supreme Court vide its order dated September 15, 2022 has dismissed the Civil Appeal filed by SEBI. Therefore, the scope of the present proceedings is limited to determine an appropriate direction as provided under Regulation 44 of SAST Regulations, 1997 other than the direction to make an open offer, as directed in the Hon'ble SAT order dated November 23, 2011.

9. I note that during the hearing held on December 01, 2022 and in the written submissions dated December 09, 2022, authorised representative of the Noticees has informed that Noticee no. 5, which is one of the promoter group

entities of the Noticees, is presently undergoing Corporate Insolvency Resolution Process ("**CIRP**") under the Insolvency and Bankruptcy Code, 2016. Authorised representative has also submitted that the submissions being made in the present proceedings are not on behalf of Noticee no. 5, as there is no consent from the resolution professional of Noticee no. 5 or the Committee of Creditors of Noticee no. 5 for the same. Noticees have submitted that since, the obligations of the promoter and promoter group as acquirers and PACs is joint and several, therefore, the direction to effect the transfer of 6.63% shares, if to be made, be made joint and several. The Noticees have also undertaken that the directions in relation to the transfer of the 6.63% shares (as proposed by them) would be effected without altering any shareholding of Noticee no. 5 by the other Noticees. In this regard, I note that Noticee no. 5 is under CIRP. In terms of Regulation 22(19) of the SAST Regulations, 1997, the liability of the acquirer and persons acting in concert with him, for the obligations under SAST Regulations, 1997, is joint and several. The answering Noticees have undertaken to discharge any direction issued with respect to excess shares acquired by them in violation of Regulation 11(1) of SAST Regulations, 1997, *qua* Noticee no. 5 also.

10. As mentioned above, in terms of SAT order dated November 23, 2021, the matter has been remanded to SEBI to issue an appropriate direction as provided under Regulation 44 of SAST Regulations, 1997, other than the direction to make an open offer. Thus, the scope of present proceedings is limited to determine the directions which can be issued to the Noticees under Regulations 44 of SAST Regulations, 1997 other than the direction to make public offer to acquire shares of the target company. Regulation 44 of SAST Regulations, 1997 read as under:

> "44.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 regulations 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 ofregulations10,11 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 acquire or any nominee or any proxy of the acquirer to exercise any voting or other rights attached to such shares acquired in violation of regulations 10, 11or 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 the regulations 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."

11. In this regard, the Noticees have submitted that a direction to disinvest the shares and depositing the proceeds, in the facts and circumstances of the case, meets the ends of justice and therefore, such a direction may be issued under Regulation 44 of SAST Regulations, 1997. In this regard, Noticees have also referred to previous orders passed by SEBI in similar circumstances, wherein direction of divestment of excess shares and depositing of sale proceeds in IPEF of SEBI were issued, as mentioned in para 5(ix) above. In this regard, having regard to peculiar facts and circumstances of the case including directions issued

by Hon’ble SAT vide order dated November 23, 2021, I find that the direction under Regulation 44 of SAST Regulations, 1997 to transfer the shares acquired in violation of Regulation 11(1) of the SAST Regulations, 1997, to the IPEF of SEBI, which would deprive the Noticees of the fruit of their violation as well as contribute to the investor education and protection through activities undertaken through IPEF, would be one of the appropriate direction.

12. Further, as the Noticees have been found to be in violation of Regulation 11(1), in my view debarment of the Noticees from the securities market would also be required to ensure integrity of the market, which stands undermined due to such violations.

DIRECTIONS:

13. In view of the above, I, in exercise of the powers conferred upon me under Section 19 read with Sections 11 and 11B of the SEBI Act, 1992 and Regulation 44 of SAST Regulations, 1997 read with Regulation 35 of SEBI (Substantial Acquisition of Shares and Takeovers) Regulations, 2011, hereby direct that Noticees except Noticee no. 5:

    (i) shall sell their shares in the target company acquired in violation of Regulation 11(1) of the SAST Regulations, 1997 which are in excess of 5% and deposit the proceeds of such sale in the IPEF of SEBI within a period of three months from the date of this order; and

    (ii) are debarred from accessing the securities market and also restrained from buying, selling or otherwise dealing in securities either directly or indirectly for a period of one (1) year from the date of this order.

14. This Order comes into force with immediate effect.

15. A copy of this Order shall be forwarded to the Noticees, recognized stock exchanges and depositories for necessary action.

Sd-

Place: Mumbai **ANANTA BARUA**

Date: March 16, 2023 **WHOLE TIME MEMBER**

SECURITIES AND EXCHANGE BOARD OF INDIA