BEFORE THE ADJUDICATING OFFICER

SECURITIES AND EXCHANGE BOARD OF INDIA

(ADJUDICATION ORDER NO: Order/SV/RM/2023-24/29966)

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

In respect of:

Noticee	Name of the Noticee	PAN
1.	Mr. Pradeep K Srivastava	AZGPS6592J

In the matter of trading by certain entities in the scrip of Kwality Limited

---

BACKGROUND OF THE CASE

1. The Securities and Exchange Board of India (‘hereinafter referred to as ‘SEBI’) received few complaints from Nyaya Manch alleging manipulation in the scrip of Kwality Limited during March – April 2018. Subsequently, SEBI received a letter from Directorate of Enforcement forwarding complaints received from Kashyap Mansukhlal Vyas alleging price manipulation during the period July 2017 to May 2018. Pursuant to complaints SEBI conducted an investigation.

2. Based on the findings of examination, adjudication proceedings were initiated against Mr. Pradeep K Srivastava (hereinafter referred to as “Noticee”) under Section 15HB of SEBI Act, 1992 for the alleged violation of Regulation 9(3) read with Regulation 2(1)(c) of the SEBI (Prohibition of Insider Trading) Regulations, 2015 (hereinafter referred to as PIT Regulations).

APPOINTMENT OF ADJUDICATING OFFICER

3. SEBI appointed the undersigned as the Adjudicating Officer, vide order dated July 20, 2023, under Section 15-I of the Securities and Exchange Board of India Act, 1992 (hereinafter referred to as **‘SEBI Act, 1992’**), and Rule 3 of SEBI (Procedure

for Holding Inquiry and Imposing Penalties) Rules, 1995 (hereinafter referred to as **'SEBI Adjudication Rules, 1995'**) read with Section 19 of the SEBI Act, 1992, to inquire into and adjudge under the provisions of the Section 15HB of the SEBI Act, 1992 for the violations alleged to have been committed by the Noticee.

SHOW CAUSE NOTICE, REPLY AND HEARING

4. A Show Cause Notice ref. SEBI/HO/EAD-8/SV/RM/2023/36030 dated September 01, 2023 (hereinafter referred to as "**SCN"**) was issued to the Noticee in terms of the provisions of Rule 4 of the SEBI Adjudication Rules and was served by successful delivery through speed post and digitally signed email on September 11, 2023 and September 01, 2023 respectively.

5. The allegations levelled against the Noticees in the SCN are summarized as follows:

6. SEBI received few complaints from Nyaya Manch alleging manipulation in the scrip of Kwality Limited during March – April 2018. Subsequently, SEBI received a letter from Directorate of Enforcement forwarding complaints received from Kashyap Mansukhlal Vyas alleging price manipulation during the period July 2017 to May 2018. SEBI forwarded complaints received from Nyaya Manch and letter from Directorate of Enforcement to both the exchanges (BSE and NSE).

7. Based upon aforesaid complaints, BSE submitted the reports and *inter alia* stated that promoters/ directors, Mr. Sanjay Dhingra and Mr. Siddhant Gupta, director have traded in the scrip for which necessary disclosures under SEBI (PIT) Regulations, 2015 were not filed by them with the exchange. Disclosures required under SEBI (Substantial Acquisition and Takeovers) Regulations, 2011 were not filed by Mr. Sanjay Dhingra, MD & promoter of the Company with the BSE. Further, Mr. Sidhant Gupta traded during December 18, 2017 to April 18, 2018 and had taken opposite position/ executed contra trade which appear to be in violation of the provisions of para 10 of Schedule B, read with the Reg. 9(1) and 9(2) of SEBI

(PIT) Regulations, 2015. However, no adverse inference was drawn with respect to price/ volume manipulation by BSE.

8. Based upon aforesaid complaints, NSE submitted the reports in which it *inter alia* submitted that it identified three price sensitive corporate announcements dated April 07, 2018, May 28, 2018 and July 03, 2018 made by the Company. Based upon analysis of said announcements, NSE shortlisted four clients namely, Sanjay Dhingra (promoter & MD of Kwality Ltd.), Sidhant Gupta (non-executive director of Kwality Ltd.), Abbot Gouri and Suri Ankan whose trading pattern pointed towards trading on the basis of unpublished price sensitive information. However, no adverse inference was drawn with respect to price/ volume manipulation by NSE.

9. Subsequently, SEBI initiated the investigation to find out the possible violations of PIT Regulations during the period from March 01, 2018 to July 31, 2018 in the matter, and pursuant to the investigation following is observed :
   a. Sidhaant & Sons HUF, being insider of the Company (Karta of HUF, Mr. Sidhant Gupta, non-executive director of the Company), had traded while in possession of UPSI and unlawfully avoided loss of Rs. 96,300/-. Thus, Sidhaant & Sons HUF has violated Section 12A(d) and (e) of SEBI Act, 1992 and Regulation 4(1) of the PIT Regulations.
   b. Mr. Sanjay Dhingra, promoter and MD of the Company has executed contra trades within 6 months and profit of Rs. 2,12,16,943.52 had not been remitted to the SEBI for credit to the IPEF, thus, he has not complied with Clause 10 of Schedule B read with Regulation 9(1) of the PIT Regulations. Further, Mr. Dhingra has traded during trading window closure period, thus, he has not complied with Clause 4 of Schedule B read with Regulation 9(1) of the PIT Regulations.
   c. Mr. Sidhant Gupta, non-executive director of the Company has executed contra trades within 6 months, thus, he has not complied with Clause 10 of Schedule B read with Regulation 9(1) of the PIT Regulations. Further, Mr. Gupta failed to make disclosures in terms of PIT Regulations regarding

disposal of shares, thus, he has not complied with Regulation 7(2)(a) of the PIT Regulations.

d. Mr. Lokesh Kumar Varshneya, a designated person of the Company, has executed contra trades within 6 months and profit of Rs. 14,063.75 has not been remitted to the SEBI for credit to the IPEF, thus, he has not complied with Clause 10 of Schedule B read with Regulation 9(1) of the PIT Regulations. Further, Mr. Varshneya has traded during trading window closure period, thus, he has not complied with Clause 4 of Schedule B read with Regulation 9(1) of the PIT Regulations.

e. Mr. Satish Kumar Gupta, a designated person of the Company, has executed contra trades within 6 months and traded during trading window closure period, thus, he has not complied with Clause 4 and 10 of Schedule B read with Regulation 9(1) of the PIT Regulations.

f. Mr. Inderjit Singh, a designated person of the Company, has executed contra trades within 6 months and traded during trading window closure period, thus, he has not complied with Clause 4 and 10 of Schedule B read with Regulation 9(1) of the PIT Regulations.

g. Mr. Ashutosh Kapil, a designated person of the Company, has executed contra trades within 6 months, thus, he has not complied with Clause 10 of Schedule B read with Regulation 9(1) of the PIT Regulations.

h. Mr. Sudesh Kumar, a designated person of the Company, has executed contra trades within 6 months and profit of Rs. 57,900/- has not been remitted to the SEBI for credit to the IPEF, thus, he has not complied with Clause 10 of Schedule B read with Regulation 9(1) of the PIT Regulations.

i. Mr. Manjit Dahiya, director of the Company, has executed contra trades within 6 months, thus, he has not complied with Clause 10 of Schedule B read with Regulation 9(1) of the PIT Regulations.

j. Mr. Acharya Ramanuj, a designated person of the Company, has executed contra trades within 6 months, thus, he has not complied with Clause 10 of Schedule B read with Regulation 9(1) of the PIT Regulations.

k. Mr. Jayanta Karmakar, a designated person of the Company, has executed contra trades within 6 months, thus, he has not complied with Clause 10 of Schedule B read with Regulation 9(1) of the PIT Regulations.

10. As per the clause 1.5 of the Company's Code of Conduct and Regulation 9(3) read with Regulation 2(1)(c) of the PIT Regulations, it is the duty and responsibility of a Compliance Officer to administer the code of conduct and other requirements including monitoring the trades of all designated persons. Mr. Sanjay Dhingra in his reply dated November 29, 2022 submitted that Mr. Pradeep Srivastava was a Compliance Officer of the Company during the IP.

11. As stated above, various instances observed which were in contravention of code of conduct of the Company. A summary of the same is as under:
    a. Trading by Insiders while having UPSI
    b. Trading by designated persons when trading window was closed
    c. Contra trade by designated persons
    d. Disclosure violation u/r 7(2) of PIT Regulations by Director of the Company

12. During the investigation it was gathered that Beetal Financial & Computer Services Pvt. Ltd. (hereinafter referred to as "Beetal") was the Registrar and Share Transfer Agent of the Company. Beetal vide e-mail dated December 14, 2022 stated that they used to send specific information as and when sought by the Company through e-mail. For said purpose they used to communicate with Noticee on e-mail ids - pradeep@kdil.in and kdil.cs@gmail.com.

13. In view of the above, summons were issued on February 07, 2023 and clarification was sought vide e-mail dated March 07, 2023 from Noticee, Company Secretary of the Company during the IP. Noticee in his statement on February 14, 2023 has inter-alia stated as under:

"…….*I was a Compliance Officer and Company Secretary of the Company from May 29, 2015 to December 10, 2018. Thereafter, the Company has gone into the CIRP proceedings and resolution professional has taken over the power of* *company secretary. I have resigned from the Company w.e.f. September 20, 2021.*

I do agree that I was responsible for compliance of policies, procedures, maintenance of records, monitoring adherence to the rules for the preservation of unpublished price sensitive information, monitoring of trades and the implementation of the codes specified in SEBI (Prohibition of Insider Trading) Regulations, 2015 under the overall supervision of the board of directors during my tenure with the Kwality Ltd.

No request for pre-clearance of trades and trading plan for approval has been received by me during the period from March 01, 2017 to July 31, 2018 from the promoters/ directors/ employees of Kwality Ltd.

No request for relaxation from strict application of contra trade restriction has been received by me during the period from January 01, 2016 to December 31, 2018 from the promoters/ directors/ employees of Kwality Ltd.

I do agree that the information (BENPOS/ shareholding/ transaction details etc.) along with request of any specific information was shared by Beetal Financial & Computer Services Pvt. Ltd. with me through e-mail on pradeep@kdil.in and kdil.cs@gmail.com during January 01, 2016 to December 31, 2018. I received information from RTA/STA on weekly basis and the same has been analysed by me and my team regarding any change in shareholding of promoters and trading by the employees of the Kwality Ltd.

I have made all the disclosures to the stock exchanges whatever I have received from promoter/ director/ employee regarding trading w.r.t. Kwality Ltd. In respect of the trades of Mr. Sanjay Dhingra and Sidhant Gupta on March 28 and June 07, 2018, as a compliance officer, I have not received any communication from them. Further, regarding the information received from RTA/ STA, I have not checked the said transaction of Mr. Dhingra and Mr. Gupta for the said period.

As a compliance officer, I have taken clarification from Mr. Sanjay Dhingra and Mr. Sidhant Gupta for executing the contra trade, However, the details of the clarification are not available with me as of now. ……"

14. Further, on clarification sought on contravention of code of conduct by designated employees, Noticee vide e-mail dated March 09, 2023 inter-alia while reiterating requirement under code of the conduct of the Company, stated as under :

"……Code of conduct which was duly adopted by board, also disseminated on the Company's website and informed all the designated employees.

I have intimated individually to all the designated employees after disseminated to Stock Exchanges via mail, regarding closure of trading window.

Whenever secretarial department noticed and/or came to know about any transaction, made during closure of the Trading Window or having PSI, Secretarial department used to enquire from all concerned immediately through mails/ letters under regulation 11 of Company Code and Conduct policy, seeking information/explanation about alleged/ reported contravention of Insider Rules & Regulation. ..”

15. Considering above reply of Mr. Srivastava, it was concluded that Mr. Srivastava was designated as a compliance officer of the Company during the IP who was inter-alia responsible to monitor the trades of all designated persons, the implementation of the codes and compliance of the code of conduct. It is accepted by Mr. Srivastava that he received information from RTA/STA on weekly basis and the same has been analysed by him and his team regarding any change in shareholding of promoters and trading by the employees of the Kwality Ltd.

16. On the contrary, as stated above, various violations of code of conduct by promoter/ directors/ designated persons of the Company were observed during the IP for which no action has been taken by Compliance Officer, Mr. Srivastava.

17. In view of the above, Noticee as a Compliance Officer of the Company was alleged to have failed to monitor the trades of all designated persons, compliance of the Company’s code of conduct and administer the PIT Regulations effectively in the Company during the IP thereby allegedly has violated Regulation 9(3) read with Regulation 2(1)(c) of PIT Regulations. Aforesaid regulations are reproduced as follows:

SEBI (PROHIBITION OF INSIDER TRADING) REGULATIONS, 2015
Definitions.
2.(1) *In these regulations, unless the context otherwise requires, the following words, expressions and derivations therefrom shall have the meanings assigned to them as under:–*
….*(c)“compliance officer” means any senior officer, designated so and reporting to the board of directors or head of the organization in case board is not there, who is financially literate and is capable of appreciating requirements for legal and regulatory compliance under these regulations and who shall be responsible for compliance of policies, procedures, maintenance of records, monitoring adherence to the rules for the preservation of unpublished price sensitive information, monitoring of trades and the implementation of the codes*

specified in these regulations under the overall supervision of the board of directors of the listed company or the head of an organization, as the case may be.
*[**Explanation** –For the purpose of this regulation, "financially literate" shall mean a person who has the ability to read and understand basic financial statements i.e. balance sheet, profit and loss account, and statement of cash flows];*

Code of Conduct.
9 (3) *Every listed company, market intermediary and other persons formulating a code of conduct shall identify and designate a compliance officer to administer the code of conduct and other requirements under these regulations.*
NOTE: This provision is intended to designate a senior officer as the compliance officer with the responsibility to administer the code of conduct and monitor compliance with these regulations.

18. Vide letter dated September 29, 2023 Noticee has submitted reply to the SCN. Subsequently, vide email dated, Noticee was provided with an opportunity of hearing on November 01, 2023. On the scheduled date of hearing, Noticee appeared before the undersigned. The Noticee reiterated the submissions already made in his reply dated September 29, 2023 and informed that Noticee also informed above violation to Mr. Sidhant Gupta (ex-Non-Executive Director), Mr. Manjit Dhaiya (ex-Executive Director), Mr. Satish Kumar Gupta (ex-CFO) and Mr. Naval Sharma (ex-VP- Investor Relation).

19. The key submissions made by Noticee in his reply are as under:
   i. Noticee has been a law-abiding professional, served as the 'Company Secretary' and 'Compliance Officer' of Kwality Limited since May 29, 2015. During this period, Noticee discharged his official duties under the supervision, control, and direction of the Board of Directors of the Company through Mr. Sanjay Dhingra the then Managing Director of the Company. Subsequently, from December 11, 2018, until September 20, 2021, Noticee continued to discharge his official responsibilities under the supervision of the Resolution Professional / Liquidator of the Company.

ii. In compliance with Noticee’s legal obligations and as per the Company's Code and Conduct for Regulation of Reporting Trading by Insiders and for fair Disclosure, 2015, Noticee often sought information and explanations regarding alleged or reported contraventions of Insider Rules & Regulation. Upon seeking clarification, Noticee customarily received written responses from the concerned individuals, denying their involvement in the alleged transactions. These responses indicated that the shares were traded by their Brokers or lenders without their knowledge. All such details and responses were duly communicated to Noticee’s reporting officer, Mr. Sanjay Dhingra, the then Managing Director of the Company. Thus, there was no wilful default of the Code of Conduct on Noticee’s part in discharge of his obligations. It is evident that the alleged violations were committed by individuals who concealed statutory disclosures and not by Noticee.

iii. In discharge of his legal obligations and as per the Company Code and Conduct for Regulation of Reporting Trading by Insiders and for fair Disclosure, 2015, Noticee used to seek explanations through mails and letters, about alleged/ reported contravention of Insider Rules & Regulation. In support a few available documents in Noticee’s possession are placed on records for reference.

iv. The consequences of violation of statutory provisions relating to contra trades and consequential remittances of the alleged profit to the SEBI for credit to the IPEF Account, were also intimated by Noticee as well as by BSE to Mr. Sanjay Dhingra for compliance. It was advised to Mr. Sanjay Dhingra to deposit the alleged profit accrued on account of contravention of Insider Rules & Regulation to the SEBI IEPF Fund in compliance of statutory provisions relating to Company Code of Conduct for Regulation of Reporting Trading by Insiders and for fair Disclosure, 2015. Thus, Noticee’s bonafides and discharge of duties as a ‘Company Secretary’ and ‘Compliance Officer’ of the Kwality Limited are duly proved from documents placed on records. More documents of like nature may be available on the records with the Company. These actions reveal Noticee’s commitment to duties and responsibilities under the Code of Conduct.

v. Noticee reiterated submissions detailed in foregoing Paras, as transactions of Mr. Sidhant Gupta are alike others mentioned in the Notice under reference. In compliance of the Code of Conduct, Noticee used to report details of all stated transactions to his reporting officer Mr. Sanjay Dhingra, Managing Director of the Company. Any disclosures received from insiders were duly intimated to the Stock Exchanges in conformity with relevant regulations.

vi. In relation to trading in shares, during closure of trading window and contra trade by designated employees mentioned in Paras under reference, as per company code of conduct Noticee used to send immediately warning letters and intimating probable consequences of violation of Company code of conduct of Insider and fair disclosure, 2015 to concerned persons. Additionally, Noticee consistently reminded all designated employees not to trade in the Company's securities during closed trading windows. Noticee also fulfilled his obligations by reporting all such transactions to Mr. Sanjay Dhingra, the then Managing Director of the Company.

vii. Whenever any instance of Transaction/s by Insiders access to Unpublished Price Sensitive Information (UPSI) was detected as per Company Code and Conduct, Noticee always acted instantly by sending mail/s seeking clarification of transaction/ issuing warning letter also appraising consequence of violation of Company code of conduct of Insider and fair disclosure, 2015 to concerned person/s. This way, Noticee acted bonafidely in discharge of his role and responsibilities under the code. Noticee also reported all such transactions to Mr. Sanjay Dhingra, the then Managing Director of the Company.

viii. Whenever any instance of transactions made by designated persons when trading window was closed, was noticed, Noticee acted promptly by sending mail/s seeking clarification of transaction/ issuing warning letter also appraising consequence of violation of Company code of conduct to concerned person/s. This conforms that Noticee acted promptly in discharge of his role and responsibilities under the code. Noticee consistently reported all such transactions to Mr. Sanjay Dhingra, the then Managing Director of the Company.

ix. As per Company records there were certain allotments under Employee Stock Ownership Plan (ESOP) by the company to its employees. Noticee's Secretariat had very limited staff to have regular access to all the transactions from Benpose. Due to limited staff, it was challenging to ascertain whether the sales were of shares purchased from the market or were part of shares allotted under the ESOP. When any of such instances was detected or came to notice about contra trade was made by any of the employees, in contravention of company code of conduct, such defaulting employee was directed to deposit profit made from such contra trade to SEBI IEPF fund immediately, which is ascertainable from the record of the Company. It is pertinent to mention that in compliance of Noticee's assigned role and responsibilities under the code, Noticee reported all such transactions to Mr. Sanjay Dhingra, the then Managing Director of the Company at the earliest occasion. Noticee acted diligently in discharge of assigned duties, without fail.

x. Law has imposed a duty upon the director to disclose to the company any transactions that meet the specified criteria. The company, in turn, is responsible for promptly notifying the particulars of such trading to the stock Exchange. If any of the Directors of the Company wilfully fail to disclose all or any such transaction to the Company, the 'Company Secretary' and 'Compliance Officer' cannot be held liable for violation committed by defaulting Director.

xi. Noticee would like to reproduce relevant text/ definition as mentioned in company "Kwality" code and Conduct for Regulation of Reporting Trading by Insiders and for fair Disclosure, 2015 for ready reference-

  a. *"**Compliance Officer**" means Company Secretary or such other senior officer, who is financially literate and is capable of appreciating* *requirements for legal and regulatory compliance under these regulations designated so and reporting to the Board of Directors and who shall be responsible for compliance of policies, procedures, maintenance of records, monitoring adherence to the rules for the preservation of unpublished price sensitive information, monitoring of trades and the implementation of the codes specified in these regulations under the overall supervision of the Board of Directors of the Company.*

b. ***Role of Compliance Officer***

c. ***2.1*** *The Compliance Officer shall report on insider trading to the Board of Directors of the Company and in particular, shall provide reports to the Chairman of the Audit Committee, if any, or to the Chairman of the Board of Directors at such frequency as may be stipulated by the Board of Directors.*

d. ***2.2*** *The Compliance Officer shall assist all employees in addressing any clarifications regarding the Securities & Exchange Board of India (Prohibition of Insider Trading) Regulations, 2015 and the Company's Code of Conduct.*

xii. As 'Company Secretary' and 'Compliance Officer' of Kwality Limited, Noticee acted in most diligent manner to protect interest of the Company in all possible manner, within limited available resources of the Company. However, due to wilful concealment of facts and non-cooperation of the alleged concerned violators, the Compliance Officer cannot be held liable for acts of wilful violators who intentionally failed to comply with relevant provisions of applicable laws and/ or intimating the Compliance officer of the Company.

xiii. Noticee emphasize that his actions were always in alignment with his role and responsibilities. Unfortunately, due to the wilful concealment of facts and non-cooperation of certain individuals, it became challenging to uncover all violations of relevant provisions of applicable laws or to be informed promptly of such violations. As a law-abiding professional, Noticee promptly reported all transactions and violations to Mr. Sanjay Dhingra, the then Managing Director of the Company, as required by his role and responsibilities.

xiv. In discharge of his duties, Noticee took all necessary legal measures as Company Secretary / Compliance Officer of the Company, which is ascertainable from Records of the Company.

xv. Noticee submitted that enquiry by SEBI was conducted in Noticee's absence as by then Noticee had left the employment of the company. Consequently, a substantial number of documents and papers were no longer in Noticee's possession. However, the absence of these documents does not diminish the fact that Noticee had taken all necessary precautions during his tenure as 'Company Secretary' and 'Compliance Officer' to ensure statutory compliance / obligations. The records that were under Noticee's control at the relevant time would have provided ample evidence of Noticee's conscientious efforts to uphold the Company's code of conduct and regulatory compliance. Any gap in this regard may not be interpreted as a lack of diligence on Noticee's part, rather a limitation resulting from my parting from the company.

xvi. It is evident from records that in the course of present investigation, the involved directors and persons implicated in the insider trading allegations were let off with warnings only. When the main accused and those directly involved have been treated with warnings and are not subjected to requisite legal proceedings, it raises the question of the necessity of initiating proceedings against the compliance officer. Noticee affirm and emphasize that Noticee has diligently performed his duty as 'Company Secretary' and 'Compliance Officer' throughout the relevant period, taking all reasonable steps for ensuring compliance with regulatory/ statutory obligations. Evidently the directly implicated violators are merely warned/ cautioned without actions, there appears no justification for continuing proceedings against Noticee, under similar circumstances.

xvii. It is pertinent to understand the dynamics of Noticee's role as the 'Company Secretary' and 'Compliance Officer' within the corporate structure. As an employee of the company, Noticee was operating under the direct authority and supervision of the Board of Directors. Noticee's primary role and responsibility involved informing and requesting the Board and other related personnel to ensure compliance with statutory obligations. Beyond this, neither there were any statutory obligations, nor did Company's code of conduct provide Noticee with any additional powers or authority. Noticee acted within the bounds of his role as a legal and ethical professional, striving to fulfil his responsibilities to the best of abilities. It is crucial to recognize that Noticee's capacity to influence or enforce actions was limited to the extent permitted by his role and the authority vested in him by the statutory provisions or by the Board.

CONSIDERATION OF ISSUES AND FINDINGS

20. I have taken into consideration the facts and material available on record. The issues that arise for consideration in the present case are as follows:

    I. **Whether Noticee has violated provisions of Regulation 9(3) read with Regulation 2(1)(c) of PIT Regulations?**

    II. **Do the violations, if any, attract monetary penalty under section 15HB of the SEBI Act, 1992?**

    III. **If the answer to Issue No. I, II & III is in affirmative, then what should be the quantum of monetary penalty?**

Issue I: Whether Noticee has violated provisions of Regulation 9(3) read with Regulation 2(1)(c) of PIT Regulations?

21. I note that the Regulation 9(3) read with Regulation 2(1)(c) of PIT Regulations essentially specifies that who could be designated as Compliance Officer, what would be the responsibility of the Compliance Officer, and that every listed

company, market intermediary and other persons formulating a code of conduct shall designate a Compliance Officer.

22. I note from the records that during investigation it was observed that there were various instances of trading by Insiders while having UPSI, trading by designated persons when trading window was closed, contra trade by designated persons, disclosure violation under PIT Regulations by director of the Company, all of which were in contravention of code of conduct of the Company. Further, SCN alleged that, during investigation it was observed that aforesaid violations of code of conduct by promoter/ directors/ designated persons of the Company were observed, however no action was taken by Noticee despite being designated as Compliance Officer of the Company. Therefore, Noticee allegedly failed to monitor the trades of all designated persons, compliance of the Company's code of conduct and administer the PIT Regulations effectively in the Company during the IP and therefore violated Regulation 9(3) read with Regulation 2(1)(c) of PIT Regulations.

23. I note that the Noticee as compliance officer was inter-alia responsible for monitoring of trades of all designated persons, the compliance of regulations, policies, procedures, codes and implementation of the codes including compliance of the code of conduct, under the overall supervision of the board of Directors of the Company. Further, I also note from the RTA's email dated December 14, 2022 that Noticee received information from RTA/STA periodically as well as on specific requests by the Noticee or Company. Further, from the records it is also observed that the received information was analysed by Noticee and his team regarding any change in shareholding of promoters and trading by the employees of the Company. This has not been denied by the Noticee, except that since Noticee had limited secretarial staff it was challenging to ascertain whether the sales of shares by employees, were of shares purchased from the market or were part of shares allotted under the ESOP to such employees.

24. Noticee has not contended the aforesaid violations of code of conduct by promoter/ directors/ designated persons of the Company, but has submitted that the Noticee promptly sought information and explanations from Promoters, Directors, Designated persons, employees etc. and issued them warnings through emails and letters regarding alleged or reported contraventions of Insider Rules & Regulations.

25. In this regard Noticee has placed on records a few letters which are as follows:
    a. Letter dated July 09, 2018 issued to Mr. Siddhant Gupta in respect of trading of shares during Closure of trading window by Siddhant & Sons HUF
    b. Letter dated June 26, 2018 issued to Mr. Sanjay Dhingra in respect of trading of shares during Closure of trading window by him on various dates of June 2018.
    c. Email dated July 03, 2018 issued to Mr. Sanjay Dhingra in respect of trading of shares during Closure of trading window by him on July 02, 2018.
    d. Letter dated October 12, 2018 issued to Mr. Sanjay Dhingra in respect of trading of shares as Promoter by him on October 10 and 11, 2018.
    e. Letters dated June 27, 2018, July 03, 2018 and email dated July 03, 2018 received from Mr. Sanjay Dhingra informing that the trade/sale of shares from his account were on account of invoking of shares against margin calls on relevant dates by his Share Stock Brokers in respect of the Margin Trading Facility.

26. In this regard I note that letters placed on records by Noticee only corroborate that the Noticee sought explanation/received explanation from two of the erring entities in the capacity of the Compliance Officer. The Noticee has not placed on records, any communication wherein the Noticee brought the non-compliance by all the erring entities to the notice of Board of Directors.

27. I note that as per Company's Code of Conduct, as well as PIT regulations, Noticee was to fulfil his responsibility under the overall supervision of the Board of Directors of the Company, and hence it was incumbent upon the Noticee to bring the non-

compliances observed by the Noticee to the notice of Board of Directors. The Company's Code of conduct also requires the Compliance Officer to report on insider trading to the Board of Directors of the Company and in particular, provide reports to the Chairman of the Audit Committee or to the Chairman of the Board of Directors. The Noticee has contended that all details of transactions, responses in respect of the non-compliances were duly communicated to his reporting officer, Mr. Sanjay Dhingra, the then Managing Director of the Company. In this regard, I note that reporting of the non-compliances to Managing Director of the Company, is not equivalent to reporting the same to Board of Directors, especially given the fact that the said MD himself indulged in such non-compliances and had made the biggest profit of Rs. 2,12,16,943.52 among the erring entities, as well as the fact that he was aware that there were various non-compliances which he claimed to have observed and reported to then MD, but the Company never disclosed the same to the exchanges. I also note that the Noticee accepted the explanation given By Mr. Sanjay Dhingra (Managing Director) in respect of non-compliance on its face value without seeking any supporting documents.

28. The non-compliances from the failure of the respective disclosures by the Company to the Stock Exchanges and non-remittance of the profit made/loss avoided by the erring entities to the IPEF should have prompted the Noticee to take further action to comply with the responsibilities incumbent upon him under PIT regulations.

29. I also note that under SEBI (LODR) Regulations, 2015, Noticee as an compliance officer was responsible for:
    a. ensuring conformity with the regulatory provisions applicable to the company in letter and spirit;
    b. co-ordination with and reporting to the Board, recognised stock exchange(s) with respect to compliance with rules, regulations and other directives;

c. ensuring that the correct procedures have been followed that would result in the correctness, authenticity and comprehensiveness of the information, statements and reports filed by the listed entity.

30. In view of the above, as compliance officer Noticee was required to undertake all necessary steps to ensure that legal and regulatory compliances are adhered to including the disclosures to Stock Exchange on behalf of company. Further, when the Promoter and Managing Director (to whom Noticee was reporting), Non-executive Director and Designated persons of the company were themselves non-compliant, prudently and ethically, Noticee could have brought the non-compliances observed by him to the attention of company board or independent director or committee of Independent Directors or Stock Exchange or SEBI. However it is noted that the Noticee, did not take any such measures.

31. Noticee has contended that Regulation 7(2) of PIT Regulation has imposed a duty upon the director to disclose to the company any transactions that meet the specified criteria and the company, in turn, was responsible for promptly notifying the particulars of such trading to the stock Exchange. If any of the Directors of the Company wilfully fail to disclose all or any such transaction to the Company, the 'Company Secretary' and 'Compliance Officer' cannot be held liable for violation committed by defaulting Director. In this regard, I note that the aforesaid requirement on Director is distinct from the responsibility on the Noticee under Regulation 2(1)(c) of PIT Regulations, and the Regulation 2(1)(c) of PIT Regulations needs to be individually complied by the Noticee. Also irrespective of Director or employee of company disclosing transactions to the Noticee, Noticee was also getting the details of transactions from the RTA. Hence, the contention of the Noticee is not tenable.

32. Noticee has also contended that his capacity to influence or enforce actions was limited to the extent permitted by his role and the authority vested in him by the statutory provisions or by the Board. In this regard, I note that as per the Code of Conduct of the Company and PIT Regulations, Noticee was sufficiently authorised

to monitor the transactions and inform the same to the Board of Directors of the Company. Further, Noticee always had the option of adopting route of whistle blower to diligently discharge the duties and responsibilities as Compliance Officer of the Company. In view of the same, the contention of the Noticee is not accepted.

33. I also note that the Noticee has not submitted any details or records in regard to his compliance in regard to the monitoring of the trades other than the contention that on account of limited staff he was unable to monitor the possible sale of shares of ESOP shares by the employees. In this regard I note that the contention is neither supported by evidence nor a sufficient reason for non-monitoring of the trades as his duty by the Noticee being the compliance officer. In view of the same, the contention of the Noticee is not accepted.

34. Noticee has also contended that since Noticee has no association with the company since long, consequently, a substantial number of documents and papers were no longer in his possession and documentary evidence in support of submissions in possession of the Noticee are limited, however the same would be available with the company. In this regard, I note that the Noticee has not made cogent submissions in regard to the efforts taken by him to demonstrate that he undertook necessary steps being the Company Secretary and Compliance Officer of the Company, to fulfil the statutory requirements and responsibilities on him in terms of different Rules, Regulations and Policies. The unacceptability of the contention of the Noticee is not only on the account of lack of supporting documents, but also on account of being insufficient in terms of logic and rationales to lead that the Noticee performed expected duties and fulfilled responsibilities including effectively brining the infractions committed to the notice of the competent authorities. In view of the same, the contention of the Noticee is not accepted.

35. The Noticee has also contended that the main accused and those directly involved have been let off with warnings only and are not subjected to requisite legal proceedings, which raises the question of the necessity of initiating proceedings

against the compliance officer. In this regard, from the records available, I note that for the entities who have unlawfully made profit or avoided loss were required to transfer the amount to IPEF. Further, with respect to Mr. Sanjay Dhingra separate enforcement proceedings were approved by SEBI which is ongoing. Further, the nature of enforcement action approved against the Noticee is not before the undersigned for adjudication.

36. I also note that there is a statutory duty imposed upon the Compliance Officer which requires them to ensure compliance with all the relevant rules and regulations. If they fail in their duty to ensure the compliance, then the regulations itself will become useless as the primary purpose of formulating the same is to ensure compliance and to run the market in fair and competitive manner

37. In view of the discussion above, I hold that Noticee **failed to monitor the trades of all designated persons, compliance of the Company's code of conduct and administer the PIT Regulations effectively in the Company during the Investigation Period. Thus, Noticee did not fulfill responsibilities incumbent upon him under PIT Regulations, and thereby violated Regulation 9(3) read with Regulation 2(1)(c) of PIT Regulations.**

Issue II. Does the violation, if any, attract monetary penalty under section 15HB of the SEBI Act, 1992

38. In light of findings and observations made against the Noticee brought out in the foregoing paragraphs, I hold that Noticee has violated applicable SEBI Regulations and Circulars. The above violation makes the Noticees liable for monetary penalty under the provisions of Section 15HB of the SEBI Act. In this regard, reliance is placed upon the judgment of Hon'ble Supreme Court of India in the matter of *SEBI Vs. Shri Ram Mutual Fund [2006] 68 SCL 216(SC) which inter-alia has held that - "In our considered opinion, penalty is attracted as soon as the contravention of the statutory obligation as contemplated by the Act and the Regulations is established and hence the intention of the parties committing such*

violation becomes wholly irrelevant...". The relevant provisions of the aforementioned Section 15HB of the SEBI Act are as under:

SEBI Act, 1992

Penalty for contravention where no separate penalty has been provided.
15HB*. Whoever fails to comply with any provision of this Act, the rules or the regulations made or directions issued by the Board thereunder for which no separate penalty has been provided, shall be liable to a penalty which shall not be less than one lakh rupees but which may extend to one crore rupees.*

Issue III. If the answer to Issue No. I & II is in affirmative, then what should be the quantum of monetary penalty?

39. While determining the quantum of penalty under the provisions of Section 15HB of the SEBI Act, it is important to consider the relevant factors as stipulated in Section 15J of the SEBI Act, which reads as under:

SEBI Act, 1992

Factors to be taken into account while adjudging quantum of penalty

15J *While adjudging quantum of penalty under 15-I or section 11 or section 11B, 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.

[111][Explanation. —For the removal of doubts, it is clarified that the power to adjudge the quantum of penalty under sections 15A to 15E, clauses (b) and (c) of section 15F, 15G, 15H and 15HA shall be and shall always be deemed to have been exercised under the provisions of this section.]

40. In the present matter, I note that there is nothing on records, either to quantify the disproportionate gains made by the Noticee, or the exact monetary loss to the investors on account of default by the Noticees in the instant matter. Further, I note that from March 01, 2017 to July 31, 2018, Noticee failed to report non-compliances by 11 erring entities who indulged in either trading by Insiders while having UPSI or in trading by designated persons when trading window was closed or in contra trade by designated persons, or failed to make disclosure under PIT Regulations being director of the Company, all of which were in contravention of code of conduct of the Company and PIT regulations. Noticee failed to fulfill his responsibilities which were crucial for safeguarding interest of investors. However, it is also noted that there are no history of adverse observations or actions against the Noticee.

41. In order to protect the interest of all the investors and considering the past actions against the Noticee, I feel appropriate to levy a penalty, which is commensurate with the nature of violation and which acts as a deterrent factor for the Noticee and others in protecting the interest of the investors in securities market.

ORDER

42. Having considered all the facts and circumstances of the case, the material available on record, the submissions of the Noticee, the factors mentioned in Section 15J of the SEBI Act and in exercise of the powers conferred upon me under Section 15-I of the SEBI Act read with Rule 5 of the Adjudication Rules 1995, I hereby impose following penalties on the Noticee:

Sr. No.	**Noticee**	**Violated Provisions**	**Penalty Provisions**	**Amount of penalty (in ₹)**
1.	Mr. Pradeep K Srivastava	Regulation 9(3) read with Regulation 2(1)(c) of PIT Regulations	15HB of the SEBI Act 1992	2,00,000/-

I am of the view that the aforesaid penalty is commensurate with the violation/allegations levelled against the Noticee.

43. The Noticee shall remit / pay the said amount of penalty within 45 days of receipt of this order through online payment facility available on the website of SEBI, i.e. www.sebi.gov.in on the following path, by clicking on the payment link:

ENFORCEMENT → ORDERS → ORDERS OF AO → PAY NOW

44. In the event of failure to pay the said amount of penalty within 45 days of the receipt of this Order, recovery proceedings may be initiated under section 28A of the SEBI Act, 1992 for realization of the said amount of penalty along with interest thereon, *inter alia*, by attachment and sale of movable and immovable properties.

45. In terms of Rule 6 of the Adjudication Rules, 1995, copy of this order is sent to the Noticee and also to the SEBI.

Place: Mumbai
Date: December 10, 2023

SHASHI KUMAR VALSAKUMAR
ADJUDICATING OFFICER