BEFORE THE ADJUDICATING OFFICER

SECURITIES AND EXCHANGE BOARD OF INDIA

ADJUDICATION ORDER NO. Order/PM/SM/2022-23/17319

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

In respect of:

Vinay Kumar Sutrave

PAN: AHOPK9524E

In the matter of Mindtree Ltd.

A. BACKGROUND

1. Securities and Exchange Board of India (hereinafter referred to as "**SEBI**") received a letter dated October 26, 2018 from Mindtree Ltd. (hereinafter referred to as the "**Company**") informing SEBI regarding instances of violation of the code of conduct framed by the Company under the provisions of SEBI (Prohibition of Insider Trading) Regulations, 2015 (hereinafter referred to as the "**PIT Regulations**") by two of its employees and action taken by the Company pursuant to the same. Accordingly, SEBI initiated an examination in the matter against the said two employees.

2. SEBI also initiated a separate investigation for ascertaining any violation of regulation 7(2)(a) of the PIT Regulations with regard to the transactions of promoters, directors and employees of the Company, in the Company's scrip, during the period from January 01, 2019 to March 31, 2019 (hereinafter referred to as the **"Investigation Period"**).

3. The investigation revealed that Vinay Kumar Sutrave (hereinafter referred to as the "**Noticee**") was an employee of the Company and had transacted in the Company's scrip during the Investigation Period. It was further observed that the Noticee had done

transactions aggregating to a traded value in excess of Rs 10,00,000 over a calendar quarter.

4. Thereafter, the Company was asked to confirm whether the Company or its compliance officer had received any disclosures for trading done by the Noticee in terms of regulation 7(2)(a) of the PIT Regulations. *Vide* emails dated December 07, 2020 and December 14, 2020 (hereinafter referred to as the "**December 2020 Replies**"), the Company confirmed that it had not received any disclosures from the said Noticee. In view of this communication, it was *prima facie* observed that the Noticee had failed to make the required disclosure under regulation 7(2)(a) of the PIT Regulations. Thereafter, SEBI initiated adjudication proceedings against the Noticee for the alleged violation of regulation 7(2)(a) of PIT Regulations in respect of the transactions in the Company's scrip under section 15A(b) of the Securities and Exchange Board of India Act, 1992 (hereinafter referred to as the "**SEBI Act**").

B. APPOINTMENT OF ADJUDICATING OFFICER

5. Pursuant to the investigation, SEBI initiated adjudication proceedings against the Noticee and appointed the undersigned as the adjudicating officer *vide* order dated March 04, 2021 under section 19 of the SEBI Act read with sub-section (1) of section 15-I of the SEBI Act and rule 3 of the SEBI (Procedure for Holding Inquiry and Imposing Penalties) Rules, 1995 (hereinafter referred to as the "**SEBI Adjudication Rules**") to inquire into and adjudge under section 15A(b) of the SEBI Act for the alleged violation of regulation 7(2)(a) of the PIT Regulations by the Noticee.

C. SHOW CAUSE NOTICE, REPLY AND HEARING

6. A show cause notice (hereinafter referred to as "**SCN**") bearing reference no. EAD-8/PM/NJMR/20484/1/2021 dated August 23, 2021 was served on the Noticee under rule 4 of the SEBI Adjudication Rules to show cause as to why an inquiry should not be held against him in terms of rule 4 of the SEBI Adjudication Rules and penalty should not be imposed under section 15A(b) of the SEBI Act for the violation alleged to have been committed by him. In the SCN, the Noticee was asked to indicate whether he would prefer a personal hearing before the adjudicating officer in the matter.

7. The allegations levelled against the Noticee in the SCN are summarized below as follows:

(i) SEBI *vide* email sent on August 03, 2020, called upon the Company, to provide the names and PAN of its employees, promoters, directors and persons falling under the purview of regulation 6(2) of the PIT Regulations for the period January 01, 2019 to March 31, 2019, duly certified as true and correct by their compliance officer.

(ii) The Company *vide* emails sent on August 07, 2020, August 10, 2020, August 12, 2020, August 25, 2020 and August 26, 2020 submitted the list of their promoters, directors, designated persons, their relatives and employees in India for the period January 01, 2019 to March 31, 2019.

(iii) On receipt of the aforesaid data from the Company, SEBI conducted an analysis of the trading data received from BSE Limited (hereinafter referred to as "**BSE**") and National Stock Exchange of India Limited (hereinafter referred to as "**NSE**") with respect to the employees of the Company, in the Company's scrip, and it was observed that the Noticee had executed transactions aggregating to a traded value in excess of Rs 10,00,000 in a calendar quarter *i.e.* from January 01, 2019 till March 31, 2019.

(iv) In terms of the provisions of regulation 7(2)(a) of the PIT Regulations, as it existed at the time the Noticee committed the alleged violation, promoters, employees and directors of every company were required to disclose to the company the number of securities acquired or disposed of, within two trading days of such transaction, if the value of the securities traded, whether in one transaction or a series of transactions over any calendar quarter, aggregated to a traded value in excess of Rs 10,00,000.

(v) However, it was observed that the Noticee did not disclose his transactions in Company's scrip which exceeded Rs 10,00,000 in value in the calendar quarter from January 01, 2019 to March 31, 2019 to the Company, within two trading days of the transactions, as confirmed by the Company, *vide* the December 2020 Replies.

(vi) Given the above, it was alleged that the Noticee had violated regulation 7(2)(a) of the PIT Regulations. The alleged violation, if established, makes the Noticee liable for monetary penalty under section 15A(b) of the SEBI Act.

8. The Noticee *vide* email dated September 14, 2021 submitted his reply to the SCN. The relevant extract from the aforesaid reply is provided below verbatim:

1 In the month of December 2019, I resigned from Mindtree Ltd, wherein post resignation in the month of August 2020, Mr. Subhodh Shetty intimated me for clarification of the said transaction of trading, wherein I have clarified and informed him regarding my normal trading practice with respect to all Listed Stocks in same pattern including Mindtree Shares (Refer to my Trading Report) , However I have not received any intimation from Mindtree Ltd in respect of trading post my resignation in December 2019 till August 2020.

2 Sir, would like to bring to your knowledge that with respect of the said trading in Mindtree Shares, As I was not a designated employee, I had a verbally communicated with my HR namely Miss Sangeetha Vijay and previous Company secretary, Mr. Pradip Kumar Menon and Miss Vedavalli S, regarding my Trading in Mindtree Shares.

3 With respect to the above trading, as per my knowledge and trading reports provided by the brokers, the Equity share has not exceeded 10 Lacs during Jan-2019-March-2019 (as per the Trading statements enclosed), the values not matching per the annexure shared by Mindtree and the notice from SEBI, wherein for Equity there was no single transaction that values more than 10 lakhs in the calendar quarter, that I should have informed within 2 days of trading exceeding 10, lacks or expected to take prior clearance, As per Mindtree Code of Conduct provided(enclosed).

4 I would like to bring this point to your attention that from Code of Conduct communication for future and options, it is not clear if the value is based on premium or margin or the complete lot value, as they are fraction of the total cost based on premium or margin, this lead to confusion for non-reporting/taking preclearance.

5 *That due to lack of knowledge and proper awareness of the regulations, code of conduct and regarding the disclosure of trading in Equity, F&O etc., I was unable to submit my trading information in written format to my company.*

6 *That being a responsible and law-abiding citizen, I always paid taxes regarding the said trading and always maintaining my trade book for each and every transaction. It is pertinent to mention that I had disclosed verbally to my said HR along with said Company Secretary regarding the said issue. However, due to lack of knowledge and also about being not designated employee, I failed to make disclosure in written format under Sebi's PIT (Prohibition of Insider Trading) regulation for the transaction executed in January 1, 2019 till March 31, 2019 in the matter of Mindtree Ltd.*

9. The Noticee made additional submissions *vide* email dated November 18, 2021. The relevant extract from the aforesaid reply is provided below verbatim:

1. *The verbal communcation between me and my HR and leadership about trading in F&O and Equity which was verbally okeyd that was not needed to be reported.*
2. *Please see the code of conduct defined by mindtree was ambigious to me particularly on the trade value and reporting within 2 days of trade was not exceeding 10 lacks in Equity and Options total value or premium or margin , where as my trading value was for longer period and some were carried over positions from previous months during the open window period*

4 *I had not got any updates / opportunity from Mindtree to reporting/filing / paying penalty of sum of Rs. 5000/- Penalty and interest post my resigation, i may have missed it as i was not employee any more.*

6 *I was new to F&O and could not make any stoploss or hedging the positions, the loss i have made during my trade in year and later were quite huge and swept away most my savings of my entire life.*

10. After considering the facts and circumstances of the case, the undersigned granted an opportunity of personal hearing to the Noticee on November 17, 2021 *vide* notice of hearing sent *vide* email on November 08, 2021. In view of the prevailing circumstances owing to COVID-19, the hearing was scheduled through video conferencing on cisco webex platform. On the scheduled hearing date, the Noticee appeared before me through video conference and reiterated the submissions made by him *vide* email sent on September 14, 2021 which has been reproduced in paragraph 8 above. The Noticee stated that he does not wish to submit any additional submissions in the present matter. Noticee made additional submissions *vide* email dated November 18, 2021 and the same has been reproduced in paragraph 8 (g) and (h) above. Therefore, I find that principles of natural justice have been complied with respect to the Noticee in the current adjudication proceedings.

D. CONSIDERATION OF ISSUES AND FINDINGS

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

    I. Whether the Noticee has violated regulation 7(2)(a) of the PIT Regulations?

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

    III. If the answer to Issue No. 2 is in affirmative, then what should be the quantum of monetary penalty?

I. Issue No. 1: Whether the Noticee has violated regulation 7(2)(a) of the PIT Regulations?

12. Before moving forward, it is pertinent to refer to the relevant provision of the PIT Regulations which is alleged to have been violated by the Noticee. The said provision is reproduced hereunder:

Disclosures by certain persons.

7. (2) Continual Disclosures.

(a). Every promoter [1][member of the promoter group], [2][designated person] and director

of every company shall disclose to the company the number of such securities acquired or disposed of within two trading days of such transaction if the value of the securities traded, whether in one transaction or a series of transactions over any calendar quarter, aggregates to a traded value in excess of ten lakh rupees or such other value as may be specified;

[1]Inserted by Securities and Exchange Board of India (Prohibition of Insider Trading) (Amendment) Regulations, 2019 (w.e.f. January 21, 2019).

[2]Substituted for the word "employee" by Securities and Exchange Board of India (Prohibition of Insider Trading) (Amendment) Regulations, 2018 (w.e.f. April 01, 2019) (hereinafter referred to as the "PIT 2018 Amendment Regulations")

13. I note from the material available on record that the Noticee was an employee of the Company during the Investigation Period. On perusal of the transaction details of the Noticee, I note that the Noticee had traded in excess of Rs 10,00,000 in the Company's scrip during the Investigation Period (*i.e.,* calendar quarter beginning from January 01, 2019 to March 31, 2019). The details of the said trades of the Noticee are tabulated below:

Traded value at NSE cash segment (in Rs.)	**Traded value at NSE derivatives segment (in Rs.)**	**Traded value at BSE cash segment (in Rs.)**	**Total traded value** (BSE +NSE) **(in Rs.)**	**No. of occasions transactions executed**
3814547	5,65,49,610	-	6,03,64,157	26

14. I note from the table given in the paragraph above that the Noticee had executed twenty-six transactions through which the total traded value of the Noticee in the said calendar quarter amounted to Rs. 6,03,64,157 which is in excess of Rs 10,00,000.

15. Regulation 7(2)(a) of the PIT Regulations, as it existed at the time the Noticee committed the alleged violation (*i.e.,* before the PIT 2018 Amendment Regulations came into force), provided that certain specified entities (such as employees) are required to submit disclosures to the company within two trading days of transactions, if the value of the securities traded, in one transaction or a series of transactions, aggregates to a traded value in excess of Rs 10,00,000 over any calendar quarter.

16. I note from the reply of the Noticee that he has not disputed the following allegations levelled in the SCN that: (i) he was an employee of the Company during the Investigation Period; and (ii) he had not filed the requisite disclosures within the time stipulated under regulation 7(2)(a) pursuant to the trades executed by him. I note from the material available on record that the Company *vide* the December 2020 Replies has confirmed that the Noticee did not submit the disclosure within the time specified under the aforesaid regulation for the trades undertaken by him during the Investigation Period. However, the Noticee in his reply has contended that as per the Noticee's knowledge and trading reports provided by his brokers, the Equity share has not exceeded 10 Lacs during Jan-2019-March-2019. Noticee also contented that in Equity share there was no single transaction that values more than 10 lakh in the calendar quarter. In this regard, I find that the trading details of the Noticee obtained from BSE and NSE were sent to the Noticee as annexure to the SCN. The relevant extract from the aforesaid trading details is tabulated below:

Date of transaction	**Gross quantity in cash market (Buy quantity + sell quantity)**	**Gross transaction value in cash market (in Rs.) (Buy quantity value + sell quantity value)**	**No of units in derivatives market**	**Gross transaction value in derivatives market (in Rs.)**	**Gross transaction value in cash and derivatives market (in Rs.)**
01-Jan-2019	200	1,71,977	-	-	1,71,977
02-Jan-2019	200	1,73,984	-	-	1,73,984
03-Jan-2019	-		600	512610	512610
07-Jan-2019	40	33,393			33,393
08-Jan-2019	-	-	600	492960	492960
17-Jan-2019	-	-	1200	10,61,400	10,61,400
18-Jan-2019	200	1,77,046	2400	21,15,060	2,292,106
21-Jan-2019	-	-	3600	32,90,280	32,90,280
22-Jan-2019	-	-	4200	38,75,760	38,75,760
23-Jan-2019	-	-	600	5,62,500	5,62,500
24-Jan-2019	-	-	1800	16,54,530	16,54,530
28-Jan-2019	200	1,74,298	-	-	1,74,298

Date of transaction	Gross quantity in cash market (Buy quantity + sell quantity)	Gross transaction value in cash market (in Rs.) (Buy quantity value + sell quantity value)	No of units in derivatives market	Gross transaction value in derivatives market (in Rs.)	Gross transaction value in cash and derivatives market (in Rs.)
30-Jan-2019	-	-	600	5,37,870	5,37,870
31-Jan-2019	-	-	2,400	21,48,000	21,48,000
06-Feb-2019	-	-	600	5,61,420	5,61,420
07-Feb-2019	400	3,60,115	1200	11,20,410	1,480,525
08-Feb-2019	-	-	600	5,64,600	5,61,420
11-Feb-2019	-	-	2400	22,37,850	22,37,850
12-Feb-2019	-	-	1,800	16,83,270	16,83,270
14-Feb-2019	-	-	600	5,51,100	5,51,100
15-Feb-2019	-	-	600	5,48,340	5,48,340
20-Feb-2019	-	-	600	5,45,700	5,45,700
21-Feb-2019	-	-	600	5,43,930	5,43,930
25-Feb-2019	-	-	1,200	10,99,200	10,99,200
26-Feb-2019	-	-	1,200	10,98,630	10,98,630
27-Feb-2019	-	-	600	5,48,850	5,48,850
28-Feb-2019	100	89,926	-	-	89,926
01-Mar-2019	100	91,800	1,200	11,10,330	1202130
05-Mar-2019	-	-	600	5,63,400	5,63,400
06-Mar-2019	-	-	1,200	11,04,000	11,04,000
07-Mar-2019	-	-	1200	11,29,320	11,29,320
08-Mar-2019	-	-	1800	16,81,770	16,81,770
11-Mar-2019	-	-	2400	22,43,760	22,43,760
12-Mar-2019	-	-	2400	22,63,380	22,63,380
19-Mar-2019	200	1,88,890	600	5,69,910	758800
20-Mar-2019	1200	11,42,548	3600	34,83,930	4,626,478

Date of transaction	Gross quantity in cash market (Buy quantity + sell quantity)	Gross transaction value in cash market (in Rs.) (Buy quantity value + sell quantity value)	No of units in derivatives market	Gross transaction value in derivatives market (in Rs.)	Gross transaction value in cash and derivatives market (in Rs.)
22-Mar-2019	-	-	2,400	23,27,850	23,27,850
25-Mar-2019	-	-	600	5,78,640	5,78,640
26-Mar-2019	700	6,61,758	3600	34,63,620	4,125,378
27-Mar-2019	200	1,89,001	3600	34,68,630	3657621
28-Mar-2019	50	47,300	2400	23,15,400	2,362,700
29-Mar-2019	330	3,12,510	3000	28,91,400	3,203,910
Total		**38,14,547**		**5,65,49,610**	**6,03,64,157**

17. The table provided above clearly shows that the Noticee breached the threshold twenty-six times on January 08, 2019, January 17, 2019, January 18, 2019, January 21, 2019, January 22, 2019, January 24, 2019, January 31, 2019, February 07, 2019, February 11, 2019, February 12, 2019, February 15, 2019, February 21, 2019, February 25, 2019, February 26, 2019, March 01, 2019, March 06, 2019, March 07, 2019, March 08, 2019, March 11, 2019 and March 12, 2019, March 20, 2019, March 22, 2019, March 26, 2019, March 27, 2019, March 28, 2019 and March 29, 2019.

18. For an instance, Noticee on January 01, 2019 and on January 02, 2019, traded 200 on each day in cash segment which amounted to a traded value of Rs 1,71,977 and 1,73,984 respectively. Thereafter, on January 03, 2019, the Noticee again traded 600 in Derivative segments amounting to trading value of Rs. 5,12,610. Thereafter, on January 07, 2019, the Noticee again traded 40 in cash segments amounting to the trading value of Rs 33,393. In this way, on January 08, 2019, when the Noticee traded 600 in Derivative segments which amounted to the trading value of Rs. 4,92,960, the Noticee breached the threshold for the first time together with the trades executed on January 01, 2019, January 02, 2019, January 03, 2019 and January 07, 2019. Thereafter, the Noticee breached the threshold for the second time on January 17, 2019, when he traded 1200 in Derivative Segments which amounted to a traded value of Rs. 10,61,400. The Noticee repeated the violation for the third time when he traded in both cash and Derivative segment on

January 18, 2019 which amounted to Rs. 22,92,106. In this way, the Noticee had breached the threshold on twenty-six occasions.

19. In light of the above, I have no difficulty in arriving at the conclusion that the total traded value of the Noticee during the Investigation Period was Rs 6,03,64,157 and the disclosure requirement under regulation 7(2)(a) with respect to the Noticee was triggered twenty-six times. Therefore, as per the calculation made in the above mentioned paragraph, the submission of the Noticee that in Equity share there was no single transaction that values more than 10 lakhs in the calendar quarter does not hold any merit.

20. As for the other submission, where the Noticee has submitted that he made disclosure verbally to his HR along with his Company Secretary regarding his trades. However, he was unable to made the disclosure of his trades in written format to his company due to lack of knowledge and proper awareness of the regulations, code of conduct regarding the disclosure of trading in Equity, F&O etc. Further, the Noticee has submitted that it was not clear to him from the code of conduct that whether the value is based on premium or margin or the complete lot value.

21. I find that December 2020 Replies the Company confirmed that it had not received any disclosures from the said Noticee, therefore, aforesaid justification that the Noticee had made disclosure verbally to his HR along with his former Company Secretary regarding his trades for the alleged violation is untenable in the absence of any evidence regarding the disclosure with respect to the concerned trades within the time stipulated under the aforesaid regulation. In this context, I would like to rely on the judgment of Hon'ble Securities Appellate Tribunal (SAT) in ***Premchand Shah and Others V. SEBI*** **(Appeal** no. 108 of 2010 decided on February 21, 2011), wherein it was observed that "...... When law prescribes a manner in which a thing is to be done, it must be done only in that manner or not at all…………. Non-disclosure of the information in the prescribed manner deprived the investing public of the information which is required to be available with them when they take an informed decision while making investments.

22. Further, the Noticee cannot take shelter of his lack of knowledge and proper awareness of the regulation with respect to the requirement to disclose transactions and the manner of computation of threshold under regulation 7(2)(a) of the PIT Regulations as it is the law

of the land. It is an established legal principle that "*ignorantia juris non excusat*" which translates into ignorance of law is no excuse. The legal principle is justified on the grounds of necessity because if there is relaxation in the application of this principle, every accused will take the plea that he did not know the law and it will be incumbent on the adjudicating authority to establish the knowledge of law and it would, in turn, render the administration of justice impracticable. This has also been explained by John Salmond, in one of his revered works, *"Jurisprudence or the Theory of the Law"*, wherein he has stated that one of the main reasons for the strict application of the aforesaid principle is due to the evidential difficulties that would be faced by the adjudicating authority for establishing knowledge of law. The relevant text from his aforesaid work is reproduced below verbatim:

"In the second place, even if invincible ignorance of the law is in fact possible, the evidential difficulties in the way of the judicial recognition of such ignorance are insuperable, and for the sake of any benefit derivable therefrom it is not advisable to weaken the administration of justice by making liability dependent on well nigh inscrutable conditions touching knowledge or means of knowledge of the law. Who can say of any man whether he knew the law, or whether during the course of his past life he had an opportunity of acquiring a knowledge of it by the exercise of due diligence?....." (emphasis supplied).

In this regard, I find it relevant to refer to the order of Hon'ble Securities Appellate Tribunal (SAT) passed in the matter of ***Madanchand Prasan Chand Chordia vs. SEBI*** (Appeal No. 134 of 2014), dated June 16, 2014, wherein it held that:

"The main contention of the appellant, who has appeared in person before us, is that he was not aware about the requirement of law in making disclosure as a part of SAST Regulations, 2011 and PIT Regulations, 1992. We note that ignorance of law is not an excuse."

23. I note that Noticee has also submitted that the Noticee did not have intention to indulge in any unfair trade practice. In this regard, I find it relevant to refer to the judgment of Apex Court in ***SEBI vs Shri Ram Mutual Fund*** (Appeal Civil 9523-9524 of 2003) dated May 23, 2006, wherein it held that "*in our opinion, mens rea is not an essential ingredient for contravention of the provisions of a civil act*". In light of the above, I find that the aforesaid

submission of the Noticee does not hold any ground for ascertaining violation of regulation 7(2)(a) establishing presence of malafide intention on the part of the Noticee is not germane.

Thus, I find that the aforesaid submission of the Noticee deserves dismissal.

24. With respect to the submission of the Noticee that since the Noticee is not a ‘designated person’, therefore, he failed to make disclosure in written format under regulation 7(2)(a) of PIT Regulation for the transaction executed in January 1, 2019 till March 31, 2019. I find that the aforesaid submissions of the Noticee is irrelevant to the facts of the present matter as the words of regulation 7(2)(a) at the time the Noticee committed the alleged violation were crystal clear that the regulation demands continual disclosures from all employees irrespective of the position/designation of the employee, the level of access the employee possesses with respect to unpublished price sensitive information of the company and his/her connection with the management of the company. In this regard, it is pertinent to note that the alleged violation committed by the Noticee fell between the period extending from January 01, 2019 to March 31, 2019, and the PIT 2018 Amendment Regulations which substituted the word “employee” with “designated person” under regulation 7(2)(a) came into effect from April 01, 2019. Therefore, the provisions of the PIT 2018 Amendment Regulations do not apply to the Noticee. Thus, I do not find any merit in the aforesaid submission of the Noticee.

25. In view of the aforesaid paragraphs, I conclude that the allegation that the Noticee has violated regulation 7(2)(a) of the PIT Regulations stands established due to his failure to make the requisite disclosures with respect to the concerned trades within the time stipulated under the aforesaid regulation. It is pertinent to note that the requirement to submit disclosures under the PIT Regulations in the manner prescribed and within the time stipulated are sacrosanct as they enable the public to make an informed investment decision in a timely manner. By not submitting the requisite disclosures within the specified time, the concerned persons deprive the investing public of their statutory rights. Further, the disclosure also enables the regulator to properly monitor the transactions in the capital market to effectively regulate the same. Thus, I find that the aforesaid violation by the Noticee affects multiple stakeholders and has an impact on the entire securities market.

II. Issue No 2: Does the violation, if any, attract monetary penalty under section 15A(b) of the SEBI Act?

26. I note that the Apex Court in the case of ***SEBI vs Shri Ram Mutual Fund*** (Appeal Civil 9523-9524 of 2003) dated May 23, 2006 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."*

27. Further, in ***Mr. Ankur Chaturvedi vs. SEBI*** (Appeal no. 434 of 2014) decided on August 04, 2015, Hon'ble SAT has held that *"As rightly pointed out by the adjudicating officer the entire securities market stands on disclosure based regime and accurate and timely disclosures are fundamental in maintaining the integrity of the securities market. Therefore, omission on the part of the appellant in failing to make disclosures was detrimental to the interest of the investors in the securities market and hence no fault can be found with the decision of SEBI in imposing penalty".*

28. In view of the judgments/orders referred above and the fact that the Noticee has violated regulation 7(2)(a) of the PIT Regulations, I am of the view that a monetary penalty needs to be imposed upon the Noticee under section 15A(b) of the SEBI Act, which reads as under:

Penalty for failure to furnish information, return, etc.
15A. *If any person, who is required under this Act or any rules or regulations made thereunder:*

(b) *to file any return or furnish any information, books or other documents within the time specified therefore in the regulations, fails to file return or furnish the same within the time specified therefore in the regulations, [3][or who furnishes or files false, incorrect or incomplete information, return, report, books or other documents], he shall be liable to a penalty [4][which shall not be less than one lakh rupees but which may extend to one lakh rupees for each day during which such failure continues subject to a maximum of one crore rupees].*

[3]Inserted by the Finance Act, 2018 w.e.f. 08-03-2019.

[4]Substituted for the words "of one lakh rupees for each day during which such failure continues or one crore rupees, whichever is less" by the Securities Laws (Amendment) Act, 2014, w.e.f. 08-09-2014.

III. Issue No 3: If the answer to issue no. 2 is in affirmative, then what should be the quantum of monetary penalty?

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

Factors to be taken into account while adjudging quantum of penalty

While adjudging quantum of penalty under [5][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.

[6][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.]

[5]Substituted for the words "section 15-I, the adjudicating officer" by the Finance Act, 2018 w.e.f. 08-03-2019

[6]Inserted by Part VIII of Chapter VI of the Finance Act, 2017 vide Gazette Notification No. 7, Extraordinary Part II Section 1 dated March 31, 2017. This shall come into force from April 26, 2017.

30. In the instant case, it is not possible from the material on record to quantify the amount of disproportionate gain or unfair advantage resulting from the default of the Noticee in submitting timely disclosures or the consequent loss caused to investors as a result of the aforesaid default. With respect to repetitive nature of the default, it is important to note that the Noticee has violated the provisions of regulation 7(2)(a) of the PIT Regulations

on twenty-six occasions during the Investigation Period. Hence, the violation committed by the Noticee is repetitive in nature.

31. In the present matter, the facts of the case clearly establish the violation committed by the Noticee. Accordingly, I consider it necessary to impose monetary penalty which would act as a deterrent to the Noticee in future.

E. ORDER

32. After taking into consideration the nature and gravity of the violations established in the preceding paragraphs and in exercise of the powers conferred upon me under section 15-I of the SEBI Act read with rule 5 of the SEBI Adjudication Rules, I hereby impose a penalty of Rs 1,00,000 (Rupees One Lakh Only) on the Noticee *i.e.,* Vinay Kumar Sutrave under section 15A(b) of the SEBI Act. I am of the view that the penalty is imposed on the Noticee is commensurate with the violation committed by the Noticee.

33. The Noticee shall remit / pay the said amount of penalty within 45 days of receipt of this order either by way of demand draft in favor of "SEBI - Penalties Remittable to Government of India", payable at Mumbai, or through online payment facility available on the SEBI website **www.sebi.gov.in** on the following path by clicking on the payment link.

ENFORCEMENT → ORDERS → ORDERS OF AO → PAY NOW

34. The Noticee shall forward the said demand draft or the details / confirmation of penalty so paid through e-payment to the Division Chief, Enforcement Department-I, DRA-I, SEBI, in the format given in table below:

Case name	
Name of payee	
Date of payment	
Amount paid	
Transaction no	
Bank details in which payment is made	
Payment is made for	Penalty

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

Date: June 27, 2022
Place: Mumbai

PRASANTA MAHAPATRA
ADJUDICATING OFFICER