BEFORE THE ADJUDICATING OFFICER
SECURITIES AND EXCHANGE BOARD OF INDIA
[ADJUDICATION ORDER Ref. No. ORDER/JS/RJ/2025-26/31515]

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

Mr. Deepak Shaw
PAN: BNDPS0854H

In the matter of suspected insider trading activity of certain entities in the scrip of Electrosteel Castings Limited

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Background

1. Electrosteel Castings Limited (hereinafter referred to as '**ECL'**/ '**company'**) is a public company whose shares are listed on BSE Limited (hereinafter referred to as '**BSE'**) and National Stock Exchange of India Limited (hereinafter referred to as '**NSE'**).

2. It was observed that during market hours on September 30, 2020, ECL informed NSE and BSE (hereinafter referred to as '**stock exchanges'**) that the trading window for dealing in the securities of the ECL shall remain closed for all designated persons and their immediate relatives, from 11 A.M. of September 30, 2020, due to the proposed amalgamation of Srikalahasthi Pipes Limited (hereinafter referred to as '**SPL'**) with ECL. Subsequently, during market hours on October 05, 2020, ECL informed the stock exchanges that its board of directors considered and approved the proposed draft scheme of amalgamation between SPL and ECL on the same day.

3. In this regard, Securities and Exchange Board of India (hereinafter referred to as '**SEBI'**) conducted an investigation with regard to the trading activities of promoter/promoter group entities of ECL prior to the said public announcement of proposed amalgamation between SPL and ECL. The period of investigation (hereinafter referred to as **'IP'**) was from May 17, 2020 to January 06, 2021. The focus of the investigation was possible violation of provisions of the Securities and Exchange Board of India Act, 1992

(hereinafter referred to as '**SEBI Act'**) and SEBI (Prohibition of Insider Trading) Regulations, 2015 (hereinafter referred to as '**PIT Regulations'**), resulting from the trading in ECL shares. Based on the findings of the investigations, SEBI initiated enforcement proceedings against 20 entities including one Mr. Deepak Shaw (hereinafter referred to as '**Noticee'**).

4. Investigations, *inter alia*, revealed that the Noticee was engaged as a consultant at Baker Tilly DHC Business Pvt. Ltd. / D.B. Desai & Associates (hereinafter referred to as '**Baker Tilly'**) during IP where Baker Tilly was the financial adviser for the proposed amalgamation between SPL and ECL. It was further found that the Noticee had executed trades in the scrip of ECL prior to the said public announcement regarding the said amalgamation.

5. In these circumstances, it is alleged that the Noticee traded in the shares of ECL while he was an insider of ECL. Therefore, the Noticee is alleged to have violated the provisions of regulation 4(1) of PIT Regulations and section 12A(e) of SEBI Act, 1992. In view of the above, SEBI initiated the instant adjudication proceedings against the Noticee.

Appointment of Adjudicating Officer

6. Pursuant to the superannuation of the earlier Adjudicating Officer(hereinafter referred to as '**AO**') who had been appointed so vide communique dated August 10, 2023, the undersigned was appointed as AO in this matter vide communique dated April 21, 2025 under section 15-I of SEBI Act read with rule 3 of SEBI (Procedure for Holding Inquiry and Imposing Penalties) Rules, 1995 (hereinafter referred to as '**Rules**'), to inquire into and adjudge the aforesaid alleged violations committed by the Noticee.

Show Cause Notice, Reply and Hearing

7. Show Cause Notice Ref. No. SEBI/HO/EAD2/NH/RJ/2023/48150 dated November 30, 2023 (hereinafter referred to as **'SCN'/ 'Notice'**) was issued by the erstwhile AO to the Noticee in terms of rule 4(1) of the Rules read with section 15-I of the SEBI Act to show cause as to why an inquiry should not be held against the Noticee and why penalty, if any, should not be imposed on it in terms of the provisions of section 15G of the SEBI

Act for the violations alleged to have been committed by the Noticee. The SCN, *inter alia*, alleged the following:

Observations/finding on UPSI

7.1. On September 30, 2020, ECL informed the stock exchanges that board of directors of ECL and SPL will consider the proposed amalgamation of SPL with ECL shortly. After this announcement, the scrip of ECL closed at Rs. 24.20, on October 01, 2020, i.e., 18.92% above its previous day's closing price of Rs. 20.35 at NSE.

7.2. ECL informed the stock exchanges on October 05, 2020 that its board of directors, at its meeting held on October 05, 2020, had considered and approved the proposed scheme of amalgamation between SPL and ECL. After this announcement, the scrip ECL closed at Rs. 23.20, i.e., 4.13 % below its previous day's closing price of Rs. 24.20, while touching intra-day high of Rs. 27.00 on NSE. A similar trend was observed on BSE.

7.3. Thus, the Investigation Report mentioned that the announcement of the proposed amalgamation of SPL with ECL had an impact on the prices of the shares of ECL. Accordingly, the information about the proposed scheme of amalgamation between SPL and ECL is alleged to be unpublished price sensitive information (hereinafter referred to as '**UPSI'**) in terms of regulation 2(1)(n) of PIT Regulations.

Observations/finding on Period of UPSI

7.4. The information regarding the 'proposed board meeting of SPL for considering the amalgamation of SPL with ECL to be held tentatively around September 15, 2020 to September 20, 2020', had come into existence vide email August 18, 2020. The said email was sent by the CFO of ECL to the CFO of SPL, Company Secretary and Deputy General Manager (Finance) of ECL with the subject "Fwd: Project Tiger | ECL SPL Restructuring | Queries", which, *inter alia*, mentioned that *"We are planning to have Board meeting tentatively around 15th Sep to 20th Sep for considering merger approval."* Therefore, it was alleged that the UPSI regarding the proposed scheme of amalgamation between SPL and ECL came into existence on August 18, 2020**.**

7.5. ECL had made the corporate announcement to BSE and NSE regarding the scheme of amalgamation on October 05, 2020. The said corporate announcement was broadcasted on BSE at 12:19:19 Hrs. and on NSE at 12:21:38 Hrs. Thus, it

was observed that the aforesaid UPSI became public on October 05, 2020 at 12:19:19 Hrs. when the corporate announcement regarding the said amalgamation was first disseminated on BSE.

7.6. Accordingly, the UPSI period was from August 18, 2020 to 12:19:19 Hrs. on October 5, 2020.

Observations/finding with respect to Noticee's status as 'insider'

7.7. Noticee was a consultant working at Baker Tilly. During the IP, he was actively exploring and evaluating various restructuring options for ECL on behalf of Baker Tilly. In this regard, it was alleged that:

a. From the perusal of the email dated August 21, 2020, forwarded by Mr. Gaurav Somani [Deputy General Manager (Finance)], ECL, it was observed that the law firm, Khaitan & Co. LLP in their email dated August 21, 2020, at 03:15 P.M. had mentioned that "*Also find attached the Activity Schedule circulated to Deepak last week*." The activity schedule file was dated August 12, 2020.

b. Noticee on behalf of Baker Tilly, vide email dated August 24, 2020, at 10:23 A.M., had shared 1st draft of Pre Board Meeting Activity Schedule with the SPL regarding the Board meeting proposed to be held on September 15, 2020, for considering the proposed amalgamation of SPL with ECL.

c. Vide email dated September 09, 2020 at 12:24 P.M., Noticee was informed that the *"proposed date for calling Board meetings of ECL and SPL for approval of merger would be October 05, 2020."*

7.8. Based on the chronology of events and documents as mentioned in the previous paragraphs, it was alleged that Noticee was actively involved in the amalgamation process and had prepared various documents including a draft of Pre-Board Meeting Activity Schedule with ECL regarding the proposed amalgamation of SPL with ECL.

7.9. In this context, it was alleged that the Noticee had been a connected person who advised on the said merger and was in possession of UPSI before September 30, 2020. Therefore, Noticee was alleged to be an 'insider' under PIT Regulations.

Observations/finding regarding trading by Noticee during IP

7.10. Noticee did not trade in the shares of ECL from May 2019 till August 25, 2020. During the IP, the Noticee executed the following trades:

Table

Date	Buy Qty.	Buy Value (in Rs.)	Sell Qty.	Sell Value (in Rs.)	Observation
August 26, 2020	5,953	95,371	0	0	UPSI Period
September 3, 2020	850	14,308	0	0	
September 4, 2020	3,000	49,500	0	0	
September 9, 2020	5,000	77,500	0	0	
September 18, 2020	200	3,460	0	0	
September 21, 2020	4,000	68,600	0	0	
October 5, 2020	0	0	19,003	4,44,465	Post UPSI Period
Total	19,003	3,08,739	19,003	4,44,465	

7.11. In this context, it was alleged that the Noticee had purchased 19,003 shares of ECL during the UPSI period vide trades executed on six days as tabulated above. The Noticee sold the said 19,003 shares of ECL during the post-UPSI period, i.e., on October 05, 2020. It was further alleged that during IP, the scrip of ECL was his highest traded scrip contributing to 38.78% of his total trading.

7.12. In this regard, Noticee, vide email dated December 21, 2022, *inter alia*, submitted that shares of ECL were purchased and sold during the IP in the ordinary course of investment. Angel Broking Limited, the stock broker of Noticee through which the alleged trades were executed, submitted to SEBI vide email dated December 22, 2022, that the said orders were placed online by Noticee during the aforesaid period**.** Therefore, it was alleged that the Noticee had traded in the scrip of ECL during the IP.

Observations/finding regarding profit of the Noticee

7.13. It was alleged that the actual profit made by the Noticee while trading in shares of ECL while in possession of UPSI, was Rs.1,35,727/- (Rupees One Lakh Thirty-Five Thousand Seven Hundred Twenty Seven Only)**.** In this regard, Baker Tilly vide email dated December 17, 2022, apprised SEBI that the profit made by the Noticee was remitted to SEBI Investor Protection and Education Fund.

7.14. During the investigation, comments of the Noticee in terms of section 11C(5) of the SEBI Act were sought vide email dated February 02, 2023. Noticee replied to the same vide email dated February 15, 2023. However, it is mentioned in the Investigation Report that the reply of the Noticee cannot be accepted as Noticee was actively involved in the amalgamation process and was in possession of UPSI while he traded in the scrip of ECL during the IP.

7.15. In view of the above, it was alleged that the Noticee was an insider when he executed trades in the scrip of ECL during the IP Therefore, the Noticee was alleged to have violated regulation 4(1) of PIT Regulations and section 12A(e) of the SEBI Act.

8. The Noticee vide email dated January 08, 2024, *inter alia,* submitted the following reply to the SCN which is reproduced *in verbatim:*

"…

Charge established on incomplete analysis of facts

8.1. *At the outset, it is submitted that the Investigation Report and consequently the SCN consider an incomplete set of the facts in the present case. In the present matter, another consultant, Ernst and Young ("EY"), was initially engaged in early 2020 to assess and evaluate the alleged Proposed Transaction. Further, engagement letters were also executed with SRBC (EY) in March 2020 to undertake the valuation exercise for determining the fair exchange ratio for the Potential Transaction. Around March – April 2020, initial discussions on the prospects of the Potential Transaction also took place with legal representatives.*

8.2. *Further, additional consultants like Vivro Financial and Saffron Capital Advisors were engaged for the process, but the services were not utilized. After some progress, the contract with SRBC (EY) was terminated in the first week of June 2020.*

8.3. *Thereafter, in July and August 2020, discussions were reinitiated to explore the Proposed Transaction. On August 18, 2020, the CFO of ECL shared an email, (i) directing the preparation for all activities related to the potential amalgamation and the review of all required information and (ii) communicating that ECL intended to convene a board meeting sometime between 15th to 20th September 2020. However, the board meeting did not take place in September 2020.*

8.4. *Subsequently, on September 09, 2020, the CFO of ECL again informed that they were contemplating a board meeting to consider the Proposed Transaction on October 05, 2020. Various engagement letters were signed on September 19, 2020 with the Valuers and Merchant Bankers in this context. It was only on September 30, 2020, that notices for the board meeting scheduled for October 05, 2020 were sent to all directors and other invitees, and the trading window was closed on September 30, 2020.*

8.5. *In light of the foregoing, it is humbly submitted that prior to September 30, 2020, discussions regarding various measures related to the Proposed Transaction were speculative, uncertain, contingent and merely exhibited a broad-based scope. At that juncture, there was no clarity regarding the definitive decision to present the Proposed Transaction to the Board of ECL, let alone a specific date for such consideration. In the absence of any concrete or specific developments, it cannot be established that the Proposed Transaction was indeed under active consideration. On September 30, 2020, the Noticee was ultimately apprised of scheduling the Board Meeting and Audit Committee Meeting on October 5, 2020, for deliberation of the Proposed Transaction.*

8.6. *Being so, it is humbly submitted that the UPSI concerning the Proposed Transaction only crystallized on September 30, 2020, when ECL/SPL communicated details concerning the Board Meeting scheduled for October 5, 2020. The Corporate Announcement, disclosing the Board of Directors' approval of the Proposed Transaction, was subject to various regulatory approvals, and was finally disseminated to the Stock Exchanges by ECL and SPL on October 5, 2020.*

8.7. *It is pertinent to consider that the Corporate Announcement was publicly disclosed on BSE at 12:19:19 hrs and on NSE at 12:21:38 hrs. Throughout the interim period between September 30, 2020, till the public disclosure on October 5, 2020, the Noticee did not engage in any transaction in the shares of ECL which could suggest that the Noticee traded with the intent of booking wrongful gains on the basis of UPSI.*

UPSI did not crystallize prior to September 30, 2020

8.8. *It is reiterated that UPSI in the present case crystallized only on September 30, 2020, when ECL/SPL communicated details concerning the Board Meeting*

scheduled for October 5, 2020. Any discussions or deliberations regarding the Proposed Transaction were simply speculative and nowhere near attaining finality especially considering the details set out in the factual conspectus. Thus, the SCN in establishing a laboured case of trading on the basis of UPSI against the Noticee, has erred in conflating access to uncertain, contingent and speculative information vis-à-vis concrete crystallized UPSI.

8.9. *In this regard, it is submitted that the Hon'ble Securities Appellate Tribunal in Pia Johnson v. SEBI [Appeal No. 59 of 2020] was considering a similar matter and observed the following:*

> *"In view of the aforesaid, it is clear that the UPSI regarding purchase of an entity by IIL came into existence for the first time on March 1, 2017 when a resolution was passed by the shareholders of the Company in its EGM. Prior to 1st March there was no inkling or indication by IIL making an offer to purchase ILPL. The discussion that was held on January 24, 2017 was only confined to a loan to be taken for ILPL from IIL.*
>
> *"There is no doubt that information of sale of ILPL was in the public domain since July 15, 2016 but this information which came into the public domain was not treated to be an UPSI by the WTM on the ground that the resolution passed by IVL on July 15, 2017 was only a raw information and there was no crystallized offer through an identified purchaser or ascertained consideration amount for the purpose of crystallizing the UPSI. If the information of sale of ILPL by IVL on July 15, 2016 was not a UPSI and was in the public domain then the purchase of shares by the appellants between July 15, 2016 to March 1, 2017 could not be made the basis of UPSI. We, thus, conclude that since there was no UPSI during this period the trades executed by the appellants were not violative of Regulation 4(1)."*
>
> *"In view of the aforesaid, we are satisfied that the appellants were not in possession of UPSI when they purchased the shares of IVL during the alleged UPSI period as per the show cause notice. In our view, the appellants have successfully discharged the burden under the proviso to Regulation 4 of the PIT Regulation. Considering the aforesaid, the*

impugned order cannot be sustained and are quashed. The appeals are allowed with no order as to costs."

8.10. *In light of the above, it is submitted that the Noticee was only privy to uncertain, speculative and contingent information which has erroneously been conflated with UPSI in the SCN. It is further submitted that when the actual UPSI came into existence i.e., on September 30, 2020, when ECL/SPL communicated details concerning the Board Meeting scheduled for October 5, 2020 till the Corporate Announcement on October 05, 2020, the Noticee did not engage in any transaction in the shares of ECL which could suggest that the Noticee traded with the intent of booking wrongful gains. Rather, it was only when such information was disseminated to the public at large vide the Corporate Announcement, and the UPSI became generally available information, did the Noticee offload his position in the shares of ECL to book profits in the ordinary course of trading.*

8.11. *It is further pertinent to note that once the information was made public, the price of the shares had in fact declined possibly because the news was not received well by the public. In that context the act of purchasing can be considered contrary to the effect of the UPSI when it was disclosed. It is equally pertinent to consider that had the shares been held till date, the profits arising from such shares would have been much higher than what is captured in the SCN.*

8.12. *It is submitted that the Noticee invested in the Company basis the fundamental performance of the Company. If in fact the Noticee had UPSI, the Noticee would have aimed to make gains of much larger amounts and not only the meagre gains of INR 1,35,727 from the impugned trades. This in itself reflects that the impugned trades, at the highest, were speculative and not motivated by asymmetrical access to information. It belies logic to suggest that the Noticee had access to crystallized UPSI yet decided to book paltry gains.*

8.13. *It is submitted that the SCN by resting its entire purported conclusion on mere conjecture and surmise has only attempted to force a conclusion which can never satisfy the test of the 'preponderance of probability' standard.*

Prayer

8.14. *In light of the submission made hereinabove, it is thus prayed that no penalty under Section 15G of the SEBI Act be imposed on the Noticee and thus, it is prayed that SCN be revoked with immediate effect.*

8.15. *Strictly without prejudice, it is further submitted that as per the regulatory scheme of the SEBI Act, the adjudicating officer has to mandatorily consider the mitigating factors mentioned in Section 15-J to determine the quantum of penalty to be imposed in a given case. These are –*

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.

8.16. *Judicial precedents of the Hon'ble Supreme Court of India in Adjudicating Officer, SEBI v. Bhavesh Pabari, [(2019) 5 SCC 90] have also established that such mitigating factors must be taken into account by the adjudicating officer while determining the quantum of penalty being imposed. The same has also been reaffirmed by the SAT in National Highway Authority of India v. SEBI [Appeal No. 232 of 2020]. In relation to the instant matter, it is submitted without prejudice to all submissions on merits and without admitting any violation whatsoever, that the trades in consideration was executed in the ordinary course of retail trading and no disproportionate gain or unfair advantage was made as a result of the alleged default, that no loss was caused to any investor or group of investors as a result of the default. It is also submitted that there is no document on record to suggest that any loss whatsoever has been caused to any investor as a result of the allegations levelled in the SCN, further, the same has also not been alleged in the SCN. Further, with regard to Clause (c): "the repetitive nature of the default." it is submitted that the alleged violation, if any, was not repetitive and thus the same was in isolation, and hence there is no question of repetitive nature of the default. It is also submitted that Noticee has never violated any provision of securities laws and place great importance on complying with the law of the land.*

8.17. *It is pertinent to note that the SCN itself records that the Noticee made profits of INR 1,35,727 from the impugned trades and such profits have been remitted to SEBI Investor Protection and Education Fund. Considering the above, penalty, if any, on the Noticee ought to be minimal.*

…"

9. After receipt of the written reply, in compliance with the principle of natural justice, an opportunity of personal hearing was granted to the Noticee by the erstwhile AO on January 23, 2024. Mr. Robin Shah, authorised representative (hereinafter referred to as '**AR**') of the Noticee attended the hearing on January 23, 2024.

10. Consequent to the appointment of the undersigned as AO, another opportunity of hearing was given to the Noticee on May 14, 2025. Noticee was represented by his AR on May 14, 2025.

Issues

11. After careful perusal of the material on record, I note that the issues that arise for consideration in the present case are as follows:
    I. Whether the Noticee traded in the scrip of ECL while he was an insider of ECL and thereby violated regulation 4(1) of PIT Regulations and section 12A(e) of the SEBI Act?
    II. Does the violation, if any, on the part of Noticee attract a monetary penalty under section 15G of the SEBI Act?
    III. If so, what would be the monetary penalty that can be imposed upon Noticee taking into consideration the factors stipulated in section 15J of the SEBI Act?

12. The relevant extracts of the provisions of law, allegedly violated by Noticee, are mentioned as under:

PIT Regulations

"4.(1) No insider shall trade in securities that are listed or proposed to be listed on a stock exchange when in possession of unpublished price sensitive information:
Explanation –When a person who has traded in securities has been in possession of unpublished price sensitive information, his trades would be presumed to have been motivated by the knowledge and awareness of such information in his possession.

SEBI Act

"12A. No person shall directly or indirectly—
…
(e)deal in securities while in possession of material or non-public information or communicate such material or non-public information to any other person, in a manner which is in contravention of the provisions of this Act or the rules or the regulations made thereunder…"

13. I now proceed to decide the issues at hand.

Consideration

I. Whether the Noticee traded in the scrip of ECL while he was an insider of ECL and thereby violated regulation 4(1) of PIT Regulations and section 12A (e) of the SEBI Act?

14. The SCN alleged that the Noticee had traded in the scrip of ECL while he was an insider of ECL. In order to adjudicate upon the aforesaid allegation, I divide the issue in four parts for brevity:
    A. Whether the information regarding the proposed amalgamation of SPL with ECL was a UPSI in terms of PIT Regulations?
    B. What was the period of UPSI?
    C. Whether the Noticee was an insider in terms of PIT Regulations?
    D. Whether the Noticee traded in the scrip of ECL?

A. Whether the information regarding the proposed amalgamation of SPL with ECL was a UPSI in terms of PIT Regulations?

15. I note that regulation 2(1)(n) of PIT Regulations defines UPSI as under:

*"**unpublished price sensitive information**" means any information, relating to a company or its securities, directly or indirectly, that is not generally available which upon becoming generally available, is likely to materially affect the price of the securities and shall, ordinarily including but not restricted to, information relating to the following: –*
(i) financial results;
(ii) dividends;
(iii) change in capital structure;
(iv) mergers, de-mergers, acquisitions, delistings, disposals and expansion of business and such other transactions;
…." (Emphasis Supplied)

16. In terms of regulation 2(1)(n)(iv) of the PIT Regulations, *"merger/acquisition"* is covered within the definition of UPSI. Here, it is appropriate to take note of the observation of the

Hon'ble Securities Appellate Tribunal (hereinafter referred to as '**SAT**') in the matter of *Future Corporate Resources Pvt. Ltd. and Ors. v. Securities and Exchange Board of India*[1] wherein it was held that:

> *"…*
> *12. A perusal of the aforesaid definition would show that for an information to be termed as UPSI, it must,*
> *(i) be relating to the company or its securities either directly or indirectly;*
> *(ii) not be generally available; and*
> *(iii) likely to materially affect the price of the securities.*
> *In terms of Regulation 2(1)(n)(iv) of the PIT Regulations, information relating to mergers, de-mergers, acquisitions, delistings, disposals and expansion of business and such other transactions, is per se treated as UPSI.*
> *13. From the aforesaid, it is clear that information relating to merger / de-merger is not "generally available" and, therefore, it has to be treated as a UPSI.*
> *…" (Emphasis supplied)*

17. It is also noted that ECL informed the stock exchanges on October 05, 2020 that its board of directors, at its meeting held on October 05, 2020, had considered and approved *"proposed scheme of amalgamation between Srikalahasthi Pipes Ltd. (SPL) and Electrosteel* Casting *Ltd. (ECL)".* After this announcement, the scrip ECL closed at Rs. 23.20, i.e., 4.13 % below its previous day closing price of Rs. 24.20, while touching intra-day high of Rs. 27.00 on NSE. A similar trend was also observed on BSE. Thus, it is evident that the information pertaining to the proposed amalgamation had a material effect on the price of the securities of ECL upon becoming generally available. It is also seen that the Noticee did not dispute the fact that the information pertaining to the proposed amalgamation, before it was published, was UPSI.

18. Accordingly, I find that the information about the proposed scheme of amalgamation between SPL and ECL was an UPSI in terms of regulation 2(1)(n)(iv) of PIT Regulations.

B. What was the period of UPSI?

Start of UPSI period

19. It is alleged in the SCN that the information regarding 'the proposed board meeting of SPL for considering the amalgamation of SPL with ECL to be held tentatively around September 15, 2020 to September 20, 2020', had come into existence on August 18, 2020. In this regard, Mr. Ashutosh Agarwal, CFO of ECL vide email dated August 18,

[1]Appeal No. 81 of 2021.

2020 informed the CFO of SPL, Company Secretary and Deputy General Manager (Finance) of ECL, *inter alia,* that *"We are planning to have Board meeting tentatively around 15th Sep to 20th Sep for considering merger approval."*

20. Accordingly, the UPSI regarding the proposed scheme of amalgamation between SPL and ECL is stated to have come into existence on August 18, 2020 as per the SCN**.**

21. In this regard, Noticee argued that the UPSI concerning the proposed transaction had rather crystallized on September 30, 2020, when ECL/SPL communicated details concerning the board meeting scheduled for October 5, 2020 to the directors. Further, Noticee contended that prior to September 30, 2020 there was no clarity regarding the definitive decision to present the proposed transaction to the board of ECL. Noticee also highlighted that the board meeting did not take place in September 2020. In this context, Noticee argued that discussions regarding various measures related to the proposed transaction were speculative, uncertain and merely exhibited a broad-based scope before September 30, 2020.

22. Here, I note that apart from the said email dated August 18, 2020, support for the fact that UPSI had indeed come into existence on August 18, 2020 comes from the Sequence of Events (hereinafter referred to as '**SOE**'), i.e., Annexure-4 of SCN. The said document prepared by the ECL clearly demonstrates that despite initial discussions on the prospects of the potential transaction with legal representatives in March – April 2020 and the engagement of additional consultants, till last week of May 2020, there had been no significant progress in exploring the proposed potential amalgamation of ECL and SPL (Sr.No.29 of SOE). The turnaround happened after the conference call between CFO of ECL and Whole-time Director, CFO, Sr.GM Finance and Company Secretary of SPL on June 5, 2020 (Sr.No.33 of SOE). Since the beginning of the process in March 2020, this was the first time, there had been a dialogue between SPL and ECL. In the said conference call, CFO of ECL briefed the SPL team about potential amalgamation of SPL and ECL. On the same date itself, the secretarial documents and draft scheme for amalgamation was shared with SPL by ECL. As per Sr. No. 35 of SOE, ECL had shared the information related to ECL and SPL to Baker Tilly vide email dated June 24, 2020 wherein one the recipients of the said email is Noticee. Subsequently, there had been a flurry of activity, including conference calls with legal team, ECL and

Baker Tilly in July and August 2020, which culminated in the email of CFO of ECL dated August 18, 2020 to both ECL and SPL teams as discussed above. Noticee participated in all these conference calls and received/sent emails in this regard.

23. Thus, it is seen that vide the email dated August 18, 2020, the negotiations between ECL and SPL had reached a stage where of the amalgamation was almost certain as for the first time, a definite date for the board meeting in this regard was mentioned. This email asked the concerned ECL and SPL teams to prepare for all activities relating to the potential amalgamation and also informed them that the board meeting to consider the proposed amalgamation was to be scheduled sometime around September 15-20, 2020. I note that prior to August 18, 2020, the discussions pertaining to the amalgamation were exploratory in nature and the information generated at that stage was imprecise in nature, without a reasonable probability of the transaction going through. However, post the said email dated August 18, 2020, all the activities were concentrated towards a specified objective, i.e., to ensure that the amalgamation was being completed. In support of the same, it is relevant to take note of the activities undertaken post August 18, 2020 as per the sequence of events provided by ECL which has been tabulated below:

Table 1

Sr. No.	Date	Activity Undertaken as per SOE
1.	18/08/2020	Mail sent by Mr. Ashutosh Agarwal (CFO, ECL) to ECL and SPL team to prepare for all activities relating to the potential amalgamation and also review all information is required. It was informed that the company is planning to have the Board Meeting sometime around 15th September to 20th September.
2.	21/08/2020	Discussion on Secretarial Documents related to proposed Scheme of Amalgamation
3.	26/08/2020	Documents related to Secretarial Matters wrt the proposed Scheme of Amalgamation
4.	28/08/2020	Mr. Ashutosh Agarwal (CFO, ECL) informed the Statutory Auditors on the proposal for potential amalgamation of SPL and ECL. As part of the requirement, Singhi & Co was informed to review and share the draft accounting treatment certificate.
5.	28/08/2020	Copy of the draft scheme of amalgamation sent.
6.	06/09/2020	Discussion on Draft Accounting treatment certificate.
7.	14/09/2020	Engagement Letter executed for advisory services.
8.	14/09/2020	Draft Accounting Certificate shared.
9.	19/09/2020	Execution of Engagement Letters for appointment of M/s R.V.Shah & Associates and M/s Sharp & Tannan as Valuer and M/S Finshore Management Services Ltd and M/S Ashika Capital Ltd as Merchant Bankers.

10.	21/09/2020	Draft Secretarial Documents related to the proposed Scheme of Amalgamation shared for discussion.
11.	25/09/2020	Various updated secretarial documents exchanged.
12.	27/09/2020 and 28/09/2020	Mail written from ECL to Consultants to expedite all the activities in order to have BM on the target date and share the draft scheme, draft valuation and draft fairness reports.
13.	30/09/2020	Trading window closed and intimation given to Employees and Stock Exchange for proposed amalgamation.

24. With regard to the submission of the Noticee that the board meeting for consideration of amalgamation did not take in September, 2020, I find it appropriate to take note of the email dated September 09, 2020 sent by Mr. Ashutosh Agarwal (CFO, ECL), wherein he had updated the status of the amalgamation process to Noticee and other connected entities:

"…2 Independent Directors of SPL – Mr Abraham and Ms Hemamalini resigned from Board of SPL due to their personal reasons
SPL will have 4 controlled directors of ECL and by virtue of the same, SPL board will become controlled board by ECL and hence will become a subsidiary of ECL. …
SPL will tentatively call the Board Meeting on 18th Sep to accept the resignation of the Directors.
Merger
Proposed date for calling Board Meetings of ECL and SPL for approval of Merger would be 5th Oct (Monday)." (Emphasis supplied)

25. From the said email dated September 09, 2020, it is apparent that the deferral of the board meeting was on account of supervening factors, i.e., resignation of two independent directors of SPL, SPL's board meeting on September 18, 2020 for acceptance of the resignation of directors and SPL becoming a subsidiary of ECL. The deferral of the board meeting due to the said resignation had no bearing whatsoever on the overall proposal amalgamation of SPL with ECL as it clearly mentioned that proposal of amalgamation was underway and the proposed date of the board meeting for consideration of amalgamation was October 05, 2020.

26. *Arguendo*, if it is accepted that the UPSI came into existence on September 30, 2020, when ECL/SPL had communicated details concerning the Board Meeting scheduled for October 5, 2020, then it would amount to narrowing down the scope of the regulations. It is conspicuous that the said email dated August 18, 2020 informed with a high degree of certitude to the concerned employees of ECL and SPL that the proposed amalgamation was in advanced stage and the board meeting of ECL for consideration

of the amalgamation proposal was scheduled in the period between September 15-20, 2020. In the facts and circumstances of this case, the high level of certainty demonstrated in the said email dated August 18, 2020 and the flurry of activity followed lead to the only conclusion that on the basis of the said email, the UPSI had come into existence on the date of the email, i.e., on August 18, 2020. Therefore, I find that the SCN rightly alleges that the UPSI pertaining to the amalgamation had come into existence on August 18, 2020. Thus, the contentions raised by the Noticee, in this regard, are untenable and bereft of merit.

27. With regard to reliance placed by Noticee on the order of Hon'ble SAT in the matter of *Pia Johnson and Anr. v. SEBI*[2]**,** I find that in the said case, the UPSI pertained to the 'sale' of shares of India Land and Properties Limited (ILPL) by Indiabulls Distribution Services Limited (IDSL) to Indiabulls Infrastructure Limited(IIL). In the said case, UPSI period, as per Hon'ble SAT, had commenced from the resolution dated March 01, 2017 which had authorized the board of directors of IIL in terms of section 186 of the Companies Act, 2013 to invest upto Rs. 600 crore by way of grant of loan or purchase of a company and not the target company (India Land and Properties Limited) specifically. In *Pia Johnson*, the appellants had disputed both the UPSI period as well as the possession of UPSI. In the said matter, Hon'ble SAT made a specific finding that the appellants were not in possession of UPSI at paragraphs 20 and 21 of the order of Hon'ble SAT dated April 8, 2022 unlike the present case. Further, in the *Pia Johnson* matter, the information regarding the sale of the target company (India Land and Properties Limited) was in the public domain since July 15, 2016. However, in the present case, the UPSI regarding the amalgamation of SPL and ECL had come into existence via an email dated August 18, 2020 which asked the concerned employees to prepare for potential amalgamation and provided the tentative date of the board meeting for approval of the amalgamation. The present case is further distinguishable from *Pia Johnson* matter as there lies no resolution in terms of section 186 of the Companies Act, 2013. Besides, it is not the case of Noticee that the information regarding the amalgamation of SPL was in the public domain in the present case.

[2]Appeal No. 59 of 2020.

Therefore, the matter of *Pia Johnson* relied on by Noticee emanates from a different set of factual matrix and hence, cannot be applied to the facts of the present case.

28. These facts clearly go on to show that the information about the proposed amalgamation had crystallised on August 18, 2020 and not after. Accordingly, I find that the UPSI in the present case came into existence via the said email dated August 18, 2020. Therefore, the UPSI period commenced from August 18, 2020 as mentioned in the SCN.

End of UPSI period

29. I find that ECL had made the corporate announcement to BSE and NSE regarding the proposed amalgamation between SPL and ECL on October 05, 2020. The said corporate announcement was broadcasted on BSE at 12:19:19 hrs. and on NSE at 12:21:38 hrs. Thus, the aforesaid UPSI became public on October 05, 2020 at 12:19:19 hrs. when said information was finally disclosed to the public through corporate announcement by ECL on the platform of the stock exchanges.

UPSI period

30. In light of the foregoing discussions, I find that the UPSI period lies from August 18, 2020 to 12:19:19 hrs. on October 5, 2020.

C. Whether the Noticee was an insider in terms of PIT Regulations?

31. Regulations 2(1)(d) and 2(1)(g) of PIT Regulations, defines 'insider' and 'connected person' as under:

> *"…*
> *2(1) (g)"insider" means any person who is:*
> *i) a connected person; or*
> *ii) in possession of or having access to unpublished price sensitive information;*
> *…*
> *2(1) (d)"connected person" means-*
> *(i)any person who is or has during the six months prior to the concerned act been associated with a company, directly or indirectly, in any capacity including by reason of frequent communication with its officers or by being in any contractual, fiduciary or employment relationship or by being a director, officer or an employee of the company or holds any position including a professional or business relationship between himself and the company whether temporary or permanent, that allows such person, directly or indirectly, access to unpublished price sensitive information or is reasonably expected to allow such access.*
> *…"*

32. Baker Tilly was involved in discussions with ECL since June 2020 for evaluation of restructuring options and settling blueprint. It is noted from the disclosure dated October 05, 2020 made by ECL on the stock exchanges that Baker Tilly was the financial adviser for the proposed amalgamation. The Noticee was a consultant working at Baker Tilly in the capacity of being its partner during the UPSI period wherein he was actively exploring and evaluating various restructuring options for ECL on behalf of Baker Tilly. Therefore, it is not in dispute that the Noticee was a 'connected person' within the ambit of regulation 2(1) (d) of the PIT Regulations and thus, an insider of ECL under regulation 2(i)(g) i) of the PIT Regulations.

33. Though it is established that the Noticee is an insider by virtue of being a connected person as explained above under 2(i)(g) i) of the PIT Regulations, in this case, it is curious to note that there is evidence to establish that Noticee is insider within the ambit of regulation 2(i)(g) ii) of the PIT Regulations too. The emails that Noticee received close to the announcement of the proposed amalgamation were recorded in the SCN/ Investigation Report. As explained in paragraph 22 above, Noticee participated in all conference calls and received/sent emails with respect to the amalgamation since June 24, 2020. The relevant extracts of the said emails along with my observations are recorded in the Table below:

Table 2

Sr. Nos	Date and Time of email	Email from	Content	Observation
1.	August 21, 2020 at 03:15 P.M.	Mr. Shounak Mitra (Khaitan & Co. LLP) to Mr. Gaurav Somani (Deputy General Manager (Finance), ECL)	*"..Also find attached the Activity Schedule circulated to Deepak last week. …"*	The activity schedule was with respect to the amalgamation of SPL with ECL. The said activity schedule was dated August 12, 2020 and as per the said email dated August 21, 2020, Noticee was privy to the said activity schedule. This shows Noticee's active involved in preparing the proposal for amalgamation.
2.	August 24, 2020 at 10:23 A.M.	Noticee to Mr. Gaurav Somani (Deputy General Manager (Finance), ECL) and other	*"… Please find attached 1st draft of pre board meeting activity schedule.* *We will also circulate activity*	As on August 24, 2020, Noticee was aware that the amalgamation was to be considered in the upcoming board meeting.

		employees of ECL.	*schedule after the Board Meeting till NCLT Approval asap."*	
3.	September 09, 2020 at 12:24 P.M.	Mr. Ashutosh Agarwal (CFO, ECL) to Noticee and others.	*"… Proposed date for calling Board Meetings of ECL and SPL for approval of Merger would be* *5th Oct (Monday) ….*	As on September 09, 2020, Noticee was aware that the board meeting for consideration of the proposed amalgamation was proposed to be conducted on October 05, 2020.

34. Upon perusal of the aforesaid emails communications and the conference calls involving Noticee during the pre UPSI and the UPSI period starting from June 24, 2020, I find that Noticee was actively and closely involved in the amalgamation process. Further, he had prepared various documents including a draft of pre board meeting activity schedule with ECL regarding the proposed amalgamation of SPL with ECL. Thus, the Noticee, by the virtue of his position in Baker Tilly, was privy to critical details pertaining to the proposed amalgamation which were not generally available. Noticee in his reply has not disputed that he has received/sent the above mentioned emails along with their attachments as mentioned in Table 2.

35. Accordingly, I find that Noticee was an insider with respect to proposed amalgamation in terms of regulation 2(1)(g) of PIT Regulations being in direct possession of UPSI in addition to being a connected person by being associated with an entity who advised on the said amalgamation.

D. Whether the Noticee traded in the scrip of ECL during the UPSI period?

36. It is an admitted fact that the Noticee had traded in the scrip of ECL during the UPSI period. The trading details of the Noticee in the scrip of ECL in the IP is tabulated below:

Table 3

Date	Buy Qty.	Buy Value (in Rs.)	Sell Qty.	Sell Value (in Rs.)	Period
May 17, 2020 to August 17, 2020	0	0	0	0	Pre UPSI
August 26, 2020	5,953	95,371	0	0	UPSI period
September 3, 2020	850	14,308	0	0	
September 4, 2020	3,000	49,500	0	0	

Date	Buy Qty.	Buy Value (in Rs.)	Sell Qty.	Sell Value (in Rs.)	Period
September 9, 2020	5,000	77,500	0	0	
September 18, 2020	200	3,460	0	0	
September 21, 2020	4,000	68,600	0	0	
October 5, 2020	0	0	19,003	4,44,465	Post UPSI period
Total	19,003	3,08,739	19,003	4,44,465	

37. From the abovementioned Table 3, it can be seen that 100% of the shares of ECL bought by Noticee falls in the UPSI period. I also note that the Noticee had purchased 19,003 shares of ECL during the UPSI period via trades executed on six days as tabulated above. Thereafter, Noticee sold the said 19,003 shares of ECL on the date of announcement, i.e., on October 05, 2020 only after the information regarding the amalgamation was disseminated over the stock exchanges. Noticee, vide the aforesaid trades undertaken in shares of ECL, had earned a profit of Rs.1,35,727/- (Rupees One Lakh Thirty-Five Thousand Seven Hundred Twenty Seven Only)**.**

38. On analysing the trading data of Noticee, it is seen that Noticee did not execute any trade in the scrip of ECL from May 2019 to August 25, 2020. However, during the UPSI period, the scrip of ECL was Noticee's highest traded scrip which contributed to 38.78% of his total trading.

39. The Noticee has contended that his trades in the scrip of ECL were driven by the fundamental performance of the company. Having gone through the said contention, I find that such a contention may appear to be appealing on its face, on an examination of the same, the defense put forward by the Noticee is found to be grossly untenable and lacks merit to be accepted. In this regard, it is seen that the justification tendered by the Noticee is found to be lacking in sufficient evidence to demonstrate that he was driven by the financial performance of ECL. There is no evidence brought on record to even suggest that he had undertaken any analysis of the scrip of ECL. Therefore, I see no reason to accept the present justification of the Noticee and am constrained to record that the Noticee does not succeed in refuting the insider trading charge against him.

40. Further, the Noticee has stated that once the UPSI was made public, the price of the share of ECL had declined as the news was not received well by the public. Noticee has submitted that the act of purchasing can be considered contrary to the effect of the UPSI

when it was disclosed. Here, I note that the moot issue involved is whether the Noticee had traded in the scrip of ECL while in possession of UPSI. As noted above, it has been established that the Noticee was an insider during the UPSI period. The out-of-character trading pattern followed by Noticee in the scrip of ECL is writ large on its face itself to indicate that the trades of Noticee were influenced by the possession of UPSI. In this regard, it is crucial to take note of the order of Hon'ble SAT in the matter of *Ameen Khwaja & Ors. v. SEBI*[4], stated that

> *"34. The burden of proof of having reasonable expectations of having access to UPSI is initially on respondent SEBI. Once the respondent SEBI placed material/probabilities then onus to prove shifts to the other side i.e. the appellants to prove otherwise. Since, admittedly, respondent SEBI is required to establish the facts on preponderance of probability and not beyond reasonable doubt, the similar standard of proof would apply to the appellants to shift the onus…"*

41. In this context, applying the regulatory provisions surrounding the charge of insider trading, I am of the view that as it has been established that Noticee traded in the scrip of ECL while he was an insider and in possession of UPSI, now the Noticee has the burden to demonstrate that he was not in possession of the above noted UPSI or that his trading in the shares of ECL during the UPSI period when he was in possession of the said UPSI was squarely covered under any of the exonerating circumstances provided under regulation 4(1) of the PIT Regulations. However, the Noticee instead of discharging the burden in terms of the extant PIT Regulations, tried to justify his trade on the ground of negative reaction of the market and his fundamental analysis of the scrip of ECL. Accordingly, I find the instant submission of the Noticee lacking in merit.

42. In light of the discussions in the previous paragraphs, there is no dispute that the Noticee, being an insider had traded in the scrip of ECL while in possession of UPSI. Moreover, his trading pattern confirms the nature of UPSI, as he had purchased shares in the scrip of ECL prior to the disclosure of the amalgamation of SPL with ECL. The records before me also show that the Noticee had not traded in the scrip of ECL for more than a year prior to the UPSI period and suddenly, during the UPSI period, the Noticee not just traded in the scrip of ECL rather the said scrip of ECL was his highest traded scrip. It is also a fact that the Noticee has also failed to demonstrate that he was

[4] Appeal No. 584 of 2019.

not in possession of UPSI, or any of the available defences in terms of regulation 4(1) of the PIT Regulations are attracted.

43. The most glaring fact in the whole gamut of these proceedings is that there is an explicit bar on the employees of Baker Tilly to trade in the share of its clients. During the investigation, SEBI sought the Code of Conduct adopted by Baker Tilly as per regulation 9(2) of the PIT Regulations. Baker Tilly vide email dated December 10, 2022 provided relevant extracts of its Code of Conduct which reads as under:

> *"You are prohibited from using or sharing information not publicly disclosed which you obtain during the course of your work for the Employer, for your personal gain or advantage in securities transactions, or for the personal gain or advantage of anyone with whom you improperly share this information. This restriction applies to such information related to any company not just the Employer's clients and their affiliates. The forgoing obligation is in addition to any obligation that you are outright debarred from purchasing or holding securities of entities with respect to which the Employer must maintain independence. **To make the thing abundantly clear you are outright debarred from dealing in shares and securities with the Employer's client (present or past, regular or non-regular)**.(Bold and underline supplied)*

44. It is alarming to note that the Noticee being a partner in Baker Tilly had bought and sold shares of ECL (and made profit in the process), while he was a connected person and that too while in possession of UPSI. Irrespective of these, the Noticee has tried to justify his trades as above, which in my opinion, cannot be accepted. Based on the foregoing discussions, it is established that the Noticee had violated regulation 4(1) of PIT Regulations and section 12A(e) of the SEBI Act.

II. Does the violation, if any, on the part of Noticee attract a monetary penalty under section 15G of the SEBI Act?

45. As it has been established that the Noticee has violated regulation 4(1) of PIT Regulations and section 12A(e) of the SEBI Act, the Noticee is liable for payment of a monetary penalty in terms of section 15G of the SEBI Act. The text of the above said section 15G of the SEBI Act is reproduced below:

> ***SEBI Act***
>
> *"15G. Penalty for insider trading.*
>
> *If any insider who, —*

(i) either on his own behalf or on behalf of any other person, deals in securities of a body corporate listed on any stock exchange on the basis of any unpublished price-sensitive information; or

(ii) communicates any unpublished price-sensitive information to any person, with or without his request for such information except as required in the ordinary course of business or under any law; or

(iii) counsels, or procures for any other person to deal in any securities of any body corporate on the basis of unpublished price-sensitive information, shall be liable to a penalty which shall not be less than ten lakh rupees but which may extend to twenty-five crore rupees or three times the amount of profits made out of insider trading, whichever is higher"

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

46. While determining the quantum of penalty under section 15G of the SEBI Act, the following factors stipulated in section 15J of the SEBI Act have to be given due regard:

SEBI Act

"15J. Factors to be taken into account by the adjudicating officer

While adjudging quantum of penalty under Section 15-I, the adjudicating officer shall have due regard to the following factors, namely: -

(a) the amount of disproportionate gain or unfair advantage, wherever quantifiable, made as a result of the default;

(b) the amount of loss caused to an investor or group of investors as a result of the default;

(c) the repetitive nature of the default."

47. I note that material available on record does not bring out any loss caused to any specific investor or a group of investors, as a result of violations committed by Noticee with respect to UPSI. I note that there is no material available on record to indicate that the violations committed by Noticee are repetitive. Noticee had made a profit of Rs.1,35,727/- (Rupees One Lakh Thirty-Five Thousand Seven Hundred Twenty Seven Only) while trading in shares of ECL, when in possession of UPSI**.** In this regard, I have taken note of the fact that the said profit made by the Noticee has been remitted to the SEBI Investor Protection and Education Fund.

48. In the present case, the Noticee, on account of his professional relationship with Baker Tilly, had asymmetrical access to the UPSI regarding the proposed amalgamation that placed him at an unfair advantage over the others in the market and undermined the level-playing field for trading in the scrip of ECL during the UPSI period.

49. The aforementioned factors have been taken into consideration while adjudging the penalty.

Order

50. Having considered all the facts and circumstances of the case, the material available on record, the factors mentioned in preceding paragraphs and in the exercise of powers conferred upon me under section 15-I of the SEBI Act 1992 read with Rule 5 of the Adjudication Rules, I hereby impose the following penalty on the Noticee:

Noticee	Violations established	Penal Provisions	Penalty
Mr. Deepak Shaw	Regulation 4(1) of PIT Regulations and section 12A (e) of the SEBI Act	Section 15G of the SEBI Act	**Rs. 10,00,000/- (Rupees Ten Lakh only)**

51. I am of the view that the said penalty is commensurate with the lapses/omissions on the part of Noticee.

52. Noticee shall remit/pay the said amount of penalty within 45 days of receipt of this order through the 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.

53. In terms of the provisions of rule 6 of the Adjudication Rules, a copy of this order is being sent to Noticee and also to the Securities and Exchange Board of India.

JAI SEBASTIAN

Digitally signed by JAI SEBASTIAN
Date: 2025.07.03 16:21:32 +05'30'

Date: July 03, 2025
Place: Mumbai

JAI SEBASTIAN
ADJUDICATING OFFICER