BEFORE THE ADJUDICATING OFFICER

SECURITIES AND EXCHANGE BOARD OF INDIA

ADJUDICATION ORDER NO. Order/PM/PA/2021-22/15733-15734

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:

Noticee No.	Name of the Noticee	PAN
1.	Santosh K Rajpuria	AAYPR6561R
2.	Sachin N Kanojiya	DHTPK4023E

In the matter of Mohota Industries Ltd.

*(Noticee 1 and 2 are individually referred to by their respective names or corresponding numbers and collectively referred to as the "**Noticees**")*

A. BACKGROUND

1. Securities and Exchange Board of India (hereinafter referred to as "**SEBI**") investigated the scrip of Mohota Industries Ltd. *(formerly known as Rai Saheb Rekhchand Mohota Spg. & Wvg. Mills Ltd.)* (hereinafter referred to as the "**Company**") to ascertain any violation of the provisions of the Securities and Exchange Board of India Act, 1992 (hereinafter referred to as the "**SEBI Act**") and SEBI (Prohibition of Insider Trading) Regulations, 2015 (hereinafter referred to as the "**PIT Regulations**") by the promoters, directors and key managerial personnel of the Company during the period from July 28, 2015 to August 30, 2016 (hereinafter referred to as "**IP**").

2. In relation to the above, the Company was requested to provide documents pertaining to the trading plans approved by the Company. Accordingly, pursuant to the aforesaid email, the Company submitted trading plan of the

members of promoter group of the Company dated July 28, 2015 (hereinafter referred to as "**Trading Plan**") sent to BSE Ltd. (hereinafter referred to as "**BSE**") and National Stock Exchange of India Ltd. (hereinafter referred to as "**NSE**"). It was observed that the following persons falling under the definition of "insider" under PIT Regulations had undertaken to trade certain number of shares between the period commencing from July 28, 2015 and ending on July 31, 2016 (hereinafter referred to as "**Trading Period**") as provided below:

Sl. No.	Security	No. of Shares	Nature of Trade	Name of Share Holder (members of promoter group of the company)
1	Equity	2,51,233	Sale	Shri Ranchhoddas Mohota
2	Equity	14,15,400	Sale	Shri Ranchhoddas Mohota(HUF)
3	Equity	2,91,367	Sale	Shri Vinod Kumar Mohota
4	Equity	83,533	Sale	Shri Vinod Kumar Mohota(HUF)
5	Equity	2,80,517	Sale	Shri Vinay Kumar Mohota
6	Equity	1,47,000	Sale	Shri Vinay Kumar Mohota(HUF)
7	Equity	4,47,097	Sale	Smt. Suryakantadevi Mohota
8	Equity	3,51,966	Sale	Smt. Veenadevi Mohota
9	Equity	14,000	Sale	Shri Vaibhav kumar Mohota
10	Equity	49,833	Sale	Ku. Vibha Mohota
11	Equity	37,100	Sale	Smt. Swati Mohota
12	Equity	68,075	Sale	Smt. Kirandevi Bhagat

3. On analysis of the transaction statements provided by National Securities Depository Limited (hereinafter referred to as "**NSDL**") and Central Depository Services Ltd. (hereinafter referred to as "**CDSL**") and trade details provided by BSE and NSE, it was observed that the trades of aforesaid persons fell in three categories, (i) trades were executed during prohibited period in violation of regulation 5(2)(ii) of the PIT Regulations; (ii) trades were executed in deviation of the Trading Plan in violation of regulation 5(4) of the PIT Regulations; or (iii) trades were not executed at all, which was again in violation of regulation 5(4) of the PIT Regulations.

4. As the aforesaid violations were observed with respect to the Trading Plan, it is alleged that Noticee 1 being the compliance officer of the Company until November 14, 2015, and thereafter, Noticee 2, being the compliance officer the Company, failed to review the Trading Plan properly for potential

violations of PIT Regulations and monitor the implementation of the Trading Plan, which resulted in breach of regulation 5(3) of the PIT Regulations.

5. Given the above, SEBI initiated adjudication proceedings against the Noticees for the aforesaid alleged violation.

B. APPOINTMENT OF ADJUDICATING OFFICER

6. Pursuant to the investigation, SEBI initiated adjudication proceedings against the Noticees and appointed the undersigned as the adjudicating officer *vide* order dated August 27, 2020 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 15HB of the SEBI Act for the alleged violation of regulation 5(3) of the PIT Regulations by the Noticees.

C. SHOW CAUSE NOTICE, REPLY AND HEARING

7. A show cause notice (hereinafter referred to as "**SCN**") bearing reference no. EAD-8/PM/NJMR/18255/2020/1 dated October 29, 2020 was served on the Noticees under rule 4 of the SEBI Adjudication Rules to show cause as to why an inquiry should not be held against them in terms of rule 4 of the SEBI Adjudication Rules and penalty should not be imposed under section 15HB of the SEBI Act for the violation alleged to have been committed by them. In the SCN, the Noticees were asked to indicate whether they would prefer a personal hearing before the adjudicating officer in the matter. I note that the SCN was duly served on the Noticees.

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

(i) As per the reply of Company dated July 11, 2019, the Company had submitted the Trading Plan to BSE and NSE *vide* letter dated July 28, 2015. The Trading Plan included trading details of the members of promoter group as provided in paragraph 2 above.

(ii) *Vide* email dated January 07, 2020, the Company submitted the details of all persons for whom the trading plan dated July 28, 2015 was approved by the Company. To ascertain whether the entities for whom the Trading Plan was approved by the Company had deviated from the trading plans, detailed analysis was done separately for each entity which has been discussed in subsequent paragraphs.

(iii) **Veenadevi Vinodkumar Mohota**: The Trading Plan provided that Veenadevi Vinodkumar Mohota would sell 3,51,966 shares of the Company during the Trading Period. However, it was observed that she had sold 3,39,966 shares. It was observed that the aforesaid deviation has resulted in alleged violation of regulation 5(4) of the PIT Regulations. Further, due to declaration of financial results for the quarter ending on March 31, 2016 on May, 30, 2016 and quarter ending on June, 2016 on August 13, 2016, the aforesaid person was not permitted to trade between the period from February 29, 2016 to June 01, 2016 (hereinafter referred to as "**March 2016 Restricted Period**") and between June 02, 2016 to August 17, 2016 (hereinafter referred to as "**June 2016 Restricted Period**"). However, it was observed that the aforesaid person had sold 3,39,966 shares during March 2016 Restricted Period and June 2016 Restricted Period, which allegedly led to violation of regulation 5(2)(ii) of the PIT Regulations.

(iv) **Kiran Bhagat:** With respect to Kiran Bhagat, Company had approved Trading Plan for sale of 68,075 shares, however, it was observed that she had sold 68,193 shares and bought 118 shares of the Company, having net sale of 68,075 shares between the period

May 16, 2016 to June 17, 2016, which amounted to deviation from Trading Plan resulting in alleged violation of regulation 5(4) of the PIT Regulations. Further, it was observed that the aforesaid person had traded during the March 2016 Restricted Period and June 2016 Restricted Period, which led to alleged violation of regulation 5(2)(ii) of the PIT Regulations.

(v) **Vinod Kumar Mohota:** It was observed that Vinod Kumar Mohota had sold 2,78,221 shares pursuant to the Trading Plan during the June 2016 Restricted Period as opposed to selling 2,91,367 shares as declared in the Trading Plan. It was observed that by not selling shares in accordance with the Trading Plan, Vinod Kumar Mohota had allegedly violated regulation 5(4) of the PIT Regulations. Further, due to trading during the June 2016 Restricted Period, in terms of regulation 5(2)(ii) of the PIT Regulations, Vinod Kumar Mohota was not permitted to trade during the aforesaid period. However, as brought out before he had traded between the aforesaid period. Thus, it was alleged that he had violated regulation 5(2)(ii) of the PIT Regulations as well.

(vi) **Suryakantadevi Mohota:** The Company had approved sale of 4,47,097 shares of the Company by Suryakantadevi Mohota in the Trading Plan. It was observed that she had not sold any shares of the Company during the aforesaid period. On enquiry, it was observed that she had passed away on November 29, 2011, and Vinod Kumar Mohota was the executor of her Trading Plan. Thus, it was alleged that Vinod Kumar Mohota, as executor of Smt. Suryankantadevi Mohota, had deviated from the Trading Plan and had allegedly violated regulation 5(4) of the PIT Regulations.

(vii) **Ranchhoddas Mohota HUF, Vinod Kumar Mohota HUF, Vinay Kumar Mohota, Vinay Kumar Mohota HUF and Swati Mohota:** The Trading Plan provided that the aforesaid persons/entities would sell shares of the Company as provided in paragraph 2 above.

However, it was observed that the aforesaid persons/entities had not sold any shares of the Company during the Trading Period. Thus, it was alleged that Ranchhoddas Mohota HUF, Vinod Kumar Mohota HUF, Vinay Kumar Mohota, Vinay Kumar Mohota HUF and Swati Mohota have violated regulation 5(4) of the PIT Regulations.

(viii) **Vaibhav Kumar Mohota and Vibha Mohota:** It was observed that the aforesaid persons had traded in the shares of the Company in accordance with the Trading Plan. However, they had traded during the June 2016 Restricted Period. Therefore, it was alleged that Vaibhav Kumar Mohota and Vibha Mohota had violated regulation 5(2)(ii) of the PIT Regulations.

(ix) *Vide* email sent on February 18, 2020, the Company was requested to provide certain information with respect to the Trading Plan. The Company's response to the aforesaid email is reproduced below verbatim:

Query	Response of the Company
Whether the trading plan dated July 28, 2015 was approved/set up in accordance with all applicable provisions of Regulation 5 of SEBI (Prohibition of Insider Trading) Regulations), 2015. Please provide reasons along with all supporting documents in support of your claim.	Yes, the trading plan dated July 28, 2015 was approved/set up in accordance with all applicable provisions of Regulation 5 of SEBI(Prohibition of Insider Trading) Regulations, 2015("SEBI(PIT) Regulations, 2015").
As per details of trades pursuant to their respective trading plans as provided by certain entities/promoters/promoter group members, some entities/promoters/promoter group members were observed to be trading in prima facie violation of Regulation 5(2)(ii) of SEBI (PIT) Regulations, 2015…. In this regard, you are advised to provide your comments. Also, provide your comments regarding the implementation of the aforesaid trading plan and monitoring of the	Company do not allow to trade during the window closure period. As trading plan was new concept It is requested to please consider the matter as if no Trading plan was executed.

Query	Response of the Company
same by the Compliance officer as per Regulation 5 of the SEBI (PIT) Regulations, 2015.	
Details of any actions taken/penalty imposed by the Company on any entity for violation of the Model Code of Conduct of Prevention of Insider Trading of Mohota Industries Ltd. prepared in accordance with SEBI (PIT) Regulations, 2015 in relation to the trading plan dated July 28, 2015.	NIL

(x) As per the reply of the Company *vide* email sent on March 02, 2020, it was observed that Noticee 1 was the compliance of the Company till November 14, 2015, and thereafter, Noticee 2 was appointed as the compliance officer.

(xi) It is alleged that Noticees have violated regulation 5(3) of the PIT Regulations as they had failed to review the Trading Plan properly, seek necessary undertakings and monitor the implementation of Trading Plan, on account of the following:

(a) The Trading Period began from July 28, 2015 and ended on July 31, 2016. It is understood that in a period of 1 year, the Company would declare financial results, and trading around such period may violate regulation 5(2)(ii) of the PIT Regulations. However, it was observed neither did the Trading Plan contain any information regarding the prohibition to trade during the March 2016 Restricted Period and June 2016 Restricted Period nor any undertakings were taken from the aforesaid persons for not trading during the restricted periods.

(b) As provided above, it was observed that trades of Veenadevi Vinodkumar Mohota, Kiran Bhagat, Vinod Kumar Mohota, Vaibhav Kumar Mohota and Vibha Mohota were in violation of regulation 5(2)(ii) of the PIT Regulations and trades of Veenadevi Vinodkumar Mohota, Kiran Bhagat, Ranchhoddas Mohota HUF, Vinod Kumar Mohota HUF, Vinay Kumar Mohota, Vinay Kumar Mohota HUF and Swati Mohota were in violation of regulation 5(4) of the PIT Regulations. In view of the aforesaid, it was observed that no action was taken by the Company for violation of model code of conduct of prevention of insider trading framed by the Company pursuant to regulation 9(1) of the PIT Regulations (hereinafter referred to as "**Company CoC**"). Further, it was observed that no undertakings/clarifications were sought from the aforesaid persons/entities. It was observed that only after the end of Trading Period, the Company submitted a letter dated August 01, 2016 to the stock exchanges for withdrawal of Trading Plan.

(c) *Vide* email sent on March 02, 2020, the Company informed that there was an inadvertent error in the Trading Plan with respect to the number of shares to be sold by Veenadevi Vinodkumar Mohota. However, it was observed that the reply of the Company is silent if any undertakings were sought Noticee 1 from Veenadevi Vinodkumar Mohota in relation to the aforesaid issue.

9. The Noticees submitted separate replies to the SCN *vide* email sent on July 14, 2021. The submissions of the Noticees are summarized hereunder:

9.1 <u>Noticee 1</u>

(i) Noticee 1 has denied that he had violated regulation 5(3) of the PIT Regulations.

(ii) He refutes that the reply of the Company *vide* email sent on March 02, 2020 is silent regarding undertakings sought by him from the promoters/members of promoter group while approving the Trading Plan. The Trading Plan submitted to the stock exchanges clearly mentions that the respective shareholders had undertaken that they would not trade during the cool-off period of 6 months beginning from July 28, 2015 to January 27, 2016 (hereinafter referred to as "**Cool-Off Period**"). The Trading Plan was approved for a period of one year. Noticee 1 was the compliance officer of the Company until November 14, 2015, which fell within the Cool-Off Period. During his tenure with the Company, none of the promoters/promoter group members of the Company who had submitted the Trading Plan had sold shares of the Company or deviated from the Trading Plan.

(iii) In view of the above, Noticee 1 has denied that he had failed to review the Trading Plan for possible violations and monitor the Trading Plan.

9.2 <u>Noticee 2</u>

<u>Submission 1: Inordinate delay in issuing the SCN</u>

(a) The submission of the Trading Plan to the Company, approval of the Trading Plan by the Company, details regarding sale of shares during the Trading Period and application submitted for withdrawing the Trading Plan were in the public domain from August 01, 2016. However, the SCN was issued on October 29, 2020, *i.e,* after a delay of more than four years. Therefore, the adjudication proceedings should be dropped for the aforesaid reason alone.

(b) In support of the aforesaid submission, Noticee 2 has placed reliance on the following orders/judgments:

(b.1) Ashok Shivlal Rupani and Anr. vs. SEBI, decided by Hon’ble Securities Appellate Tribunal (hereinafter referred to as “**SAT**”), on August 22, 2019.

(b.2) Mr. Rakesh Kathotia and Others vs. SEBI, decided by Hon’ble SAT, on May 27, 2019.

(b.3) Anilkumar Nandkumar Harchandani and Ors vs. SEBI, decided by Hon’ble SAT, on December 05, 2019.

(b.4) Corporation Bank and Anr vs. Navin J. Shah, decided by Hon’ble Supreme Court, on January 25, 2000.

(b.5) Rajendra Singh and Ors vs. Santa Singh and Ors, decided by Hon’ble Supreme Court, on August 16, 1973.

(b.6) Government of India vs. Citedal Fine Pharmaceuticals, decided by Hon’ble Supreme Court, on July 20, 1989.

<u>Submission 2: Breach of principles of natural justice</u>

(a) After providing inspection on April 01, 2021, *vide* email sent on April 02, 2021, the Noticees requested for copies of certain additional documents. *Vide* email sent on April 15, 2021, the aforesaid request of the Noticees was denied by placing reliance on the following orders of Hon’ble SAT, ***Mayrose Capfin Private Limited vs. SEBI***, decided on March 30, 2012, ***Shruti Vora vs. SEBI***, decided on February 12, 2020, and ***Anant R Sathe vs. SEBI***, decided on July 17, 2020. The Noticees have stated that due to not providing the requisite documents referred in the April 02, 2021 email along with a copy of the investigation report, the right of the Noticees to deal with the allegations effectively has been trampled.

(b) In context of the paragraph above, Noticee 2 has submitted that the aforementioned orders of Hon'ble SAT relied upon by me in the April 15, 2021 email for rejecting the request for additional documents are distinguishable and do not apply to him. Further, Noticee 2 has placed reliance on the following orders/judgments:

(b.1) Smitaben N Shah vs. SEBI, decided by Hon'ble SAT, on July 30, 2010.

(b.2) H. R. Mehta vs. Assistant Commissioner of Income Tax, Mumbai, decided by Hon'ble Bombay High Court, on June 30, 2016.

(b.3) SEBI vs. Price Waterhouse, decided by Hon'ble Supreme Court, on January 10, 2017.

(b.4) Shri B. Ramalinga Raju vs. SEBI, decided by Hon'ble SAT, on May 12, 2017.

Submission 3: Noticee 2 has not violated regulation 5(3) of the PIT Regulations as he had no involvement in approval of Trading Plan and he was not made aware of execution of trades undertaken by members of promoter group

(a) Noticee 2 has denied the allegation that he did not assess potential violations of Trading Plan and did not monitor the Trading Plan properly.

(b) Noticee 2 was appointed as the compliance officer of the Company on November 14, 2015. Before his appointment as compliance officer, the promoters/members of promoter group and their immediate relatives had already submitted their Trading Plan to the Company, the Company had already approved the Trading Plan and communicated the same to the stock exchanges. Noticee 2 had no involvement in approval of Trading Plan.

(c) The Trading Plan was incapable of implementation as when the PIT Regulations and the Trading Plan submitted by the promoters/member of the promoter group were read together, due to the Cool-Off Period and the Restricted Periods *(defined below),* the members of promoter group could effectively trade for only eight trading days during the Trading Period. The aforesaid situation is explained in detail below:

(c.1) Due to the Cool Off Period, the members of promoter group could not trade for six months from July 28, 2015 to January 27, 2016.

(c.2) Due to the declaration of financial results pertaining to December 2015 quarter on February 14, 2016, the members of promoter group could not trade upto February 16, 2016.

(c.3) Due to the declaration of financial results pertaining to the March 2016 quarter on May 30, 2016, the members of promoter group could not trade during the March 2016 Restricted Period (*i.e*, February 29, 2016 to June 01, 2016).

(c.4) Due to the declaration of financial results pertaining to June 2016 quarter on August 13, 2016, the members of promoter group could not trade during the June 2016

Restricted Period (*i.e,* from June 02, 2016 to August 17, 2016).

(periods covered under (c.2), (c.3) and (c.4) above are hereinafter collectively referred to as the "**Restricted Periods**").

Due to the impracticality of execution of Trading Plan, the promoters/members of promoter group had applied for withdrawal from the Trading Plan.

(d) It is the duty of promoter/members of the promoter group to make disclosure about execution of Trading Plan submitted by them. Since the aforesaid persons did not intimate the execution of trades under the Trading Plan, Noticee 2 did not come to know about execution of Trading Plan or deviation from the Trading Plan. The Trading Plan was not intimated to him, therefore, the Company had followed the normal process of restricting trades during trading window closure period.

(e) The Company submitted a letter to the stock exchanges dated August 01, 2016 informing that due to low trading volume, some promoters/member of promoter group were not able to execute the Trading Plan completely and had requested for withdrawal/extinction of the said Trading Plan. From the said withdrawal letter, the Company became aware of the Trading Plan and that (i) Ranchhoddas Mohota (since expired), Ranchhoddas Mohota HUF, Vinod Kumar Mohota, Shri Vinay Kumar Mohota Vinay Kumar Mohota HUF, Smt. Swati Mohota and Smt. Suryakantdevi Mohota (since expired) had not sold any shares during the Trading Period; (ii) Vinod Kumar Mohota had sold 2,78,221 shares of the Company as opposed to selling 2,91,367 shares as declared in the Trading Plan.

(f) *Vide* email sent on March 02, 2020, it was communicated to SEBI that at the time the Trading Plan was submitted, the concept of trading plan was new in India, therefore, it was requested to consider as if the Trading Plan was not submitted at all. To support the aforesaid statement, Noticee 2 has cited an extract from the Report of the High Level Committee to Review the SEBI (Prohibition of Insider Trading) Regulations, 1992 formed under the Chairmanship of Former Chief Justice N.K Sodhi (hereinafter referred to as the "**Sodhi Committee Report**").

10. After considering the facts and circumstances of the case, the undersigned granted an opportunity of personal hearing to the Noticees on July 01, 2021 *vide* notice of hearing sent *vide* email on June 21, 2021. *Vide* email sent on June 24, 2021, the authorized representatives of the Noticee (hereinafter referred to as "**ARs**") requested for adjournment of the aforesaid hearing due to the pandemic and lockdown imposed. Therefore, the hearing granted on July 01, 2021 was rescheduled to July 22, 2021 *vide* email sent on June 26, 2021. In view of COVID-19, the hearing was scheduled through video conferencing on cisco webex platform. On July 23, 2021 the hearing was conducted wherein the ARs appeared before me through video conference and reiterated the submissions made by the Noticees *vide* email sent on July 14, 2021. Further, the ARs sought an additional time of seven days to make fresh submissions, if any, which was acceded to, however, *vide* email sent on July 27, 2021 ARs submitted that they do not have any fresh submissions to make. In view of the above, I find it appropriate to proceed based on the material available on record.

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 Noticees have violated regulation 5(3) of the PIT Regulations?

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

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

12. In his reply, Noticee 1 has submitted responses to the violation alleged against him on merit, whereas Noticee 2 in his reply, has responded to the charges levelled against him in two segments, *viz,* first, by raising certain preliminary objections and then by offering his explanations on merit. I find it appropriate to deal with the preliminary contentions raised by Noticee 2 before moving to the merits of the case. With respect to the first submission of Noticee 2, I note that he has contended that the issuance of SCN after more than four years is illegal, unjust and unfair and solely on this basis the adjudication proceedings should be dropped. In relation to the above, I find that although the time taken and efforts involved in an investigation may vary from case to case, generally investigation per-se is a time consuming process that involves collection, scrutiny and careful examination of unique client code (UCC) details, know your information (KYC) details, trade logs, trading plans, transaction statements and off-market transfers obtained from various entities including but not limited to the company, the auditors, the stock exchanges, the depositories, the brokers, the registrar to an agent, and therefore no time limit can be fixed in this regard to enable a regulator to take appropriate disciplinary action for the safeguard and improvement of the system/market. I note that in the present case the sequence of events that has led to the passing of the current adjudication order is as follows:

(i) As part of its regulatory exercise, SEBI started examining the present matter on January 29, 2019.

(ii) Further, the detailed investigation in the matter started on June 06, 2019 and was concluded on March 31, 2020.

(iii) The undersigned was appointed as the adjudicating officer *vide* order dated August 27, 2020 which was conveyed through communication dated August 31, 2020.

(iv) The undersigned issued the SCN to the Noticees on October 29, 2020.

13. Further, I note that in the current adjudication proceedings, the Noticees have sought adjournments at various points of time with respect to submitting reply, attending inspection and attending hearings granted to them. The details of the same are provided below:

(i) Pursuant to the request of the ARs, the Noticees were granted an opportunity of inspection on January 12, 2021. *Vide* email sent on January 11, 2021, the ARs requested for rescheduling the inspection granted on January 12, 2021 to January 22, 2021 at 3.00 PM. The aforesaid request was acceded to. Further, on January 21, 2021, the AR confirmed its attendance for the inspection scheduled on January 22, 2021.

(ii) However, on the date of inspection, the ARs did not make an appearance. I note from the material available on record that the ARs did not send any communication regarding their inability to attend the inspection or request for rescheduling the same. Instead, the ARs directly sent an email at 4.23 PM on January 22, 2021 (*i.e,* after the time allotted specifically for inspection scheduled had passed), for rescheduling the inspection granted on January 22, 2021 and cited personal difficulty as a reason for not attending the inspection.

I find that the aforesaid conduct of the ARs is reflective of their lackadaisical attitude towards the time of this forum.

(iii) *Vide* email sent on February 10, 2021, the ARs were again given an opportunity of inspection on February 18, 2021. On February 17, 2021, the ARs confirmed their presence for the inspection. However, the ARs *vide* email sent on February 18, 2021 again cited personal reasons for rescheduling the inspection. I note that finally the inspection took place on April 01, 2021.

(iv) *Vide* email sent on April 02, 2021, the ARs requested for certain additional documents. The aforesaid request was denied *vide* email sent on April 15, 2021. The Noticees were informed *vide* another email on the same day that the reply of the Noticees should be submitted by April 30, 2021.

(v) I note that *vide* email sent on May 01, 2021, the ARs requested for additional time to file reply which was acceded to even though the Noticees requested for an extension to submit a reply after the due date for submitting reply had passed. I find that the aforesaid conduct again demonstrates the casual manner in which the Noticees and ARs have dealt with the current proceedings. Pursuant to the email above, the Noticees were given time till May 17, 2021 to file a reply *vide* email sent on May 03, 2021.

(vi) I note that despite the aforesaid extension, the ARs again requested for additional time to submit a reply *vide* email sent on May 19, 2021, *i.e,* the ARs requested for an extension 2 days after the time limit given for submitting the reply had passed.

(vii) *Vide* email sent on June 21, 2021, the Noticees and the ARs were informed that 8 months have passed since issuance of the SCN, and the Noticees have not submitted a reply yet. To expedite the process, a hearing opportunity was given to the Noticees on July 01, 2021. I note that *vide* email sent on June 24, 2021, the ARs sought adjournment with respect to the hearing and requested time till July 15, 2021 for submitting a reply. The request with respect to the reply was acceded to and the hearing was rescheduled to July 22, 2021.

(viii) I note that the ARs submitted the reply with respect to the Noticees *vide* email sent on July 14, 2021 and that the hearing finally took place on July 23, 2021. In the hearing, as noted above, the ARs requested for additional time period of seven days to make fresh submissions, which was allowed. *Vide* email sent on July 27, 2021, the ARs informed that they had no fresh submissions to make in the present matter.

I find that the aforesaid conduct of the Noticees and the ARs clearly exhibits that time and again, on one pretext or the other, the Noticees and the ARs have slowed the current adjudication proceedings. Therefore, I find that if the Noticees and the ARs were concerned regarding the time taken for initiating the adjudication proceedings, their conduct should have been accordingly aligned to aid the undersigned to progress with the current adjudication proceedings without recourse to multiple adjournments. It is on record that the Noticees submitted their reply to the SCN nearly 8 months after the issuance of the SCN, which does not help the aforesaid submission of Noticee 2.

14. Moving on, I note that Noticee 2 has relied on certain orders and judgments in support of his submission regarding delay. My observations with respect to the same are provided below:

(i) <u>Ashok Shivlal Rupani and Anr. vs. SEBI, decided by Hon'ble SAT, on August 22, 2019</u>: I note that in the *Ashok Shivlal* matter, the show cause notice was issued after 8 years from the time the alleged violation had occurred. However, in the present case, Noticee 2 has objected with respect to a delay of 4 years, which is nearly half of the delay period alleged in the aforesaid matter. Further, I note that the delay in the *Ashok Shivlal* matter pertained to disclosure violations under the PIT Regulations, Securities and Exchange Board of India (Substantial Acquisition of Shares and Takeovers) Regulations, 2011 (hereinafter referred to as the "**SAST Regulations**") and the Securities and Exchange Board of India (Listing Obligations and Disclosure Requirements) Regulations, 2015. The Hon'ble SAT had noted in this matter that since the disclosures were already made under the provisions of the SAST Regulations, the non-compliance under the PIT Regulations becomes technical in nature. However, in the present matter, there is no question of technical compliance. Thus, I find that the facts of the present matter are distinguishable on the grounds of the delay period, the alleged violation as well as the considerations involved in allowing the appeal. Further, I note that the aforesaid *Ashok Shivlal* order was appealed before the Hon'ble Supreme Court by SEBI, which was dismissed by it *vide* order dated November 15, 2019, however, it is important to note that the Hon'ble Court had kept the question of law open.

(ii) <u>Mr. Rakesh Kathotia and Others vs. SEBI, decided by Hon'ble SAT, on May 27, 2019</u>: Similar to the *Ashok Shivlal (supra)* order, I find that the proceedings in this case pertained to disclosure violations under the SAST Regulations occurring in the years 1999-2000 and 2005-2011. It was argued by the appellants that there was a delay of approximately 11 years in initiating the proceedings. The Hon'ble SAT in this case *inter alia* held that *"the appellant cannot be penalized for the alleged violation which in any case <u>was substantially complied with under Chapter III of the Regulation</u>" (emphasis supplied).* I find that the present case is different from the facts of the *Rakesh Kathotia* case, on two grounds, *firstly*, the delay period in the *Rakesh Kathotia* case was nearly 7 years more than the delay period alleged in the present case, *secondly*, in the *Rakesh Kathotia* case even though the disclosure requirement was not met under the requisite regulation, it was substantially complied with under the SEBI (Substantial Acquisition of Shares and Takeovers) Regulations 1997 (hereinafter referred to as "**Old SAST Regulations**"), however, in the present matter, there is no question of substantial compliance by the Noticees. Therefore, I again find that this case relied upon by Noticee 2 does not have a bearing on the present matter.

(iii) Anilkumar Nandkumar Harchandani and Ors vs. SEBI, decided by Hon'ble SAT, on December 05, 2019: I find that in this case the alleged violation had occurred in 2004, and the show cause notice was issued in 2017, thus, there was a delay of 13 years, which is 9 years more than the delay alleged in the present case. Further, I note that the charge levelled against the appellants was failure to make public announcement under the Old SAST Regulations. I note that while allowing the appeal, the Hon'ble SAT had taken two important considerations into account, *firstly*, the transactions were already disclosed to the BSE by the appellants, and *secondly*, there was lack of documentary evidence available due to which the investigating authority did not recommend making public announcement. I find that the facts of the present matter are distinguishable from the aforesaid matter as the first consideration is not relevant and the second consideration is absent in the present matter.

(iv) Corporation Bank and Anr vs. Navin J. Shah, decided by Hon'ble Supreme Court, on January 25, 2000: I find that this case relates to a claim under the Consumer Protection Act, 1986, and therefore, is distinguishable from the facts of the present matter.

(v) Rajendra Singh and Ors vs. Santa Singh and Ors, decided by Hon'ble Supreme Court, on August 16, 1973: I find that this case concerns a dispute regarding possession of land, and therefore, is clearly distinguishable from the facts in the present matter.

(vi) <u>Government of India vs. Citedal Fine Pharmaceuticals, decided by Hon'ble Supreme Court, on July 20, 1989</u>: I find that the paragraph on limitation period in this judgment should be read completely as opposed to the selective text cited by Noticee 2. The entire paragraph from which Notice 2 has culled out an extract in his reply reads as follows:

"Learned Counsel appearing for the respondents urged that Rule 12 is unreasonable and violative of Article 14 of the Constitution, as it does not provide for any period of limitation for the recovery of duty. He urged that in the absence of any prescribed period for recovery of the duty as contemplated by Rule 12, the officer may act arbitrarily in recovering the amount after lapse of long period of time. <u>We find no substance in the submission</u>. <u>While it is true that Rule 12 does not prescribe any period within which recovery of any duty as contemplated by the Rule is to be made, but that by itself does not render the Rule unreasonable or violative of Article 14 of the Constitution. In the absence of any period of limitation it is settled that every authority is to exercise the power within a reasonable period. What would be reasonable period would depend upon the facts of each case. Whenever a question regarding the inordinate delay in issuance of notice of demand is raised, it would be open to the assessee to contend that it is bad on the ground of delay and it will be for the relevant officer to consider the question whether in the facts and circumstances of the case notice or demand for recovery was made within reasonable period. No hard and fast rules can be laid down in this regard as the determination of the question will depend upon the facts of each case"</u> (emphasis supplied)

Thus, I find that the aforesaid judgment clearly states that the question of delay should be considered keeping the facts and circumstances of the case in mind. I find that in view of the facts stated in paragraph 12 above, there was no inordinate delay in issuing the SCN in the present matter.

15. In relation to delay, I find it relevant to refer to the following orders of Hon'ble SAT:

(i) In ***Hemant Sheth and Ors. vs. SEBI***, (Appeal No. 521 of 2021), decided on January 07, 2022, it was argued by the appellants that the adjudicating officer was appointed on July 04, 2013 but the show cause notice was issued in 2016 and therefore there was an inordinate delay of 30 months for which no plausible explanation was given. The Hon'ble SAT while dismissing the aforesaid contention of the appellants held that:

"9. Insofar as the delay is concerned we find that after the observation made by the WTM in its order of May 10, 2013 SEBI took action and appointed the AO dated July 4, 2013. No doubt the show cause notice was issued in January 2016 but the delay in the issuance of the show cause notice in the instant case will not vitiate the proceedings initiated against the appellants in the peculiar facts and circumstances of the case. Consequently, we are not inclined to quash the proceedings only on the ground of inordinate delay as asserted by the learned counsel for the appellant."

(ii) In ***M/s. Adamina Traders Private Limited vs. SEBI*** *(*Appeal No. 331 and 366 of 2020) dated December 15, 2021, the trades concerned in the appeal took place in 2013, and the show cause notice was issued by the adjudicating officer in 2018. The appellants raised an argument of inordinate delay in issuance of the show cause notice. Dismissing the aforesaid contention, the Hon'ble SAT held the following:

'We do not find any evidence to hold that there was an inordinate delay in the issuance of the show cause notice. This contention is

accordingly rejected. <u>Further, nothing has been shown as to how this delay has prejudiced the appellant. In the absence of any prejudice the delay, if any, cannot be set aside</u>." (emphasis supplied)

(iii) In ***Pooja Vinay Jain vs. SEBI*** (Appeal No. 152 of 2019) decided on March 17, 2020, the Hon'ble SAT held the following:

"On the issue of delay, in the case of Ashok Rupani (supra), this Tribunal, inter-alia, noted the ratio in the case of Mr. Rakesh Kathotia and Ors. vs. SEBI [Appeal No 7 of 2016 decided on May 27, 2019]. Paragraph No. 7 of the case of Ashok Rupani Judgment is as under…. <u>The decision would show that the power to initiate the proceedings must be exercised by the authorities within a reasonable time.</u> This would depend upon the facts and circumstances of the case, nature of the default / statute and prejudice caused to the noticee.

In the present case, the appellant neither put a plea of prejudice before the AO nor before us. It was simply stated that since the proceedings were launched by respondent SEBI after a period seven years, the same should be quashed on the ground of delay. <u>The record would show that all the documents concerning the defense of the appellant were filed by her before the AO. Therefore, for want of any prejudice the proceedings cannot be quashed simply on the ground of delay in launching the same.</u>" (emphasis supplied).

To summarize, in the decision referred in (i) above, the Hon'ble SAT dismissed the contention of delay owing to the peculiar circumstances of the case. Further, in the decisions referred in (ii) and (iii) above, the Hon'ble SAT has placed reliance on the fact that the appellant had failed to demonstrate how the delay has caused prejudice to them. I find that the argument of delay raised by Noticee 2 in the current matter is weak as he has not been able to show how he was impaired in defending himself due to the alleged delay, which is essential in view of the orders referred above.

I find that the paragraphs above clearly establish that there was no inordinate delay in issuing the SCN in the present matter, and therefore, the first submission of Noticee 2 is liable to be dismissed.

16. Regarding the second submission of Noticee 2, I note from the material available on record that the ARs were given inspection of documents on April 01, 2021. Further, I find that Noticee 2 has also acknowledged the same in his reply. The list of documents provided for inspection are given below:

(i) Order communicating appointment of adjudicating officer dated August 31, 2020.
(ii) Company reply letters/emails and replies from auditors.
(iii) Replies from Noticees.
(iv) Trading Plan provided by the Company, BSE and NSE.
(v) Trade details provided by BSE and NSE.
(vi) Demat transaction statements provided by NSDL and CDSL.
(vii) Letter dated July 11, 2019 addressed by the Company to SEBI.
(viii) Email dated January 07, 2020 of the Company addressed to SEBI.
(ix) Email dated March 02, 2020 of the Company addressed to SEBI.
(x) Letter dated August 01, 2016 submitted by the Company to the stock exchanges.

17. Noticee 2 has contended that after the aforesaid inspection, the ARs *vide* email sent on April 02, 2021 had requested for additional documents which was rejected by the undersigned *vide* email sent on April 15, 2021. I note that while dismissing the aforesaid request, reliance was placed by me on the following cases: ***Mayrose Capfin Private Limited vs. SEBI***, decided on March 30, 2012, ***Shruti Vora vs. SEBI***, decided on February 12, 2020 and ***Anant R Sathe vs. SEBI***, decided on July 17, 2020. However, Noticee 2 has contended that the aforesaid orders are distinguishable and do not apply to the case of Noticee 2. I find that Noticee 2 has not cared enough to provide reasons for the same. In light of this, I am unable to address this

matter-of-fact statement given by Noticee 2 as I am entirely in the dark regarding his objection with respect to the applicability of the aforesaid cases.

18. Further, Noticee 2 has placed reliance on the following cases and my observations with respect to them are provided below:

(i) Smitaben N Shah vs. SEBI, decided by Hon'ble SAT on July 30, 2010: The show cause notice in this matter contained extracts of trade logs and order logs which were not provided to the appellant. The Hon'ble SAT had found that the aforesaid documents were necessary for the appellant to prepare her defence, and therefore, not supplying the same amounted to violation of principles of natural justice. I find that in the present matter, correspondences with the Company, auditors and stock broker, copy of the Trading Plan, the trade details provided by BSE and NSE, and the demat statements provided by NSDL and CDSL have been given as annexures to the SCN as well as inspection was allowed for the aforesaid documents to enable Noticee 2 to prepare a comprehensive defence. Thus, I find that this case is not of any help to Noticee 2.

(ii) H. R. Mehta vs Assistant Commissioner of Income Tax, Mumbai , decided by Hon'ble Bombay High Court, on 30th June, 2016: I find that this case *inter alia* reiterates the position of the orders referred in paragraph 17 above that the material needed to establish the charges against the noticee should be provided and that the noticee should be granted an opportunity to make a valid defence. I find that both the requirements have been fulfilled in the present matter.

(iii) SEBI vs. Price Waterhouse, decided by Hon'ble Supreme Court on January 10, 2017 and Shri B. Ramalinga Raju vs. SEBI, decided by Hon'ble SAT on May 12, 2017: Since Noticee 2 has relied on the order of the Hon'ble SAT in the Shri B Ramalinga Raju case, I find it relevant to refer to a paragraph from it regarding the *Price Water House* case, which reads as follows:

"<u>Strong reliance was placed by counsel for the appellants</u> on the decision of this Tribunal in case of Price Waterhouse v/s SEBI (Appeal No. 208 of 2011 decided on 01.06.2011) & decision of the Apex Court in case of <u>SEBI v/s Price Waterhouse (Civil Appeal No. 6003-6004 of 2012 decided on 10.01.2017)</u> wherein the Apex Court directed SEBI to furnish all statements recorded during the course of Satyam's investigation and further directed SEBI to give inspection of all the documents collected during the investigation of Satyam.

In our opinion, aforesaid decisions are distinguishable on facts….
……….Fourthly, <u>Apex Court in case of Price Waterhouse has specifically recorded that the directions given in that case are general directions given as and by way of clarifications without going into the merits of the case. Therefore, directions given in the facts of Price Waterhouse cannot be said to be the ratio laid down by the Apex Court applicable to all other cases.</u> In these circumstances, appellants are not justified in contending that the directions given by the Apex Court in case of Price Waterhouse must be applied to the case of the appellants" (emphasis supplied).

Thus, from the above, it is clear that the directions in the *Price Water House* case cannot be applied to other cases. Further, specifically with respect to the *Shri B. Ramalinga Raju* case, I find that the paragraph relied upon by Noticee 2 in his reply reiterates the position elucidated in the cases referred in paragraph 17 above.

19. In view of the above, I find that there has been no violation of the principles of natural justice. Noticee 2 was served a SCN which explained the charges levelled against him along with the annexures which were relied upon.

Further, Noticee 2 was granted an opportunity of inspection and an opportunity of hearing. I find that Noticee 2 has failed to prove how the additional documents requested *vide* the April 02, 2021 email has hurt his interests. Moreover, when one considers the nature of specific documents requested by Noticee 2, it appears that he was asking for documents with a motive to make a roving inquiry rather than for using such documents to defend him against the allegation made in the SCN. Thus, I find that this submission is bereft of any merit and deserves to be rejected.

I. Issue no. 1: Whether the Noticees have violated regulation 5(3) of the PIT Regulations?

20. Before moving forward, it is pertinent to refer to the relevant provision of PIT Regulations which is alleged to have been violated by the Noticees. The said provision is provided below:

CHAPTER – II RESTRICTIONS ON COMMUNICATION AND TRADING BY INSIDERS

Trading Plans.

5. (1)…..

(3) The compliance officer shall review the trading plan to assess whether the plan would have any potential for violation of these regulations and shall be entitled to seek such express undertakings as may be necessary to enable such assessment and to approve and monitor the implementation of the plan.

[1]*[Provided that pre-clearance of trades shall not be required for a trade executed as per an approved trading plan.*

Provided further that trading window norms and restrictions on contra trade shall not be applicable for trades carried out in accordance with an approved trading plan.]

NOTE: It is intended that the compliance officer would have to review and approve the plan. For doing so, he may need the insider to declare that he is not in possession of unpublished price sensitive information or that he would ensure that any unpublished price sensitive information in his possession becomes generally available before he commences executing his trades. Once satisfied, he may approve the trading plan, which would then have to be implemented in accordance with these regulations.

[1] Inserted by Securities and Exchange Board of India (Prohibition of Insider Trading) (Amendment) Regulations, 2018 (w.e.f. April 01, 2019).

21. I find that regulation 5(3) of the PIT Regulations imposes three obligations on the compliance officer: (i) review the trading plan to assess any potential violation of PIT Regulations, for which he is entitled to seek undertakings as may be necessary; (ii) approve the trading plan; and (iii) monitor the implementation of the trading plan.

22. In view of the above, it becomes important to examine the Trading Plan concerned in the present matter. At the cost of repetition, the Trading Plan dated July 28, 2015 submitted to the stock exchanges by the Company provided that the following members of promoter group of the Company shall trade as tabulated below during the Trading Period (*i.e.,* from July 28, 2015 to July 31, 2016). It further stated that the said shareholders have undertaken that they would not trade during the Cool-Off Period (*i.e.,* July 28, 2015 to January 27, 2016).

Sl. No.	**Security**	**No. of shares**	**Nature of trade**	**Name of shareholder (members of promoter group of the company)**
1	Equity	2,51,233	Sale	Shri Ranchhoddas Mohota
2	Equity	14,15,400	Sale	Shri Ranchhoddas Mohota(HUF)
3	Equity	2,91,367	Sale	Shri Vinod Kumar Mohota
4	Equity	83,533	Sale	Shri Vinod Kumar Mohota(HUF)
5	Equity	2,80,517	Sale	Shri Vinay Kumar Mohota
6	Equity	1,47,000	Sale	Shri Vinay Kumar Mohota(HUF)
7	Equity	4,47,097	Sale	Smt. Suryakantadevi Mohota
8	Equity	3,51,966	Sale	Smt. Veenadevi Mohota
9	Equity	14,000	Sale	Shri Vaibhav kumar Mohota
10	Equity	49,833	Sale	Ku. Vibha Mohota
11	Equity	37,100	Sale	Smt. Swati Mohota
12	Equity	68,075	Sale	Smt. Kirandevi Bhagat

23. With respect to the trades of the aforesaid persons/entities, I find that all of them have been held liable for violations with respect to the Trading Plan as provided below:

#	Name of the person/entity	Violation	Order details
1.	Ranchhoddas Mohota HUF	Regulation 5(4) of the PIT Regulations.	Order passed on February 24, 2022 bearing reference no. Order/PM/PA/2021-22/15069-15073.
2.	Vinod Kumar Mohota HUF		
3.	Vinay Kumar Mohota		
4.	Vinay Kumar Mohota HUF		
5.	Swati Mohota		
6.	Vaibhav Kumar Mohota	Regulation 5(2)(ii) of the PIT Regulations.	Order passed on February 24, 2022 bearing reference no. Order/PM/PA/2021-22/15065-15066.
7.	Vibha Mohota		
8.	Veenadevi Vinodkumar Mohota	Regulation 5(2)(ii) and 5(4) of the PIT Regulations.	Order passed on March 29, 2022 bearing reference no. Order/PM/PA/2021-22/15672-15674.
9.	Kiran Bhagat		
10.	Vinod Kumar Mohota		
11.	Vinod Kumar Mohota as executor of Smt. Suryakantadevi Mohota.	Regulation 5(4)of the PIT Regulations.	

Thus, from the table provided above, it is clear that said members of promoter group have been held liable for violation of either regulation 5(2)(ii) or regulation 5(4) of the PIT Regulations. Therefore, now that it is established that there was violation of the Trading Plan, it becomes imperative to examine if the Noticees had failed to assess the Trading Plan for possible violations and/or failed to monitor the implementation of the Trading Plan.

24. <u>Failure to review the Trading Plan to assess any potential violation of PIT Regulations</u>

(i) As provided above, the first duty of the compliance officer under regulation 5(3) of the PIT Regulations is to review the trading plan to assess if any potential violations of PIT Regulations can occur. In this regard, the regulation empowers the compliance officer to seek undertakings to make a proper assessment.

(ii) It is alleged in the SCN, that out of 1 year period for which Trading Plan was submitted, it could have been foreseen by the compliance officer that the Company would declare financial results, and trading around such period by the shareholders for whom the Trading Plan has been approved, may lead to violation regulation 5(2)(ii) of the PIT Regulations. It is alleged that the Trading Plan did not contain any information regarding the aforesaid potential violation.

(iii) I have perused a copy of the concerned Trading Plan. I note that the Trading Plan mentions that the shareholders have undertaken that they would not trade during the Cool-Off Period. However, it does not mention anything regarding not trading in violation of regulation 5(2)(ii) of the PIT Regulations or that once the Trading Plan is approved it shall have to be mandatorily implemented in terms of regulation 5(4) of the PIT Regulations. I note that regulation 5(3) of the PIT Regulations provides that for the purpose of ascertaining whether the Trading Plan would be in violation of PIT Regulations, the compliance officer is authorized to obtain undertakings. I note from the material available on record that no undertakings have been obtained from the members of promoter group who have submitted the Trading Plan.

(iv) In his reply, Noticee 1 has denied that no undertakings were obtained by him, as the Trading Plan records that shareholders would not trade during the Cool-Off Period. I find that in addition to the aforesaid undertaking, it was necessary for Noticee 1 to obtain an undertaking or at the very least communicate to the members of promoter group who have submitted the Trading Plan that they are not allowed to trade during the prohibited period specified in regulation 5(2)(ii) of the PIT Regulations and that they would have to mandatorily implement the Trading Plan in terms of regulation 5(4) of the PIT Regulations. The reply of Noticee 1 is conspicuously silent regarding the aforesaid responsibility of Noticee 1. Noticee 1 has also argued that he was only employed with the Company until November 14, 2015, and until his tenure no violations of PIT Regulations had occurred. I find it difficult to accept the aforesaid submission of Noticee 1, as even though Noticee 1 was acting as the compliance officer until November 14, 2015, he was the compliance of the Company when the Trading Plan was approved and nearly 4 months thereafter. Thus, I find that he had plenty of time from the time the Trading Plan was approved to obtain the requisite undertakings or communicate potential violation of regulation 5(2)(ii) and 5(4) to the members of promoter group, which he failed to do.

(v) Coming to Noticee 2, he has *inter alia* contended that since he was not involved in the approval of Trading Plan, he has not defaulted with respect to regulation 5(3) of the PIT Regulations. I find that the aforesaid submission is a plain attempt by Noticee 2 to shirk off his responsibility. Noticee 2 has admitted in his reply that he was appointed as the compliance officer of the Company on November 14, 2015. I find that the first trade in violation of regulation 5(2)(ii) of the PIT Regulations was executed on May 05, 2016 by Veenadevi Vinodkumar Mohota. Thus, I find that since his appointment, Noticee 2 had nearly 5 months to obtain the requisite undertakings or intimate the members of promoter group regarding regulation 5(2)(ii) and regulation 5(4) of the PIT Regulations, which he neglected to do. In my view, under regulation 5(3) of the PIT Regulations, it was the responsibility of Noticee 2 to carry out his own due diligence with respect to the Trading Plan and take necessary actions.

(vi) Noticee 2 has also contended that out of the one year period approved under the Trading Plan, the concerned members of promoter group could only trade for eight trading days due to Cool-Off Period and Restricted Periods, therefore, the said Trading Plan was impractical to execute. It is beyond my understanding to comprehend how the aforesaid justification helps the case of Noticee 2. Since the Trading Plan was already approved by the Company and stock exchanges by the time Noticee 2 was appointed, in his role as compliance officer, his responsibility was to communicate and/or obtain necessary undertaking regarding the requirements of regulation 5(2)(ii) and regulation 5(4) of the PIT Regulations, and in the event, he becomes aware that the persons who had submitted the Trading Plan were not executing trades in accordance with Trading Plan or in violation of PIT Regulations, his responsibility was to intimate SEBI and the Company. In this regard, I note that the Company CoC under the head "Trading Plans" contains the same text as regulation 5(2)(ii) and regulation 5(4) of the PIT Regulations. Further, it provides that the duties of the compliance officer *inter alia* includes the following:

"j) To inform SEBI of any violation observed;"

Thus, I find that the Company CoC explicitly empowered the compliance officer to inform SEBI regarding any violation observed. However, there is nothing on record to indicate that on observing the trades undertaken by Vaibhav Kumar Mohota, Vibha Mohota, Veenadevi Vinodkumar Mohota, Kiran Bhagat and Vinod Kumar Mohota, which were in violation of regulation 5(2)(ii) of the PIT Regulations and Company CoC, Noticee 2 undertook any action. Further, with respect to non-execution of trades by Ranchhoddas Mohota HUF, Vinod Kumar Mohota HUF, Vinay Kumar Mohota, Vinay Kumar Mohota HUF, Swati Mohota and of Late Suryakantadevi Mohota, I find that again Noticee 2 did not take any step.

(vii) In light of the foregoing discussion, I have no difficulty in holding that the Noticees had failed in reviewing the Trading Plan properly for ascertaining possible violations of PIT Regulations, which led to violation of regulation 5(3) of the PIT Regulations.

25. <u>Failure to monitor implementation of the Trading Plan</u>

(i) As brought out before, Noticee 1 was employed as a compliance officer with the Company until November 14, 2015. As per the submission of Noticee 1, until the aforesaid date, no trades were undertaken by the members of promoter group. I find that the aforesaid submission of Noticee 1 is aligned with the material available on record. As noted before, the first trade under the Trading Plan was executed by Veenadevi Vinodkumar Mohota, on May 05, 2016. Thus, I find that failure to monitor implementation of Trading Plan cannot be attributed to Noticee 1.

(ii) However, Noticee 2 was appointed as the compliance officer of the Company on November 14, 2015. Thus, it was the responsibility of Noticee 2:

(a) To report that the trades undertaken during the March 2016 Restricted Period and June 2016 Restricted Period were in violation of PIT Regulations; and

(b) After the end of Trading Period, report that trades were not undertaken in accordance with the Trading Plan.

(iii) Noticee 2 has contended that he was not aware of the trades executed under the Trading Plan, as the members of the promoter group, did not intimate him about the same. In relation to the above, I find that PIT Regulations defines a compliance officer under regulation 2(1)(c) as a person who is a *"senior officer",* who is “*capable of appreciating requirements for legal and regulatory compliance under these regulations”* and is responsible for “*monitoring of trades and the implementation of the codes specified in these regulations”.* Further, I find that regulation 5(3) of the PIT Regulations requires a compliance officer to “*monitor the implementation of the plan*”. Thus, I find that notwithstanding the obligation imposed under regulation 5(3) of the PIT Regulations on the compliance officer with respect to monitoring the implementation of the plan, but the definition of “compliance officer” itself contemplates that he/she is *inter alia* responsible for monitoring trades. I find that in his capacity as the compliance officer, Noticee 2 was entitled to seek the necessary data from the persons who had submitted the Trading Plan to monitor trades under the Trading Plan. It is also pertinent to note that Company CoC under the head “Disclosures” provides that *“The Company may, at its discretion <u>require any other connected person or class of connected person to make disclosures of holdings and trading insecurities of the Company by him, his immediate relatives </u>and by any other person for whom he takes trading decisions in Form ‘D’, and at such frequency as may be determined by the Company in order to monitor compliance with the Code.”*

Thus, notwithstanding regulation 2(1)(c) and 5(3) of the PIT Regulations, Noticee 2 had opportunity under the aforesaid clause of the Company CoC to seek disclosures from the members of the promoter group regarding the trades undertaken by them. However, I note that Noticee 2 did not make any such attempt.

(iv) Lastly, Noticee 2 has placed reliance on the Sodhi Committee Report to supplement his submission that when the members of promoter group had submitted their Trading Plan, the concept of trading plan was at nascent stage in India, and therefore, the alleged violation should be excused. It is an established rule of interpretation of statutes that committee reports are an external aid of interpretation. I find that the legal maxim "*verbis legis non est recedendum*" squarely applies in the present case which means that there must be no departure from the words of law. I find that the words of regulation 5(2)(ii), 5(3) and 5(4) of the PIT Regulations are crystal clear, thus, I find that relying on the Sodhi Committee Report does not help the case of Noticee 2.

26. I am of the view that a compliance officer is the conscience of the company and acts as a vital link between a company, its board of directors, its shareholders, and the government. A compliance officer performs a crucial role under the PIT Regulations, therefore, the said regulations require such compliance officer to be a "senior officer" of the company. If compliance officers start adopting a casual approach towards the compliance of PIT Regulations, it would defeat the very purpose for which they have been designated. Taking the aforesaid paragraphs into account, I find that Noticees have displayed gross negligence in discharging their duties which would ordinarily be expected from a professional, thus, I find that violation of regulation 5(3) of the PIT Regulations by the Noticees is clearly established.

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

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

27. I note that the Apex Court in the case of ***The Chairman, SEBI vs. Shriram Mutual Fund and Ors.*** (Civil Appeal Nos. 9523-9524 of 2003), decided on 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."*

28. In view of the judgment referred above and the fact that the Noticees have violated regulation 5(3) of the PIT Regulations, I am of the view that a monetary penalty needs to be imposed upon the Noticees under section 15HB of the SEBI Act, which reads as under:

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.]*

** Substituted for the words "liable to a penalty which may extend to one crore rupees" by the Securities Laws (Amendment) Act, 2014, w.e.f. 08-09-2014.*

29. While determining the quantum of monetary penalty under section 15HB 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 [2][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.

[3] *[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.]*

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

[3] *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 Noticees or the consequent loss caused to investors as a result of the aforesaid default. With respect to the repetitive nature of the default, I find that there is nothing on record to indicate any past violations committed by the Noticees.

31. In the present matter, the facts of the case clearly establish the violation committed by the Noticees and I consider it necessary to impose monetary penalty which would act as a deterrent to the Noticees 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 Santosh K Rajpuria and Rs 1,00,000 (Rupees One Lakh Only) on Sachin N Kanojiya under section 15HB of the SEBI Act. I am of the view that the penalty imposed on the Noticees is commensurate with the violation committed by them.

33. The Noticees 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 Noticees 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-II, 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 Noticees and SEBI.

Date: March 30, 2022
Place: Mumbai

PRASANTA MAHAPATRA
ADJUDICATING OFFICER