BEFORE THE ADJUDICATING OFFICER

SECURITIES AND EXCHANGE BOARD OF INDIA

ADJUDICATION ORDER NO. Order/AK/AS/2022-23/ 22336-22337

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:

S No	Name of Noticee (PAN)	Address
1	**Naresh Ramniklal Mehta (AAEPM4671M)** *Email id-nishant_infin@yahoo.co.in*	Flat No 11, Building No 394 B, Gupta Niwas, 1st Floor, Bhaudaji Road, Mumbai-400 019.
2	**Pallavi Naresh Mehta (AAEPM4674Q)** *Email ID-pallavinm@icloud.com*	

In the matter of Deepak Fertilizers and Petrochemicals Limited

---

BACKGROUND OF THE CASE

1. SEBI carried out an investigation in the trading activities in the scrip of Deepak Fertilizers and Petrochemicals Corporation Limited (hereinafter referred to as **"DFPCL/ The Company"**) on the basis of Unpublished Price Sensitive Information (hereinafter referred to as **"UPSI"**) by certain entities during the period June 01, 2020 to September 30, 2020 (hereinafter referred to as **"Investigation Period"**). On the basis of said investigation, it was alleged that Naresh Ramniklal Mehta (hereinafter referred to as **"Noticee No: 1"**) and Pallavi Naresh Mehta (hereinafter referred to as **"Noticee No: 2"**) allegedly violated provisions of Section 12A(d) and (e) of the Securities and Exchange Board of India Act, 1992 (hereinafter referred to as **"SEBI Act"**) and Regulation 3(2) and 4(1) of SEBI (Prohibition of Insider Trading) Regulations, 2015 (hereinafter referred to as **"PIT Regulations"**).

APPOINTMENT OF ADJUDICATING OFFICER

2. Upon being satisfied that Noticees have violated Section 12A(d) and (e) of SEBI Act and Regulation 3(2) and 4(1) of PIT Regulations, SEBI, in exercise of powers under Section 19 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 "**Adjudication Rules**"), appointed Ms. Geetha G as the Adjudicating Officer, vide order dated April 18, 2022, to inquire into and adjudge under Section 15-I read with Section 15G of the SEBI Act, the alleged violations by the Noticees. Pursuant to transfer of Ms. Geetha G, SEBI appointed me as Adjudicating Officer, vide order dated August 29, 2022, to inquire into and adjudge under Section 15-I read with Section 15G of the SEBI Act, the alleged violations by the Noticees.

SHOW CAUSE NOTICE AND PERSONAL HEARING

3. A common Show Cause Notice dated September 22, 2022 (hereinafter referred to as **"SCN"**) was issued to the Noticees to show cause as to why an inquiry should not be initiated against them and why penalty should not be imposed against them under section 15G of the SEBI Act, as alleged therein for the violations brought out against the Noticees. It was alleged in the SCN that the Noticees have traded in the scrip of DFPCL while in possession of UPSI and have violated the provisions of Regulation 3(2), 4(1) of the PIT Regulations and Section 12A(d) & (e) of the SEBI Act.

4. SCN was served on the Noticees, vide digitally signed email dated September 22, 2022 and vide SPAD. Vide response dated October 04, 2022, Noticees sought additional time for submitting reply to the SCN. Vide emails dated October 04 and October 06, 2022, Noticees were granted additional time for submitting reply till October 20, 2022 and were granted opportunity of personal hearing on October 21, 2022.

5. Vide responses dated October 20, 2022, Noticees requested for adjournment of personal hearing as scheduled and submitted replies to the SCN on merits. Vide email dated October 20, 2022, Noticees' request for adjournment was acceded to and they were granted another opportunity of personal hearing on November 07, 2022.

6. On November 07, 2022, Noticee No: 1 and Mr Rishabh Gujarathi appeared on behalf of both the Noticees, and made submissions relying upon the responses dated October 20, 2022 on behalf of both the Noticees. Noticees made post hearing submissions, vide letter dated November 09, 2022.

CONSIDERATION OF ISSUES AND FINDINGS

7. The issues that arise for consideration are as under:

7.1 What is UPSI in the instant matter and when the UPSI came into existence and what was the UPSI Period?

7.2 Whether the Noticees are "insiders" of DFPCL, in terms of provisions of the PIT Regulations?

7.3 If yes, whether trading by Noticees, as alleged in the SCN, is in violation of provisions of Regulation 3(2), 4(1) of the PIT Regulations and Section 12A(d) & (e) of the SEBI Act? If yes, whether the violations, if any, attract monetary penalty under the provisions of Section 15G of the SEBI Act?

7.4 If so, what quantum of monetary penalty should be imposed on the Noticees after taking into consideration the factors mentioned in Section 15J of the SEBI Act?

8. Before I proceed with the matter, it is pertinent to mention the relevant legal provisions alleged to have been violated by the Noticees and the same are reproduced below:

<u>SEBI Act</u>

Prohibition of manipulative and deceptive devices, insider trading and substantial acquisition of securities or control.

12A. No person shall directly or indirectly-

………

(d) engage in insider trading

(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;

<u>PIT Regulation</u>

Communication or procurement of unpublished price sensitive information

3.(2) No person shall procure from or cause the communication by any insider of unpublished price sensitive information, relating to a company or securities listed or proposed to be listed, except in furtherance of legitimate purposes, performance of duties or discharge of legal obligations

Trading when in possession of unpublished price sensitive information

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:

Provided that the insider may prove his innocence by demonstrating the circumstances including the following-

i) the transaction is an off-market inter-se transfer between promoters who were in possession of the same unpublished price sensitive information without being in breach of regulation 3 and both parties had made a conscious and informed trade decision.

ii) in the case of non-individual insiders: –(a) the individuals who were in possession of such unpublished price sensitive information were different from the individuals taking trading decisions and such decision-making individuals were not in possession of such unpublished price sensitive information when they took the decision to trade; and(b)appropriate and adequate arrangements were in place to ensure that these regulations are not violated and no unpublished price sensitive information was communicated by the individuals possessing the information to the individuals taking trading decisions and there is no evidence of such arrangements having been breached;

iii)the trades were pursuant to a trading plan set up in accordance with regulation 5.

Issue No. I: What is UPSI in the instant matter and when the UPSI came into existence and what was the UPSI Period?

9. I note that the term UPSI has been defined in Regulation 2(1)(n) of the PIT Regulations as 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. Further, such information shall include information related *interalia* to 'financial results' as per the said provisions. In the instant matter, DFPCL had made announcement pertaining to the financial results of quarter ending on June 30, 2020, on July 31, 2020.

10. I note that the impact of Corporate announcement made by DFPCL pertaining to financial results of quarter ended June 30, 2020 was as under;

<table>
<tr><th>Date of announcement</th><th>Announcement</th><th>Price movement in the scrip of DEEPAKFERT</th><th>Impact on price</th></tr>
<tr><td>NSE

31-Jul-2020 13:52:40</td><td rowspan="2">Deepak Fertilizers and Petrochemicals Corporation Limited has submitted to the Exchange, the financial results for the period ended June 30, 2020.</td><td>July 30, 2020<table><tr><th></th><th>O</th><th>H</th><th>L</th><th>C</th><th>Vol.</th></tr><tr><td>NSE</td><td>144.00</td><td>147.20</td><td>141.20</td><td>145.70</td><td>18,22,366</td></tr></table>July 31, 2020<table><tr><th></th><th>O</th><th>H</th><th>L</th><th>C</th><th>Vol.</th></tr><tr><td>NSE</td><td>144</td><td>164.80</td><td>141.30</td><td>159.60</td><td>1,09,43,167</td></tr></table></td><td>On July 31, 2020, open price was Rs.144 and close price was Rs.159.60, positive price movement by 10.83%.</td></tr>
<tr><td>BSE

31-Jul-2020 13:57:44</td><td>July 30, 2020<table><tr><th></th><th>O</th><th>H</th><th>L</th><th>C</th><th>Vol.</th></tr><tr><td>BSE</td><td>144</td><td>146.7</td><td>141.25</td><td>145.45</td><td>184218</td></tr></table>July 31, 2020<table><tr><th></th><th>O</th><th>H</th><th>L</th><th>C</th><th>Vol.</th></tr><tr><td>BSE</td><td>145.7</td><td>164.85</td><td>141.95</td><td>159.6</td><td>831634</td></tr></table></td><td>On July 31, 2020, open price was Rs.145.7 and close price was Rs.159.60, positive price movement by 9.54%.</td></tr>
</table>

On July 31, 2020 at NSE, the open price was Rs.144 and close price was Rs.159.60, i.e. 10.83 % positive price movement was observed. On July 31, 2020 at BSE, the open price was Rs.145.7 and close price was Rs.159.60, i.e. 9.54 % positive price movement was observed. Hence, the said information is the price sensitive information in terms of provisions of Regulation 2(1)(n)(i) of PIT Regulations in the instant matter.

11. I note that DFPCL, vide letter dated July 11, 2021, provided the following chronology of events;

Sr.No.	Event	Name of Officials/ KMPs/ designated persons/ consultant and/ or any other person aware of the event	Date of the Officials/KMPs/designated persons/ consultant and/ or any other person becoming aware of the event	Source of Information to the Officials/ KMPs/ designated persons/ consultant and/ or any other person regarding the event
A.	*Preparation of Unaudited Financial Results & Review by CMD & CFO*	*1. Shri S. C. Mehta. CMD* *2. Mr. Amitabh Bhargava, CFO* *3. Mr. Abhijeet Majumdar, EVP – Financial Planning & Controlling* *4. Mr. Suparas Jain Vice President Corporate Finance & Accounts* *5. Mr. Rahul Dinkar AVP – Finance & Accounts* *6. Mr. Rakesh Jaiswal GM – Finance & Accounts* *7. Mr. Vinayak Ahuja AGM – Finance & Accounts* *8. Mr. Saurabh Kumar AGM – Direct Taxation & Finance* *9. Mr. Amit Agarwal GM – Direct Taxation & Finance* *10. Mr. Kishore Manohar Dimble* *Manager – Finance & Accounts* *11. Mr. Debasish Kedia GM – Corporate Finance* *12. Mr. Deepak Balwani AVP – Investor Relations, Finance & Accounts*	*11th July, 2020*	*The Company has implemented the ERP System of SAP. The Trial Balance and other related information is extracted from the System and then compiled by the Corporate Accounts Team in the reporting format. All these files are saved in a separate folder and only authorised employees have access to these files. The Files are password protected and passwords are shared only on need to know basis. The financials are reviewed by the CFO.*

B.	*Sharing of Standalone Financials of the Company with the Statutory Auditors, B S R & Associates LLP*	*1. Mr. Raajnish Desai, Partner, B S R & Associates LLP* *2. Mr. Rohan Vaidya, Manager, Audit, B S R & Associates LLP*	*13th July, 2020*	*Sharing of Standalone Financials with Statutory Auditors by email through their team members. After providing the said financial results, additional clarifications as requested by the Auditors in the course of Limited review. Audit were provided to Statutory Auditors from time to time till the clearance of same by them. All these communications took place over email and through phone calls/ teams meeting in light of the lockdowns in place due to Covid 19 pandemic.*
C.	*Clearance by BSR of Draft Un-Audited Results Q1 FY 202021*	*BSR shared the final results to DFPCL* *team*	*28th July, 2020*	*Sharing of final UnAudited Results Q1 FY 2020-21 by BSR to DFPCL through email.*
D	*Discussion with the Statutory Auditors on their observations*	*1. Mr. Amitabh Bhargava CFO* *2. Mr. Suparas Jain VP – Corporate Accounts* *3. Mr. Rakesh Jaiswal GM Finance & Accounts* *4. Mr. Raajnish Desai, Partner, BSR & Associates LLP* *5. Mr. Rohan Vaidya, Suresh Yadav, Manager, Audit, B S R & Associates LLP*	*28th July, 2020*	*Discussion with BSR was held through Microsoft Teams meeting based on the information provided to them as stated above at point B.*
E.	*Review of Financials by Chairman & Managing Director. Post review, the financials are shared with the Investor Relations team for preparation of Audit Committee and Board Presentation, Press Release and*	*1.Mr. S C Mehta CMD* *2. Mr. Amitabh Bhargava CFO* *3. Mr. Suparas Jain, VP – Corporate Finance & Accounts* *4. Mr. Deepak Balwani AVP – Investor Relations.*	*28th July, 2020*	*Data/ information sent through email and discussion was held over phone/ Microsoft Teams.*

	Presentation for Analyst meet.			
F.	*Review of Unaudited Financial Statements by the Audit Committee and recommendation to the Board for its approval*	***<u>Members of</u>*** ***<u>Audit Committee of DFPCL</u>****:* *1. Mr. Mahesh Chhabria, Chairman - Independent Director* *2. Mr. M P Shinde, Member – Non Executive Non Independent Director* *3. Mr. Pranay Vakil Member Independent Director* *4. Mr. Partha Bhattacharyya, Member –Independent Director* *5. Mr. S C Mehta, CMD (Invitee)*	*30^{th} July, 2020*	*Data/ information sent through email and discussion was held over phone/ Microsoft Teams.*
		<u>Members of Audit Committee of Smartchem Technologies Limited, Material Subsidiary of DFPCL as Invitees:</u> *6. Mr Sewak Ram Wadhwa, Director* *7. Mr. U P Jhaveri, Director* *8. Dr T.K.Chatterjee, Director* *9. Mr. Ashok Kumar Purwaha, Director* *10. Mr. Amitabh Bhargava CFO* *11. Mr. Suparas Jain, VP-Corporate Finance & Accounts* *12. Mr. K. Subharaman, Company Secretary* *13. Mr. Pankaj Gupta, Company Secretary, STL* *14. Mr. Raajnish Desai, B S R & Associates LLP* *15. Mr. Rohan Vaidya, B S R & Associates LLP*		

G.	*Consideration and Approval of Un-audited Financial results by the Board*	***Directors Present*** *1. Mr. S C Mehta Chairman and Managing Director* *2. Mrs. Parul S Mehta ,Non–Executive Director* *3. Mr. Partha Bhattacharyya Independent Director* *4. Mr. Pranay Vakil Independent Director* *5. Mr. Berjis Desai Independent Director,* *6. Mr. M P Shinde Non - Executive Non - Independent* *Director* *7. Mr. Ashok Kumar Purwaha, Independent Director* *8. Mr. Mahesh Chhabria Independent Director* *9. Dr. Amit Biswas Independent Director* *10. Mr. Alok Perti Independent Director* *11. Mr. Bhuwan C Tripathi Independent Director* *12. Mrs. Renu Challu Independent Director* *13. Mr. Sujal Shah Independent Director* ***<u>Other Invitees</u>*** *1. Mr. Amitabh Bhargava CFO* *2. Mr. Debasish Banerjee President – Strategic Projects* *3. Mr. D S Ravindra Raju President – Manufacturing* *4. Mr. Shyam Sharma President – Tan Business* *5. Mr. Tarun Sinha President – TAN Business* *6. Mr. Mahesh Giridhar President – Crop Nutrition Business* *7. Mr. Raghunath Kelkar*	*31st July, 2020*	*The Company has in place a software application where the agenda of respective meeting is uploaded for viewing, only by the Directors, CFO and Company Secretary on their ipads. The Financial results are also uploaded on the said application on the date of meeting, just before its commencement, by the Company Secretary or VP – Corporate Finance & Accounts and no other person has access to the results. However, the agenda of the meeting of Board of Directors held on July 31, 2020 was shared to Ms. Renu Challu and Mr. Sujal Shah, Independent Directors through email on 30th July, 2020, since they could not be issued Ipad by the Company because of lockdown. The results were discussed by the Board through Microsoft Teams meeting.*

		President – Industrial Chemical Business *8. Mr. K. Subharaman EVP – Legal & Company Secretary* *9. Mr. Suparas Jain VP – Corporate Finance & Accounts*		
H.	*Submission of financial results to the Stock Exchange*	*1. Mr. K. Subharaman* *EVP – Legal & Company Secretary* *2. Mr. Pankaj Gupta* *AVP –- Company Secretary, Smartchem Technologies Ltd* *3. Mr. Vikram Shinde Sr. Manager – Legal & Secretarial* *4. Ms. Kshama Natiye* *Manager Legal & Secretarial*	*31st July, 2020*	*After approval by the Board, the signed results are shared with the employees in the Secretarial Department specifically assigned with the job of filing with the Stock Exchanges, who then prepare a covering letter and file the same on NEAPS and BSE Listing Centre. The said results were filed on the BSE website at 13:57:35 and on NSE website at 13:52:40 and thus were deemed to have become public.*

12. I note that the Trial Balance and other related information was extracted from the system and then compiled by Corporate Accounts Team in the reporting format on July 11, 2020. Therefore, the UPSI pertaining to the financial results of quarter ending on June 30, 2020 came into existence on July 11, 2020.

13. I note that DFPCL submitted the financial results for the period ended June 30, 2020 to the exchanges on July 31, 2020 (at 13:52:40 to NSE and at 13:57:44 i.e. during market hours). Hence, the information became public on July 31, 2020 at aforementioned time. Hence, the period of UPSI is taken as July 11, 2020 till the announcement of financial results of quarter ended June 2020 by company to the Exchanges i.e. July 31, 2020. Further, there was a rise in the price of the scrip after the announcement of Q1 2020 financial results and hence the UPSI was considered to be positive in nature.

Issue No. II: Whether the Noticees are "insiders" of DFPCL, in terms of provisions of the PIT Regulations?

14. Before I proceed further, it is important to note the following definition given under PIT Regulations;

PIT Regulations

2(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.

(ii) Without prejudice to the generality of the foregoing, the persons falling within the following categories shall be deemed to be connected persons unless the contrary is established, -

(a) an immediate relative of connected persons specified in clause (i).

15. I note that Noticees have submitted the following in their responses to the SCN;

<u>Reply of Noticee No: 1</u>

- *There is no evidence which can establish that Noticee had access to the UPSI and the inquiry has been initiated on the basis of mere assumption that Noticee had the said access. Noticee never had access to UPSI at any point of time and hence, the allegation of violation of Rule 3(2) of PIT Regulations is not sustainable in law.*

- *Noticee is not a 'connected person' as Noticee's business relationship with DFPCL did not allow access to UPSI. Therefore, Noticee was not an insider as per Rule 2(1)(g) of the PIT Regulations, and hence, he had not violated Rule 4(1) of the PIT Regulations while undertaking purchase of shares on July 20, 2020.*
- *Noticee is Director of Nishant Infin Pvt Ltd, NPL Mercantile Pvt Ltd and a Partner of Indinox Stainless & Alloys LLP, and through said entities, Noticee has a business relationship with DFPCL and its subsidiaries. Also, Noticee is a cousin of Sailesh Mehta, promoter of DFPCL.*
- *Due to Noticee's business relations, he had communications with people as pointed in the SCN. Noticee's business relations with DFPCL never enabled any direct/ indirect access to any UPSI nor was he reasonable expected to access UPSI. Further, because of the COVID pandemic, the circumstances warranted for telephonic conversations with the employees of DFPCL, in course of business with DFPCL and its subsidiaries.*
- *Noticee has been in communication with personnel of DFPCL in course of business relationship with DFPCL.*

Reply of Noticee No: 2

- *Noticee has relied upon response of Noticee No: 1 who is her husband, and contended that Noticee No: 1 did not qualify as a connected person, and therefore, Noticee No: 2 did not qualify as an insider.*
- *Further, both Noticee No: 1 and 2 never gained any access to UPSI, so they did not quality as an Insider.*

16. I note that Noticee No: 1 is a director of Nishant Infin Pvt. Ltd., which provided business services to DFPCL and its subsidiaries viz. Smartchem Technologics Ltd and Performance Chemserv Ltd. Also, Chairman/ MD of DFPCL. Mr. Sailesh Mehta's Father and father of Noticee No. 1 are Brothers, and therefore Noticee No. 1 is cousin of Mr. Sailesh Mehta. Upon perusal of Call Detail Records (CDR) provided as Annexure 6 to the SCN, I note that Noticee No: 1 was also in touch with Key Management Personnel (KMPs) of DFPCL through his mobile number.

I note that due to the relationship of Noticee No. 1 with the CMD of DFPCL, professional relationship of Nishant Infin Pvt. Ltd. with DFPCL and communication with KMPs of DFPCL, Noticee No. 1 is reasonably expected to have access to information pertaining to DFPCL. Hence, in terms of Regulation 2(1)(d)(ii) of PIT Regulations, Noticee No. 1 is a connected person. I also note that Noticee No: 2 is wife of Noticee No: 1. Noticee No: 2 was also a director of Nishant Infin Pvt Ltd, Smartchem Technologics Ltd and Performance Chemserv Ltd. Hence, in terms of Regulation 2(1)(d)(ii) of PIT Regulations, Noticee No. 2 is a connected person. Therefore, it is established that Noticees were insiders of DFPCL in terms of provisions of the PIT Regulations.

Issue No. III: If yes, whether trading by Noticees, as alleged in the SCN, is in violation of provisions of Regulation 3(2), 4(1) of the PIT Regulations and Section 12A(d) & (e) of the SEBI Act? If yes, whether the violations, if any, attract monetary penalty under the provisions of Section 15G of the SEBI Act?

17. I note that the trades executed by Noticee No: 1 in the scrip of DFPCL during the UPSI period are as under:

Period	Scrip : DFPCL		Other Scrips	
	Gross Traded Value (in Rs.)	% activity in this scrip to gross traded value	Gross Traded Value (in Rs.)	% activity in other scrips to gross traded value
Pre UPSI Period (June 01, 2020 to July10, 2020)	0	0	0	0
UPSI Period (July 11, 2020 to July 31, 2020)	80,37,218.5	99.59%	33,152.29 (no. of scrips: 10)	0.41%
Post UPSI Period (August 01, 2020 to Sep. 30, 2020)	92,75,799.25	100%	0	0%

Period	Buy	Sell	Buy Value (Rs)	Sell value (Rs)	Remarks
Pre UPSI Period (June 01, 2020 to July10, 2020)	0	0	0	0	No Trades in this period
UPSI Period	60,563	0		0	Only Buy Trades

(July 11, 2020 to July 31, 2020)			80,37,218.50		
Post UPSI Period (August 01, 2020 to Sep. 30, 2020)	0	60,550	0	92,75,799.25	Only Sell Trades

18. I note that Noticee No: 1 had not traded in the pre-UPSI period in the scrip of DFPCL. During UPSI period, Noticee No. 1 had traded in 10 scrips, but 99.59% of his trading activities (in terms of gross traded value) were in the scrip of DFPCL. Further, in the post UPSI period, Noticee No: 1 had executed trades only in the scrip of DFPCL, during which he had only sold the shares bought during UPSI Period. I also note that Noticee No. 1 executed only buy trades for 60,563 shares during the UPSI period, and executed only sell trades for 60,550 shares during the post UPSI period.

19. I note that the trades executed by Noticee No: 2 in the scrip of DFPCL during the UPSI period are as under:

Period	**Scrip : DFPCL**		**Other Scrips**	
	Gross Traded Value (in Rs.)	**% activity in this scrip to gross traded value**	**Gross Traded Value (in Rs.)**	**% activity in other scrips to gross traded value**
Pre UPSI Period (June 01, 2020 to July10, 2020)	0	0	0	0
UPSI Period (July 11, 2020 to July 31, 2020)	19,87,232.75	98.87%	22,670.05 (no.of scrips: 8)	1.13%
Post UPSI Period (August 01, 2020 to Sep. 30, 2020)	28,25,505.2	100%	0	0%

Period	**Buy**	**Sell**	**Buy Value (Rs)**	**Sell Value (Rs)**	**Remarks**
Pre UPSI Period (June 01, 2020 to July10, 2020)	0	0	0	0	No Trades in this period
UPSI Period (July 11, 2020 to July 31, 2020)	16,675	0	1987232.75	0	Only Buy Trades
Post UPSI Period (August 01, 2020 to Sep. 30, 2020)	0	16,575	0	2825505.20	Only Sell Trades

20. I note that Noticee No: 2 did not trade in the pre-UPSI period. During the UPSI period, she traded in 8 scrips, but 98.87% of her trades (in terms of gross traded value) were in the scrip of DFPCL. Further, in the post UPSI period, Noticee No:

2 traded solely in the scrip of DFPCL, during which she only sold shares bought during the UPSI period. I also note that Noticee No: 2 executed only buy trades for 16,675 shares of DFPCL during the UPSI period, and executed only sell trades for 16,575 shares of DFPCL in the post UPSI period.

21. It is noted from the trading pattern of the Noticees that majority of their trades during the UPSI period were concentrated in the scrip of DFPCL. Further, they had not executed any trades in the pre UPSI period. Even the trades executed by them in the UPSI period in the scrip of DFPCL were only buy trades, and the trades executed by them in the post-UPSI period were sell trades of almost the same quantity.

22. I note that Noticees have, *interalia,* contended the following;

22.1 that they had invested in the scrip of DFPCL considering the growth in agricultural sector during COVID;

22.2 that DFPCL had issued a communication dated July 17, 2020 regarding impact of COVID on the operations of the company, pursuant to which there was spurt in shares traded of the Company;

22.3 that they had traded in the shares of DFPCL only on the basis of 'Generally available information" and not UPSI;

22.4 that Noticee No. 1 has been a shareholder in DFPCL for over 20 years;

22.5 that the UPSI came into existence on July 11, 2022. However, he did not have any communication with personnel of DFPCL after July 04, 2020 to September 15, 2020, such that in absence of such communication, he could not have received UPSI of DFPCL from them;

22.6 that the personnel with whom he had communicated as per the SCN, had acquired UPSI much after he had executed buy trades in the scrip on July 20, 2022;

22.7 that Noticee had acquired the shares of DFPCL on July 20, 2020 which is prior to the date on which Mr K. Subhraman, Mr Debashish Banerjee, Mr D. S. Ravindra Raju and Mr. Raghunath Kelkar had access to UPSI. Also, Mr Pandurang Landge did not have access to UPSI during the said period.

22.8 that the allegations are based on mere assumptions in absence of cogent evidence of receipt of UPSI by Noticee or communication of UPSI by the employees of DFPCL;

22.9 that Noticee No. 2 traded in the shares of DFPCL based on decision of Noticee No: 1 who used her account for investment purposes.

22.10 that as per judgement of the Hon'ble Supreme Court in the matter of Balram Garg vs SEBI dated April 19, 2022, mere circumstantial evidences cannot form basis for concluding violation of PIT Regulations.

23. I note that had Noticees invested in the scrip of DFPCL considering the growth in agricultural sector during COVID, they would have remained invested in the scrip for long duration. However, they exited the scrip just after the UPSI became public and the price of the scrip increased. Further, Noticees did not invest in scrip of any other company belonging to the agricultural sector as per the record, which belies their explanation that they invested in DFPCL considering growth in agricultural sector during COVID.

24. I note that while the communication from DFPCL to stock exchanges dated July 17, 2020 regarding impact of COVID on the operations of the company did not give any bright picture of its operations, there was a spurt in both prices and volume in the trading in the scrip at the stock exchanges as under;

NSE

Date	Open Price	High Price	Low Price	Close Price	Total Traded Quantity	Turnover	No. of Trades
15-Jul-2020	115.60	117.50	112.25	113.80	4,13,119	4,77,27,431.00	3,288
16-Jul-2020	114.00	115.90	111.50	114.15	4,85,980	5,54,94,626.95	6,011
17-Jul-2020	114.80	117.30	114.60	116.30	4,07,263	4,73,40,049.75	3,927
20-Jul-2020	116.70	122.00	115.00	121.15	12,47,150	14,94,87,010.20	11,099
21-Jul-2020	122.95	135.60	122.90	131.75	59,44,102	77,76,68,704.00	51,498
22-Jul-2020	130.95	136.35	128.00	133.80	25,60,205	33,90,34,967.10	26,138
23-Jul-2020	134.00	135.80	132.15	134.75	11,61,688	15,62,04,444.65	10,210
24-Jul-2020	133.10	134.60	130.25	133.65	8,43,820	11,22,07,239.90	8,154
27-Jul-2020	135.50	145.00	134.50	143.65	47,36,329	66,25,05,729.65	42,423
28-Jul-2020	147.05	150.00	145.30	147.70	37,85,288	55,92,44,128.60	37,694
29-Jul-2020	148.40	148.40	138.65	140.65	16,74,369	24,04,46,636.50	18,466
30-Jul-2020	144.00	147.20	141.20	145.70	18,22,366	26,41,25,381.70	19,154

BSE

Date	Open	High	Low	Close	No of shares	No of trades	Total turnover
15/07/20	115.20	117.35	112.10	113.50	40,546	771	46,80,843
16/07/20	114.00	115.85	111.75	114.15	25,186	492	28,72,073
17/07/20	115.25	117.25	114.95	116.30	33,071	625	38,42,804
20/07/20	116.00	121.90	115.15	121.10	1,31,746	2,395	1,57,50,356
21/07/20	123.00	135.40	123.00	131.45	4,37,877	7,339	5,71,49,296
22/07/20	131.45	136.35	128.00	133.60	2,04,902	4,317	2,71,20,950
23/07/20	134.00	135.95	132.65	134.80	69,765	1,308	93,82,655
24/07/20	133.00	134.55	130.25	133.60	1,06,845	2,219	1,41,86,225
27/07/20	135.10	145.00	134.70	143.55	2,91,702	5,833	4,09,28,266

28/07/20	148.20	149.95	145.50	147.75	2,66,810	4,425	3,94,64,889
29/07/20	147.00	148.45	138.65	140.70	2,67,820	5,094	3,85,53,836
30/07/20	144.00	146.70	141.25	145.45	1,84,218	3,773	2,66,84,404

However, the submission of the Noticees appears to be just an afterthought, which co-incidentally is supported by the trading on the stock exchange, since the Noticees did not submit the same during the Investigation conducted by SEBI. I note that during the investigation, SEBI, vide email dated February 04, 2022, sought rationale for the investments from the Noticees into the shares of DFPCL in the month July, 2020. Noticee No. 1, vide email dated February 19, 2022, had stated as under;

"...At that time, after the initial shock of pandemic the shares across various sectors were on the rise. Agriculture was the only sector which had shown positive growth during pandemic. Fertilizer being one of the key components in Agriculture. Further, other products of the company were being useful in Covid pandemic, the company was expected to perform well, therefore, I decided to buy the shares..."

I note that had the only rationale of investment been communication from DFPCL to stock exchanges dated July 17, 2020, Noticees would have submitted the same reply to the Investigating Authority as they are submitting now, which they did not do and hence their contention in this regard is not accepted.

25. The trading pattern of Noticees in the scrip of DFPCL, which involved execution of almost equal buy and sell trades in UPSI and post UPSI periods respectively, concentration of almost 100% of trades during the UPSI period in the scrip of DFPCL and no trades in pre UPSI period, and their connection with the company clearly indicates that such trades were carried out while being in possession of UPSI pertaining to the financial results for the quarter ending June 2020.

26. I note that it has not been alleged that the UPSI was communicated through precisely the said calls as recorded in relevant CDRs. Instead, the CDRs show strong business and personal relations of Noticee No: 1 with DFPCL and/ or its

employees exhibited by the frequent communication, over and above his relation with the Managing Director of DFPCL. Such relations, read with other facts of the case strengthen the probability that Noticees had access to UPSI and traded on the basis of the same in the UPSI and post UPSI period.

27. I find it relevant to rely on the decision of the Hon'ble Supreme Court in the matter SEBI v. Kishore R. Ajmera (2016) 6 SCC 368. The Hon'ble Supreme Court considering the standard of proof required while imposing civil liabilities under SEBI Act or the regulations framed there under stated thus: *"It is a fundamental principle of law that proof of an allegation levelled against a person may be in the form of direct substantive evidence or, as in many cases, such proof may have to be inferred by a logical process of reasoning from the totality of the attending facts and circumstances surrounding the allegations/charges made and levelled. While direct evidence is a more certain basis to come to a conclusion, yet, in the absence thereof the Courts cannot be helpless. It is the judicial duty to take note of the immediate and proximate facts and circumstances surrounding the events on which the charges/allegations are founded and to reach what would appear to the Court to be a reasonable conclusion therefrom. The test would always be that what inferential process that a reasonable/prudent man would adopt to arrive at a conclusion.... The test, in our considered view, is one of preponderance of probabilities so far as adjudication of civil liability arising out of violation of the Act or the provisions of the Regulations framed thereunder is concerned. Prosecution under Section 24 of the Act for violation of the provisions of any of the Regulations, of course, has to be on the basis of proof beyond reasonable doubt..." (emphasis supplied)*

28. In the case of Balram Garg (supra) as relied upon by Noticees, there were facts countering the expectation of the appellants having access to UPSI, including disruption in joint family, separate residences and trading pattern. However, in the instant matter, I note that there are strong facts which clearly indicate the probability that Noticees were reasonably well expected to have access to UPSI, including *interalia,* business and personal relations with DFPCL and its Managing

Director, communication with officials of DFPCL and the distinct trading pattern during pre-UPSI period, UPSI period and post-UPSI period.

29. I note, on the basis of preponderance of probabilities, based on available facts and trading pattern, that the Noticees had bought shares relying on UPSI, anticipating increase in the price of the scrip when the UPSI would become public. Thereafter, when the UPSI finally became public, they offloaded almost all the shares they had bought, earning profits as a result of the increase in price of the scrip. Therefore, it is established that Noticees violated the provisions of Regulation 3(2), 4(1) of the PIT Regulations and Section 12A(d) & (e) of the SEBI Act are hence are liable for monetary penalty under the provisions of Section 15G of the SEBI Act which read as under:

Penalty for insider trading

15G. 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 anybody 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.

Issue No. IV: If so, what quantum of monetary penalty should be imposed on the Noticees after taking into consideration the factors mentioned in section 15J of the SEBI Act?

30. It has been established in the foregoing paragraphs that Noticees have violated the provisions of PIT Regulations and therefore, the aforesaid violations committed by the Noticees attract monetary penalty under Section 15G of the SEBI Act.

31. While determining the quantum of penalty under Section 15G of the SEBI Act, it is important to consider the factors relevantly as stipulated in Section 15J of the SEBI Act which reads as under: -

SEBI Act

Factors to be taken into account by the adjudicating officer.

15J. 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.

32. The consequences of violations committed by the Noticees are grave in nature and are prejudicial to the interests of the investors in the securities market. If violations of this nature are not dealt seriously with a firm hand, then investors will lose faith in the Indian Securities Market.

33. I note that the Closing Price of the scrip of DFPCL on the day of UPSI became public was Rs 159.60/- on NSE which was 10.83% higher than the opening price on that day. Accordingly, the unlawful gains/losses made/incurred by the entities while trading in the scrip of DFPCL during the UPSI is as follows:

Noticee Name	Buy Qty. during UPSI period ("A")	Sell Qty. during UPSI period ("B")	Net Qty (Buy Qty-Sell qty) ("C"=A-B)	Buy Value in Rs ("D")	Avg Buy Price in Rs. ("E"=D/A)	Buy Qty. post UPSI period ("F")	Sell Qty. post UPSI period ("G")	Sell Value post UPSI period in Rs.(Based on close price i.e. Rs 159.60 on the day of announcement) ("H"=Cx 159.60)	Actual Sell Value post UPSI period in Rs. ("I")	Avg Sell Price post UPSI period in Rs. ("J"=I/G)	Actual Profit in Rs ["K"=Gx(J-E)]	Notional Profit in Rs# ["L"=H-D]
Naresh Ramniklal Mehta	60,563	0	60,563	80,37,219	132.71	0	60,550	96,65,855	92,75,799	153.19	12,40,064*	16,28,636
Pallavi Naresh Mehta	16,675	0	16,675	19,87,233	119.17	0	16,575	26,61,330	28,25,505	170.47	8,50,298**	6,74,097

**60,550 shares considered as bought and sold to derive the value of Actual Profit earned by Noticee No. 1*

***16,575 shares considered as bought and sold to derive the value of Actual Profit earned by Noticee No. 2*

#The following methodology is used to calculate notional profit:

In case of positive news: Unlawful gain= {No. of shares bought while in possession of UPSI X Closing price on the day of UPSI becoming public}- {No. of shares bought while in possession of UPSI X weighted average purchase price}

34. Therefore, Noticee Nos: 1 and 2, earned actual profits of approx. Rs.12.40 lakhs and Rs.8.50 lakhs respectively, in respect of their trades in the scrip of DFPCL during the Investigation Period. However, it is not possible from the material on record to 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.

ORDER

35. After taking into consideration the facts of the matter, response of the Noticees, violations established against the Noticees, the profit earned by the Noticees,

and the time elapsed since the said profit is earned, I impose the following penalty on the Noticees:

S No	Noticees (PAN)	Violation of provisions	Penalty u/s	Penalty
1	Naresh Ramniklal Mehta (AAEPM4671M)	Regulation 3(2) and 4(1) of the PIT Regulations and Section 12A(d) and (e) of the SEBI Act	Section 15G of the SEBI Act	Rs. 25,00,000/- (Rupees Twenty Five Lakhs Only)
2	Pallavi Naresh Mehta (AAEPM4674Q)			Rs. 20,00,000/- (Rupees Twenty Lakhs Only)

I find that the said penalty is commensurate with the violations committed by the Noticees in this case.

36. 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 favour of "SEBI - Penalties Remittable to Government of India", payable at Mumbai, OR through online payment facility available on the website of SEBI, i.e. www.sebi.gov.in on the following path, by clicking on the payment link:

ENFORCEMENT → ORDERS → ORDERS OF AO → PAY NOW

37. The Noticees shall forward said Demand Draft or the details / confirmation of penalty so paid to "The Division Chief (Enforcement Department-1 DRA-5), Securities and Exchange Board of India, SEBI Bhavan 2, Plot No. C – 7, "G" Block, Bandra Kurla Complex, Bandra (E), Mumbai – 400 051." The Noticees shall also provide the following details while forwarding DD / payment information:

Case Name :	
Name of Payee :	

Date of Payment:	
Amount Paid :	
Transaction No. :	
Bank Details in which payment is made :	
Payment is made for: (like penalties/ disgorgement/ recovery/ settlement amount etc.)	Penalty

38. In the event of failure to pay the said amount of penalty within 45 days of the receipt of this Order, SEBI may initiate consequential actions including but not limited to recovery proceedings u/s 28A of the SEBI Act for realization of the said amount of penalty along with interest thereon, inter alia, by attachment and sale of movable and immovable properties.

39. In terms of Rule 6 of the Adjudication Rules, a copy of this order is sent to the Noticees and also to the Securities and Exchange Board of India.

Place: Mumbai **AMIT KAPOOR**

Date: December 22, 2022 **ADJUDICATING OFFICER**