BEFORE THE ADJUDICATING OFFICER
SECURITIES AND EXCHANGE BOARD OF INDIA
[ADJUDICATION ORDER NO. Order/SR/2022-23/38/22682

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

In respect of

Prathamesh Girishbhai Babu
(Address: A/5, Sita Tower, Jodhpur Char Rasta Satellite,
Ahmedabad - 3800015)

(PAN: AAQPB5003N)
In the matter of Radhe Developers (India) Ltd.

BACKGROUND

1. A Department (**OD**) of Securities and Exchange Board of India (hereinafter referred to as the **SEBI**) conducted an investigation regarding trading activities in the scrip of Radhe Developers (India) Ltd. (hereinafter referred to as **RDIL**/**Company**) for the period from October 01, 2009 to July 30, 2010 (hereinafter referred to as **Investigation Period**) on the basis of a reference received from Financial Intelligence Unit (FIU-IND). The company was listed on Bombay Stock Exchange (BSE) during the investigation period. During the course of investigation it was observed by Investigating Authority (**IA**) of SEBI that Prathamesh Girishbhai Babu (hereinafter referred to as **Noticee**) has violated the provisions of regulation 13(3) read with (r/w) 13(5) of SEBI (Prohibition of Insider Trading) Regulations, 1992 (hereinafter referred to as **PIT Regulations, 1992**).

APPOINTMENT OF ADJUDICATING OFFICER

2. Based on the investigation, SEBI initiated adjudication proceedings against the Noticee, to inquire into and adjudge under section 15A(b) of the Securities and Exchange Board of India Act, 1992 (hereinafter referred to as **the SEBI Act, 1992**) for alleged violations of provisions under regulation 13(3) r/w 13(5) of PIT Regulations, 1992. Shri Nagendraa Parakh was appointed as the Adjudicating Officer (AO) under section 15-I of the SEBI Act, 1992 r/w rule 3 of the SEBI (Procedure for Holding Inquiry and Imposing Penalties by Adjudicating Officer) Rules, 1995 (hereinafter referred to

as **Adjudication Rules, 1995**) to inquire into and adjudge under section 15A(b) of the SEBI Act, 1992 for the alleged violations of 13(3) r/w 13(5) of PIT Regulations, 1992 by the Noticee. Subsequently, the matter was transferred and undersigned was appointed AO vide order dated July 10, 2017.

SHOW CAUSE NOTICE, REPLY AND PERSONAL HEARING

3. A Show Cause Notice dated December 07, 2016 (hereinafter referred to as **SCN**) was issued to the Noticee in terms of rule 4 of the Adjudication Rules, 1995 requiring the Noticee to show cause as to why an inquiry should not be held against it for the alleged violations of provisions under regulations 13(3) r/w 13(5) of PIT Regulations, 1992 and why penalty be not imposed on the Noticee under section 15A(b) of the SEBI Act, 1992 for the alleged violations as specified in the SCN. The SCN was issued to the Noticee through speed post acknowledgement due (SPAD) and the same was delivered to the Noticee as seen from the material available on record.

4. It was alleged in the SCN that the shareholding of the Noticee for the quarter ended September 2009 was 8.34% (i.e. more than 1%) of the total shareholding of the Company. The details of change in shareholding provided to the Noticee are tabulated below:

Name	QE Sep-09	QE Dec-09	QE Mar-10	QE Jun-10	QE Sep-10
Prathmesh Girishbhai Babu	8.34%	8.34%	7.02%	4.08%	0.00%

IA observed that Noticee was holding 2,1000,000 shares of the company ie. 8.34% of the total shareholding as on October 01, 2009 and holding has changed over 2% on as given below:

Date	Market		Net	Share Capital	% Change	Actual (%)	Violations
	Buy	Sell					
10-Mar-2010	0	11,55,000	11,55,000	25,17,99,000	-0.46%	7.88	-
18-Jun-10	0	4,39,513	4,39,513	25,17,99,000	-0.17	**6.21**	**No disclosure made to the Company under Reg. 13(3) of SEBI (PIT) Reg., 1992**
28-Jun-10	0	10,00,000	10,00,000	25,17,99,000	-0.40	4.08	No disclosure made to the Company under

							Reg. 13(3) of SEBI (PIT) Reg., 1992

IA observed that there has been a change in Noticee's shareholding above 2.00% on June 18, 2010 and June 28, 2010 and due to such change, the Noticee was under obligation to make disclosure to the Company for these trades within two working days in terms of regulation 13(3) r/w 13(5) of PIT Regulations, 1992. However, Noticee failed to make disclosure to the Company and hence alleged that the Noticee violated provisions of regulation 13(3) r/w 13(5) of PIT Regulations, 1992. Noticee was advised to show cause as to why an inquiry should not be held against you in terms of Rule 4 of the Adjudication Rules, 1995 read with section 15-I of the SEBI Act, 1992 and why penalty, if any, should not be imposed on you under section 15A(b) of the SEBI Act, 1992 for the alleged violation of the provisions of law enumerated above, if any.

5. Noticee replied vide letter dated January 30, 2017 seeking documents relied upon, opportunity for inspection. Upon my appointment as AO, vide hearing notice dated November 21, 2017 enclosing the SCN, the Noticee was granted an opportunity of personal hearing on December 14, 2017. In the said hearing notice, the Noticee was also advised to submit reply to the SCN by December 10, 2017. The said hearing notice was served to the Noticee through SPAD. The Noticee vide letter dated November 30, 2017 submitted the reply to the SCN requesting to provide various documents and also for inspection of documents and that Noticee has filed a consent application dated April 27, 2017. Another hearing notice dated June 26, 2019 was sent and delivered to Noticee for hearing scheduled 2019. Noticee sent a reply by email (pbaboo71 at yahoo dot com) dated July 08, 2019 that he has not received any communication on rejection of his consent application also made a contention that the SCN has been issued after repeal of PIT 1992. Office of AO ascertained from the relevant Department of SEBI regarding whether such an application was pending, upon ascertaining the matter was kept on abeyance. Vide email dated October 19, 2019 relevant department informed about status of consent application of Noticee. As the matter was no longer on abeyance, vide letter dated October 16, 2019 another opportunity of hearing was given vide letter sent and delivered through SPAD. Noticee replied vide email dated October 17, 2019 that seeking documents. Vide email (secretarial at radheinfra dot com) dated November 05, 2019 the company sent a letter

on behalf of the Noticee to relevant Department of SEBI regarding rejection of the said consent application. Vide letter dated January 17, 2020 sent and delivered by SPAD, documents sought by Noticee were sent with an advice to reply within 15 days from receipt. Noticee sent a reply dated January 30, 2020 seeking inspection of documents. Inspection request was sent by undersigned AO to the relevant Department vide letter dated February 27, 2020 with a copy to Noticee. Relevant department vide email dated July 17, 2020 sent email regarding sharing all the documents for inspection by email with the Noticee. Noticee sent a copy of letter it sent to BSE dated July 25, 2020 asking BSE to provide system and records of receipt of disclosure and dissemination of the same so as to enable the Noticee to verify what could have happened to their postal sending of registered AD at prevalent point of time. In this regard, vide email dated August 21, 2020 Noticee was advised to file reply to the SCN else the matter shall be proceeded upon on the basis of material on record. Vide email dated August 28, 2020 relevant Department sent final confirmation to AO that inspection has been provided to Noticee. Undersigned AO vide email dated August 28, 2020 advised the Noticee that, extended periods of delay have been allowed in the interest of natural justice, however, in case Noticee fails to defend itself against the charges levied in the SCN through written submissions/personal hearings, the material already on record (including letters mentioned in trailing email) will be relied upon to take the instant adjudication proceedings to its end. Vide letter dated August 27, 2020 Noticee requested for more time. Hearing Notice dated August 23, 2021 was sent to Noticee for hearing scheduled from August 30, 2021 to September 03, 2021 at any date between 11:00 AM to 04:00 PM through any mode convenient to Noticee. Noticee sought postponement. Another opportunity of hearing was provided vide email dated October 13, 2021 for any date from October 20 to 22, 2021, failing which matter will be proceeded upon on the basis of material on record. Noticee intimated about his Authorized representative and confirmed about attending the hearing as scheduled. Hearing proceedings were completed on October 20, 2021. Noticee attended with Authorised Representative. Minutes were confirmed over email. During the hearing Noticee requested for additional time to be given for reply, the same was given. Noticee filed a reply dated December 09, 2021.

6. The Noticee submitted following reply:
   - The company was also listed at ASE as well as BSE.
   - All the disclosures have been made to the Company and ASE and letters have been sent to BSE.
   - Copies of disclosures made have been submitted.
7. After taking into account, the allegations levelled in the SCN, reply to the SCN and other materials available on record, I hereby, proceed to decide the case on merit.

CONSIDERATION OF ISSUES

8. The issues that arise for consideration in the present case are:
   (a) Whether the Noticee has violated the provisions of regulation 13(3) r/w 13(5) of PIT Regulations, 1992?
   (b) Do the violations, if any, on the part of the Noticee attract monetary penalty under section 15A(b) of the SEBI Act, 1992?
   (c) If so, what would be the quantum of monetary penalty that can be imposed on the Noticee after taking into consideration the factors mentioned in section 15J of the SEBI Act, 1992?
9. Before proceeding further, it will be appropriate to refer to the relevant provisions of PIT Regulations, 1992 which read as under:-

PIT Regulations, 1992
Continual disclosure
13(3) *Any person who holds more than 5% shares for voting rights in any listed company shall disclose to the company in Form C the number of shares or voting rights held and change in shareholding or voting rights, even if such change results in shareholding falling below 5%, if there has been change in such holdings from the last disclosure made under sub-regulation (1) or under this sub-regulation; and such change exceeds 2% of total shareholding or voting rights in the company.*

13(5) *The disclosure mentioned in sub-regulations (3), (4) and (4A) shall be made within two working days of:*
(a) the receipts of intimation of allotment of shares, or
(b) the acquisition or sale of shares or voting rights, as the case may be.

FINDINGS

10. On perusal of the material available on record and giving regard to the facts and circumstances of the case, I record my findings hereunder:

Issue (a): Whether the Noticee has violated the provisions of regulation 13(3) r/w 13(5) of PIT Regulations, 1992?

(a) I observe from the material available on record that the holding of the Noticee as on September 29, 2010 was 8.20% (i.e. greater than 5%) of shares of total number of shares in the company. Record also shows that Noticee has traded during investigation period and there has been change in the shareholding of above 2% of shares of total number of shares in the company by the Noticee on June 18 and 28, 2018. As per regulation 13(3) of PIT Regulations, 1992, any person who holds more than 5% shares for voting rights in any listed company shall disclose to the company in Form C regarding the number of shares or voting rights held, if there has been change in such holdings from the last disclosure made under sub-regulation (1) or under this sub-regulation; and such change exceeds 2% of total shareholding or voting rights in the company. It is observed from the SCN that by change in shareholding above 2% of the total shareholding of the Company, the Noticee was required to make disclosures to the Company under regulation 13(3) r/w 13(5) of PIT Regulations, 1992. However, it is alleged that Noticee has not made disclosure to the company within the specified time as prescribed under regulation 13(3) r/w 13(5) of PIT Regulations, 1992 and hence allegedly violated the provisions of regulation 13(3) r/w 13(5) of PIT Regulations, 1992.

(b) It is seen from the latest reply of Noticee that the Noticee has made disclosures to the Company as seen from the letters addressed to company with an inward stamp of the company. In turn company has despatched the same to BSE and inwarded to ASE. Noticee has submitted evidentiary proof of same for both instances. I find that the Noticee has made required disclosure to the Company under the provision of regulation 13(3) r/w 13(5) of PIT Regulations, 1992. In light of which, aforementioned allegations levelled against the Noticee do not get established.

(c) In view of the above, issue (b) and (c) do not merit consideration.

<u>ORDER</u>

11. In light of the material available on record and the evidence adduced by the Noticee, I find that allegations of violations of provision of regulation 13(3) r/w 13(5) of PIT Regulations, 1992 levelled against Noticee i.e. Prathamesh Girishbhai Babu do not stand established and therefore in exercise of the powers conferred under section 15-I of the SEBI Act, 1992 and rule 5 of the Adjudication Rules, 1995, I hereby dispose off the said SCN without imposing monetary penalty.
12. In terms of the rule 6 of the Adjudication Rules, 1995, copy of this order is sent to the Noticee at his last known address and also to Securities and Exchange Board of India.

Date: December 30, 2022 **SANGEETA RATHOD**
Place: Mumbai **ADJUDICATING OFFICER**