BEFORE THE ADJUDICATING OFFICER

SECURITIES AND EXCHANGE BOARD OF INDIA

ADJUDICATION ORDER NO. Order/PM/SM/2022-23/17289

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:

Chirag Malhotra

PAN: BBSPM5291H

In the matter of Mindtree Ltd.

A. BACKGROUND

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

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

3. The investigation revealed that Chirag Malhotra (hereinafter referred to as the "**Noticee**") was an employee of the Company and had transacted in the Company's scrip during the Investigation Period. It was further observed that the Noticee had done transactions aggregating to a traded value in excess of Rs 10,00,000 over a calendar quarter.

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

B. APPOINTMENT OF ADJUDICATING OFFICER

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

C. SHOW CAUSE NOTICE, REPLY AND HEARING

6. A show cause notice (hereinafter referred to as "**SCN**") bearing reference no. EAD-8/PM/NJMR/20484/1/2021 dated August 23, 2021 was served on the Noticee *vide* emails sent on October 06, 2021 under rule 4 of the SEBI Adjudication Rules to show cause as to why an inquiry should not be held against him in terms of rule 4 of the SEBI Adjudication Rules and penalty should not be imposed under section 15A(b) of the SEBI Act for the violation alleged to have been committed by him. In the SCN, the Noticee was asked to indicate whether he would prefer a personal hearing before the adjudicating officer in the matter.

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

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

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

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

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

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

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

8. After considering the facts and circumstances of the case, the undersigned granted an opportunity of personal hearing to the Noticee on December 17, 2021. In view of the prevailing circumstances owing to COVID-19, the hearing was scheduled through video conferencing on cisco webex platform. On the scheduled hearing date, the Noticee did not availed the hearing opportunity. In the interest of Justice, Noticee was granted final opportunity of personal hearing on January 27, 2022, however, Noticee again did not avail the same. Further, Noticee had not made any submissions throughout the adjudicating proceedings. Therefore, I find that principles of natural justice have been complied with respect to the Noticee in the current adjudication proceedings.

9. As the said Noticee has chosen not to respond to the SCN, it would be appropriate to proceed in the matter, based on materials available on record. In this regard, it is pertinent to mention that the Hon'ble Securities Appellate Tribunal ('SAT') in the matter of **Classic Credit Ltd. vs. SEBI** (Appeal No. 68 of 2003 decided on December 08, 2006) has, inter-alia, observed that, "............ *the appellants did not file any reply to the second show cause notice. This being so, it has to be presumed that the charges alleged against them in the show cause notice were admitted by them".* It is also pertinent to mention that the Hon'ble SAT in the matter of **Sanjay Kumar Tayal & Others vs. SEBI** (Appeal No. 68 of 2013 decided on February 11, 2014), has also, inter alia, observed that: "........... *appellants have neither filed reply to show cause notices issued to them nor availed opportunity of personal hearing offered to them in the adjudication proceedings and, therefore, appellants are presumed to have admitted charges leveled against them in the show cause notices..."*.In **Dave Harihar Kirtibhai vs. SEBI** (Appeal No. 93, 104, 180 and 181 of 2014) dated December 19, 2014, the Hon'ble SAT has held the following: *"...further, it is being increasingly observed by the Tribunal that many persons/entities do not appear before SEBI (Respondent) to submit reply to SCN or, even worse, do not accept notices/letters of Respondent and when orders are passed ex-parte by Respondent, appear before Tribunal in appeal and claim non-receipt of notice and do not appear and/or submit reply to SCN but claim violation of principles of natural justice due to not being provided opportunity to reply to SCN or not provided personal hearing. This leads to*

unnecessary and avoidable loss of time and resources on part of all concerned and should be eschewed, to say the least. Hence, this case is being decided on basis of material before this Tribunal....".

D. CONSIDERATION OF ISSUES AND FINDINGS

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

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

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

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

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

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

Disclosures by certain persons.

7. (2) Continual Disclosures.

(a). Every promoter [1][member of the promoter group], [2][designated person] and director of every company shall disclose to the company the number of such securities acquired or disposed of within two trading days of such transaction if the value of the securities traded, whether in one transaction or a series of transactions over any calendar quarter, aggregates to a traded value in excess of ten lakh rupees or such other value as may be specified;

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

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

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

13. I note that Noticee had not filed any submission to the SCN and therefore, it is presumed that the Noticee has not disputed the following allegations levelled in the SCN that: (i) he was an employee of the Company during the Investigation Period; (ii) he had executed trades in excess of Rs 10,00,000 and (iii) he had not filed the requisite disclosures within the time stipulated under regulation 7(2)(a) pursuant to the trades executed by him. Further, I note from the material available on record that the Company *vide* the December 2020 Replies has confirmed that the Noticee did not submit the disclosure within the time specified under the aforesaid regulation for the trades undertaken by him during the Investigation Period.

14. I note from the material available on record that the Noticee was an employee of the Company during the Investigation Period. On perusal of the transaction details of the Noticee, I note that the Noticee had traded in excess of Rs 10,00,000 in the Company’s scrip by executing buy and sell trades on the derivative segment of NSE between the period January 01, 2019 to March 29, 2019 (which falls within the Investigation Period). The details of the said trades of the Noticee are tabulated below:

Traded value at NSE cash segment (in Rs.)	Traded value at NSE derivatives segment (in Rs.)	Traded value at BSE cash segment (in Rs.)	Total traded value (BSE +NSE) (in Rs.)	No. of occasions transactions executed
-	86,32,530	-	86,32,530	6

15. I note from the trade details of the Noticee which were sent as annexures along with the SCN to him, that the total traded value of the Noticee's trades during the Investigation Period amounted to Rs. 86,32,530 as given in the abovementioned table. Further, I note that the Noticee breached the threshold of Rs 10 lakhs six times, on the following dates: January 16, 2019, January 17, 2019, January 18, 2019, January 23, 2019, January 28, 2019 and February 15, 2019 as given below:

Date of transaction	Gross quantity in cash market (Buy quantity + sell quantity)	Gross transaction value in cash market (in Rs.) (Buy quantity value + sell quantity value)	No of units in derivatives market	Gross transaction value in derivatives market (in Rs.)	Gross transaction value in cash and derivatives market (in Rs.)
16-Jan-2019	-	-	1,800	15,11,370	15,11,370
17-Jan-2019	-	-	1,800	14,96,790	14,96,790
18-Jan-2019	-	-	1,200	10,19,820	10,19,820
23-Jan-2019	-	-	1,200	10,12,200	10,12,200
28-Jan-2019	-	-	3,000	25,43,550	25,43,550
05-Feb-2019	-	-	600	5,28,540	5,28,540
15-Feb-2019	-	-	600	5,20,260	5,20,260
Total				**86,32,530**	**86,32,530**

The table provided above clearly shows that the Noticee breached the threshold for the first, second, third, fourth and fifth time on January 16, 2019, January 17, 2019, January 18, 2019, January 23, 2019 and January 28, 2019, when the Noticee traded 1800, 1800, 1200, 1200, 3000 options in derivative segment which amounted to traded value of Rs 15,11,370, Rs 14,96,790, Rs 10,19,820, Rs 10,12,200, Rs 25,43,550 respectively. The

Noticee once again breached the threshold for the sixth times on February 15, 2019 when he traded in derivative segment which amounted to Rs 10,48,800 together with the trade executed on February 05, 2019.

16. In light of the above, I have no difficulty in arriving at the conclusion that the total traded value of the Noticee during the Investigation Period was Rs 86,32,530 and the disclosure requirement under regulation 7(2)(a) with respect to the Noticee was triggered six times.

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

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

18. 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."*

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

detrimental to the interest of the investors in the securities market and hence no fault can be found with the decision of SEBI in imposing penalty".

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

Penalty for failure to furnish information, return, etc.

15A. *If any person, who is required under this Act or any rules or regulations made thereunder:*

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

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

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

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

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

Factors to be taken into account while adjudging quantum of penalty

While adjudging quantum of penalty under [5][15-I or section 11 or section 11B, the Board or the adjudicating officer] shall have due regard to the following factors, namely :—
(a) the amount of disproportionate gain or unfair advantage, wherever quantifiable, made as a result of the default;
(b) the amount of loss caused to an investor or group of investors as a result of the default;
(c) the repetitive nature of the default.

[6][Explanation: For the removal of doubts, it is clarified that the power to adjudge the quantum of penalty under sections 15A to 15E, clauses (b) and (c) of section 15F, 15G, 15H and 15HA shall be and shall always be deemed to have been exercised under the provisions of this section.]
[5]Substituted for the words "section 15-I, the adjudicating officer" by the Finance Act, 2018 w.e.f. 08-03-2019
[6]Inserted by Part VIII of Chapter VI of the Finance Act, 2017 vide Gazette Notification No. 7, Extraordinary Part II Section 1 dated March 31, 2017. This shall come into force from April 26, 2017.

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

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

E. ORDER

24. After taking into consideration the nature and gravity of the violations established in the preceding paragraphs and in exercise of the powers conferred upon me under section 15-I of the SEBI Act read with rule 5 of the SEBI Adjudication Rules, I hereby impose a

penalty of Rs 1,00,000 (Rupees One Lakh Only) on the Noticee *i.e.,* Chirag Malhotra under section 15A(b) of the SEBI Act. I am of the view that the penalty is imposed on the Noticee is commensurate with the violation committed by the Noticee.

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

ENFORCEMENT → ORDERS → ORDERS OF AO → PAY NOW

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

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

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

Date: June 24, 2022
Place: Mumbai

PRASANTA MAHAPATRA
ADJUDICATING OFFICER