BEFORE THE ADJUDICATING OFFICER

SECURITIES AND EXCHANGE BOARD OF INDIA

[ADJUDICATION ORDER NO. Order/SM/HG/2022-23/20800]

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

In respect of

Mr. Ponnusamy Dharmaraj
[PAN: ADXPD5171D]

In the matter of Titan Company Limited

FACTS OF THE CASE IN BRIEF

1. Securities and Exchange Board of India (hereinafter referred to as '**SEBI**') received a letter from Titan Company Limited (hereinafter referred to as '**Company/Titan/TCL**') wherein the company intimated SEBI about contravention of SEBI (Prohibition of Insider Trading) Regulations, 2015 (hereinafter referred to as '**PIT Regulations**') and Company's Code of Conduct for Prevention of Insider Trading by some of its designated persons/employees. The securities of Titan are listed on Bombay Stock Exchange Limited (**BSE**) and the National Stock Exchange of India Ltd (**NSE**) (both collectively called 'exchanges').

2. Thereafter, SEBI conducted an investigation in the scrip of Titan and observed several non-compliances of PIT Regulations during the period April 01, 2018 to March 31, 2019 (hereinafter referred to as '**Investigation Period/IP'**) by employees / designated persons of TCL including Mr. Ponnusamy Dharmaraj (hereinafter referred to as '**Noticee/by name'**). Pursuant to investigation, SEBI initiated adjudication proceedings against Noticee under the provisions of Section 15A(b) of Securities and Exchange Board of India Act, 1992 (hereinafter referred

to as '**SEBI Act'**) for alleged violation of Regulation 7(2)(a) of PIT Regulations by Noticee.

APPOINTMENT OF ADJUDICATING OFFICER

3. Vide order dated March 02, 2021, SEBI appointed the undersigned as Adjudicating Officer under Section 15I of the SEBI Act read with Section 19 of the SEBI Act and Rule 3 of the SEBI (Procedure for Holding Inquiry and Imposing Penalties) Rules, 1995 (hereinafter referred to as '**Adjudication Rules'**) to inquire into and adjudge under the provisions of Section 15A(b) of SEBI Act, the aforesaid alleged violation by Noticee.

SHOW CAUSE NOTICE, REPLY AND PERSONAL HEARING

4. A show-cause notice dated August 09, 2021 (hereinafter referred to as '**SCN**') was issued to Noticee under Rule 4 of the Adjudication Rules to show-cause as to why an inquiry should not be initiated against Noticee and penalty, if any, not be imposed upon him under the provisions of Section 15A(b) of SEBI Act for the aforesaid violation alleged to have been committed by him.

5. The allegations levelled against Noticee in the SCN are as under:

   a) During the course of investigation, it was observed that Noticee had traded in the securities of the Titan during the Investigation Period. Details of his trading are as under:

Name of Noticee	**Total Traded Value (BSE+NSE) (in Rs.)**	**No. of occasions on which traded value exceeded Rs. 10 lakh**
	April – June 2018	
Mr. Ponnusamy Dharmaraj	1,56,06,614	7

   b) It was observed from the table above that in the calendar quarter ending on June 2018, the total traded value of the securities traded by Noticee in the scrip of Titan was Rs 1,56,06,614/-. It was also observed that on 7 occasions in the aforesaid calendar quarter, Noticee's traded value of securities exceeded rupees ten lakhs. Therefore, for the aforesaid transactions, which were in excess of the limit specified in Regulation 7(2)(a) of PIT Regulations, Noticee was required to make disclosure in terms of the aforesaid regulation. In this regard, in reply to a query by SEBI, TCL vide email dated October 28, 2020, confirmed that it had not received any disclosures from Noticee.

c) In view of the above observations, it was alleged that Noticee has violated Regulation 7(2)(a) of PIT Regulations, on 7 occasions by not making disclosures as required in terms of aforesaid regulation.

6. The SCN was sent to Noticee through Speed Post Acknowledgement due (herein after referred to as '**SPAD**') on August 09, 2021, and digitally signed email dated August 13, 2021. However, the SCN was returned undelivered. Therefore, vide email dated September 06, 2022, latest address and email id of the Noticee was sought from TCL. Vide email dated September 15, 2022, TCL informed that the latest address and email id available with them is same as that available with SEBI. Further, it was also informed by TCL that the Noticee has confirmed that his domicile is at the said address as well as that the Noticee is in receipt of physical communication on a regular basis from TCL at the said address. Therefore, the SCN was sent again on September 15, 2022 to the Noticee at the said address along with hearing notice dated September 15, 2022, granting an opportunity of personal hearing before the undersigned on October 10, 2022 and was duly served upon him. Noticee was given fifteen (15) days' time to make his submissions in respect of the allegations made in the SCN. Vide email dated September 29, 2022, Noticee submitted his reply to the SCN.

7. Noticee appeared for hearing on the scheduled date and reiterated the submissions by him vide his earlier email and made further oral submissions before the undersigned during the hearing. Due to difficulties in view of the Covid-19 pandemic, hearing was conducted through video conferencing.

8. The submissions by Noticee are summarized hereunder:-
    a. He was not aware of PIT Regulations.
    b. He was a workman in "E" level in the Ebauche department of the company and does not have an official email id in the titan domain. TCL code of conduct was circulated only through email and was not displayed in the

notice board. Therefore, he has not received any information regarding PIT Regulations from company.

c. He was a workman and not an employee of the company to whom the company did not deem fit to communicate TCL code of conduct, therefore, the said provision for disclosure is not applicable to me.
d. He has traded in equity from 01.03.2018 to 31.06.2018 for which the buy value is Rs. 1,36,641/- and sell value is Rs. 1,35,397.50/- respectively. Further, he had traded in F&O segment in OPTSTK for buy value of Rs. 50,662.50/- and sell value is Rs. 43,912.50/- respectively.
e. He further states that the disclosure is required to be made within two trading days of such transactions, if the “traded value” is in excess of ten lakhs rupees and however, his traded value has not exceeded ten lakhs.
f. He was workman and he does not deal with any sensitive information like company’s financial position nor holding any important managerial position nor working in finance, secretarial, internal audit, accounts and legal departments.
g. He was a small investor and done the trading for earning a small income to support his family needs. However, he ended up in a loss of around Rs. 60,000/-.
h. He was also trading in shares other than Titan.

CONSIDERATION OF ISSUES, EVIDENCE AND FINDINGS

9. I have carefully perused the charges levelled against Noticee, replies/submissions filed by Noticee and other documents/ evidence available on record. The issues that arise for consideration in the present case are:

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

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

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

10. Before moving forward, it is pertinent to refer to the relevant provision of the PIT Regulations which was in force at the time of impugned transactions, which are reproduced as under:

<u>Relevant provisions of PIT Regulations:</u>

Disclosures by certain persons.

7(2) continual disclosure.

(a)Every promoter, employee 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;

<u>Issue No. I- Whether Noticee has violated Regulation 7(2)(a) of PIT Regulations</u>?

11. I note from the available records that Noticee had transacted in securities of Titan as seen from the details extracted from the trade log obtained from exchanges, which are given below: -

Date	Segment	Buy Qty	Buy Value/Sum of Notional Day Buy Value (Rs.)	Sell Qty	Sell Value/Sum of Notional Day Sell Value (Rs.)	Gross Value/Gross Notional Value (Notional Day Buy Value + Notional Day Sell Value) (Rs.)	Cumulative Value (Rs.)
09-05-18	Cash	10	9,786	-	-	9,786	9,786
15-05-18	Cash	-	-	10	9,390	9,390	19,176
04-06-18	OPTSTK	750	7,15,575	-	-	7,15,575	7,34,751
06-06-18	OPTSTK	-	-	750	7,12,050	7,12,050	14,46,801
07-06-18	OPTSTK	1,500	14,37,600	750	7,12,275	21,49,875	35,96,676
11-06-18	OPTSTK	-	-	750	7,25,738	7,25,738	43,22,414
18-06-18	OPTSTK	750	7,09,275	-	-	7,09,275	50,31,689
19-06-18	OPTSTK	750	6,94,575	750	6,94,500	13,89,075	64,20,764
20-06-18	OPTSTK	1,500	13,87,350	750	6,94,013	20,81,363	85,02,126

Date	Segment	Buy Qty	Buy Value/Sum of Notional Day Buy Value (Rs.)	Sell Qty	Sell Value/Sum of Notional Day Sell Value (Rs.)	Gross Value/Gross Notional Value (Notional Day Buy Value + Notional Day Sell Value) (Rs.)	Cumulative Value (Rs.)
21-06-18	OPTSTK	1,500	13,84,763	2,250	20,89,650	34,74,413	1,19,76,539
22-06-18	OPTSTK	1,500	13,41,525	2,250	20,35,688	33,77,213	1,53,53,751
28-06-18	Cash	150	1,26,855	150	1,26,008	2,52,863	1,56,06,614
Total		**8,410**	**78,07,304**	**8,410**	**77,99,310**	**1,56,06,614**	

12. From the above table, I note that during the quarter ended June 2018, the value of trades by Noticee in the securities of Titan from May 09, 2018 to June 06, 2018, on a cumulative basis, amounted to Rs. 14,46,801/- on June 06, 2018. On perusal of trades of Noticee, I further note that on June 07, 2018, Noticee traded in the securities of Titan for a value of Rs.21,49,875/-. I also note that the value of trades by Noticee in the securities of Titan from June 11, 2018 to June 18, 2018, on a cumulative basis, amounted to Rs. 14,35,013/- on June 18, 2018. Further, I note that on June 19, 2018, June 20, 2018, June 21, 2018 and June 22, 2018, Noticee traded in the securities of Titan for a value of Rs.13,89,075/-, Rs. 20,81,363/-, Rs. 34,74,413/- and Rs. 33,77,213/- respectively.

13. Therefore, from the aforesaid transactions, I observe that the value of total transactions by Noticee on each of the aforesaid seven occasions exceeded rupees ten lakhs.

14. I note that it has been alleged in the SCN, that abovementioned trading of Noticee as the employee of Titan, in calendar quarters ending on June 2018 had resulted in violation of Regulation 7(2)(a) of the PIT Regulations by Noticee. In this context, I find it pertinent to refer to Regulation 7(2)(a) of the PIT Regulations, as it stood during the relevant time, which is reproduced hereunder:

"7(2) Continual Disclosures.

(a). Every promoter, employee 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."

15. In this regard, I note that the term "employee" in the aforementioned provision was substituted with "designated employee" by Securities and Exchange Board of India (Prohibition of Insider Trading) (Amendment) Regulations, 2018. I also note that the amendment came into effect from April 01, 2019. By virtue of the amendment, the obligation to make disclosures under Regulation 7(2)(a) of the PIT Regulations no longer lies on every employee of the company but is restricted to designated employees only. In this context, I find it pertinent to quote a recent decision of Hon'ble Securities Appellate Tribunal (hereinafter referred to as **'SAT'**) in Sudhir Bapusaheb Devkar & Anr v SEBI in the matter of (Date of Decision: 10.10.2022, Appeal No. 654 of 2022; Appeal No. 655 of 2022); wherein Hon'ble SAT has held as under:

"*In view of the aforesaid, coupled with the fact that no disproportionate gain or unfair advantage resulted to any party for the default committed by the appellants, coupled with the fact that no loss was caused to the investors, as a result of the aforesaid default, we are of the opinion that without going into the controversy as to whether the appellants had in fact acquired or disposed of the shares through intra-day trading and whether the appellants have in fact violated the provisions of Regulation 7(2)(a) of the PIT Regulations, and <u>in view of the decision of the Hon'ble Supreme Court in Commissioner of Income Tax (supra), the amendment made in Regulation 7(2)(a) with effect from April 1, 2019 would apply retrospectively. We are of the opinion that the amendment was a beneficial piece of legislation and the benefit was conferred for the entire community as a whole. As such, even though the amendment came into effect from April 1, 2019, the amended provision would apply with retrospective effect to the transactions made by the appellants."</u>*

16. From the above, I note that Hon'ble SAT in its aforementioned decision has laid down that amendment to Regulation 7(2)(a) of PIT Regulations which came into effect on April 1, 2019, would apply with retrospective effect i.e. benefit of amendment would go to "employees" for the trades done by them prior to

amendment. Considering the principle laid down in the aforementioned judgment and the fact that Noticee was not designated employee of the company at the time of impugned trades, I find that for his trades done in calendar quarters ending on June 2018, Noticee would not be liable for violation of Regulation 7(2)(a) of the PIT Regulations. Therefore, I find allegation in SCN that Noticee has violated Regulation 7(2)(a) of the PIT Regulations does not stand established.

17. Since the alleged violation against Noticee is not established, I find that the Issues No. II and III requires no further consideration.

ORDER

18. Accordingly, taking into account the aforesaid findings and in exercise of powers conferred upon me under Section 15-I of SEBI Act read with Rule 5 of the Adjudication Rules, the Adjudication proceedings against Noticee i.e. Mr. Ponnusamy Dharmaraj, initiated vide SCN dated August 09, 2021, stands disposed of without imposition of any penalty.

19. In terms of the provisions of Rule 6 of the Adjudication Rules, a copy of this order is being sent to Noticee viz. Mr. Ponnusamy Dharmaraj and also to SEBI.

Place: Mumbai **SOMA MAJUMDER**

Date: October 28, 2022 **ADJUDICATING OFFICER**