

**BEFORE THE ADJUDICATING OFFICER
SECURITIES AND EXCHANGE BOARD OF INDIA
ADJUDICATION ORDER NO. Order/PM/PA/2021-22/15695**

**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:

**Samir Mankar
PAN: AYPPM1418F**

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 (hereinafter referred to as “**Company CoC**”) 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 Samir Mankar (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 issued to the Noticee 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. I note that the SCN was duly served on the Noticee. 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. The Noticee *vide* email sent on September 12, 2021 submitted his reply to the SCN. The relevant submissions from the aforesaid reply have been summarized hereunder:
- (i) Noticee denied all allegations under the SCN unless they are specifically admitted.
 - (ii) Noticee was employed with the Company from the period August 01, 2018 to August 05, 2021. Noticee was working as a software developer in the Company, specifically, he was appointed as a

module lead in competency level. Thus, he was not exposed to any unpublished price sensitive information (hereinafter referred to as “**UPSI**”) of the Company.

- (iii) Noticee did not undertake the concerned trades with the intention to earn money through UPSI. He traded the shares of the Company on intraday basis from the period January 01, 2019 to December 19, 2019, wherein the total amount of buy transactions was approximately Rs.29,00,957.55 and sell transactions was approximately Rs.29,01,985.35. Pursuant to the aforesaid transactions, Noticee realized profits of Rs.1,027.8 which was 0.0354% of the traded value of the Company’s shares. The Noticee has provided a copy of transaction details of the Company’s shares traded by him.
 - (iv) The Noticee is an amateur investor and he started trading from March 05, 2017 onwards. The non-disclosure of transactions undertaken in the Company’s share was inadvertent and due to lack of knowledge regarding trading, company policies and the law.
 - (v) The Noticee has paid Rs 30,000 pursuant to the show cause notice issued by the Company for trading without clearance and for delay in submitting continual disclosures. The Noticee has provided a copy of his bank account statement evidencing the aforesaid payment.
 - (vi) The Noticee has no criminal antecedents and this is the first instance where the Noticee has been issued with a show cause notice.
9. After considering the facts and circumstances of the case, the undersigned granted an opportunity of personal hearing to the Noticee on November 16, 2021 *vide* notice of hearing sent *vide* email on November 08, 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 appeared before me through video conference and reiterated the submissions made by him *vide* email sent on September 12, 2021 which has been reproduced in paragraph 8 above. The Noticee stated that he does not wish to submit any additional submissions in the present matter. Therefore, I find that principles of natural justice has been complied with respect to the Noticee in the current adjudication proceedings.

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 from the reply of the Noticee that he 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 (ii) 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 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 cash 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
41,33,655	0	0	41,33,655	3

15. I note that in his reply, the Noticee has submitted that he traded the shares of the Company during January 01, 2019 to December 19, 2019 on intraday basis wherein his buy and sell transaction value was Rs 29,00,957.55 and Rs.29,01,985.35, respectively. Pursuant to the aforesaid transactions, Noticee realized profits of Rs. 1,027.8 which was 0.0354% of the traded value of the Company's shares. I find that the aforesaid submission is of no help to the Noticee as the Investigation Period considered in the present case is from January 01, 2019 to March 31, 2019 whereas the figures submitted by the Noticee are for the period January 01, 2019 to December 19, 2019. Therefore, I do not deem it necessary to go into the trade details submitted by him. I note from the trade details of the Noticee which were sent as annexures to the SCN to him, that the total traded value of the Noticee's trades during the Investigation Period amounted to Rs. 41,33,655. Further, I note that the Noticee breached the threshold of Rs 10 lakhs three times, *first*, on January 11, 2019, *second*, on February 07, 2019 and, *third*, on March 20, 2019.
16. The Noticee has submitted that he was working as a software developer in the Company wherein he did not have access to any UPSI of the Company. I find that the aforesaid submission of the Noticee is irrelevant to the facts of the present matter as the words of regulation 7(2)(a) at the time the Noticee committed the alleged violation were crystal clear that the

regulation demands continual disclosures from all employees irrespective of the position/designation of the employee, the level of access the employee possesses with respect to UPSI of the company and his/her connection with the management of the company. In this regard, it is pertinent to note that the alleged violation committed by the Noticee fell between the period extending from January 01, 2019 to March 31, 2019, and the PIT 2018 Amendment Regulations which substituted the word “employee” with “designated person” under regulation 7(2)(a) came into effect from April 01, 2019. Therefore, the provisions of the PIT 2018 Amendment Regulations do not apply to the Noticee. Thus, I do not find any merit in the aforesaid submission of the Noticee.

17. The Noticee has submitted that he did not undertake the concerned trades with the intention to earn money through UPSI. He has further submitted that the non-disclosure was inadvertent. I do not find the aforesaid consideration relevant for determining whether the Noticee has violated regulation 7(2)(a). I find that my view is supported by the following orders passed by the Hon’ble SAT:

- (i) In **Akriti Global Traders Ltd. vs. SEBI** (Appeal no.78 of 2014), decided on September 30, 2014, Hon’ble SAT held that “Argument of appellant that the delay was unintentional and that the appellant has not gained from such delay and therefore penalty ought not to have been imposed is without any merit, because, firstly, penal liability arises as soon as provisions under the regulations are violated and that penal liability is neither dependent upon intention of parties nor gains accrued from such delay..”. (emphasis supplied)
- (ii) Further, in **Shri Virendrakumar Jayantilal Patel vs. SEBI** (Misc. application no.140 of 2014 and appeal no.299 of 2014) dated October 14, 2014, Hon’ble SAT held that: “Similarly argument that the failure to make disclosures within the stipulated time, was unintentional, technical or inadvertent and that no gain or unfair

advantage has accrued to the appellant, is also without any merit, because, all these factors are mitigating factors and these factors do not obliterate the obligation to make disclosures.” (emphasis supplied).

18. As regards the submission of the Noticee that he lacked the requisite knowledge of Company policy and law and to make the disclosure under PIT Regulations, I find that the offer letter of Noticee in paragraph 5 explicitly provides that “An essential conditions of your employment is to abide by the Mindtree Policies, Code of Conduct and all other rules notified from time to time” (emphasis added). I note that the Noticee has signed the particular page of the offer letter where the aforesaid paragraph appears. Thus, the Noticee’s obliviousness regarding the Company’s policy appears to be a product of his own negligence. Assuming whilst denying that there is any merit in the submission of the Noticee that he was unaware of the Company CoC, I find that the Noticee cannot feign ignorance of the requirement to disclose his transactions under regulation 7(2)(a) of the PIT Regulations, as it goes against the legal principle of “*ignorantia juris non excusat*” which translates into ignorance of law is not an excuse. The legal principle is justified on the grounds of necessity because if there is relaxation in the application of this principle, every accused will take the plea that he did not know the law and it would become onerous for the adjudicating authority to prove knowledge. This has also been explained by John Salmond, in one of his revered works, “*Jurisprudence or the Theory of the Law*”, wherein he has stated that one of the main reasons for the strict application of the aforesaid principle is due to the evidential difficulties that would be faced by the adjudicating authority for establishing knowledge of law. The relevant text from his aforesaid work is reproduced below verbatim:

“In the second place, even if invincible ignorance of the law is in fact possible, the evidential difficulties in the way of the judicial recognition of such ignorance are insuperable, and for the sake of any benefit derivable

therefrom it is not advisable to weaken the administration of justice by making liability dependent on well nigh inscrutable conditions touching knowledge or means of knowledge of the law. Who can say of any man whether he knew the law, or whether during the course of his past life he had an opportunity of acquiring a knowledge of it by the exercise of due diligence?.....” (emphasis supplied).

In relation to the above, I note that the Hon’ble Securities Appellate Tribunal (hereinafter referred to as “SAT”) in the matter of **Madanchand Prasan Chand Chordia vs. SEBI** (Appeal No. 134 of 2014), dated June 16, 2014, has relied on the aforesaid principle for dismissing the contention of the appellant that he was not aware of the relevant regulations by stating the following:

“The main contention of the appellant, who has appeared in person before us, is that he was not aware about the requirement of law in making disclosure as a part of SAST Regulations, 2011 and PIT Regulations, 1992. We note that ignorance of law is not an excuse.” (emphasis supplied).

Thus, I find that the aforesaid submission of the Noticee deserves to be rejected.

19. The requirement to submit disclosures under the PIT Regulations in the manner prescribed and within the stipulated time is sacrosanct as they enable the public to make an informed investment decision in a timely manner. By not submitting the requisite disclosures in the time specified, 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 regulate the same effectively. Thus, I find that the aforesaid violation by the Noticee affects multiple stakeholders and impacts the entire securities market. In view of the above, 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 within the time stipulated pursuant to executing transactions in excess of Rs 10,00,000 during the Investigation Period.

- II. **Issue No 2: Does the violation, if any, attract monetary penalty under section 15A(b) of the SEBI Act?**
- III. **Issue No 3: If the answer to issue no. 2 is in affirmative, then what should be the quantum of monetary penalty?**

- 20. 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.”*
- 21. Further, in ***Mr. Ankur Chaturvedi vs. SEBI*** (Appeal no. 434 of 2014) decided on August 04, 2015, the 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”.*
- 22. 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 therefor in the regulations, fails to file return or furnish the same within the time specified therefor 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.

23. While determining the quantum of monetary penalty under section 15A(b) of the SEBI Act, I have considered the factors stipulated in section 15J 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.

24. 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 the repetitive nature of the default, it is important to note that the Noticee has violated regulation 7(2)(a) of the PIT Regulations on three occasions during the Investigation Period. Hence, the violation committed by the Noticee is repetitive in nature. Further, I note that the Noticee has submitted that he has remitted Rs 30,000 to the Investor Education and Protection Fund (IEPF) with respect to the disclosure violation in the present case.
25. The facts of the case clearly establish the violation committed by the Noticee. Accordingly, I consider it necessary to impose a monetary penalty which would act as a deterrent to the Noticee in future.

E. ORDER

26. After taking into consideration the nature and gravity of the violation 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.*, Samir Mankar under section 15A(b) of the SEBI Act. I am of the view that the penalty imposed on the Noticee is commensurate with the violation he has committed.
27. 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

28. 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

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

Date: March 29, 2022
Place: Mumbai

PRASANTA MAHAPATRA
ADJUDICATING OFFICER