BEFORE THE ADJUDICATING OFFICER

SECURITIES AND EXCHANGE BOARD OF INDIA

[ADJUDICATION ORDER Ref. No. ORDER/NH/KL/2022-23/23457]

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. Mahendrabhai Ramniklal Shah
(PAN: AFQPS3834P)

In the matter of **Veeram Ornaments Limited**

FACTS OF THE CASE

1. BSE based on an internal alert, carried out an examination into the trading activities in the scrip of Veeram Ornaments Limited (hereinafter also referred as '**Veeram**' / '**the company**') for the period from January 17, 2018 to March 26, 2018 (hereinafter referred to as '**investigation period**'/'**relevant period**') and submitted its report to Securities and Exchange Board of India ('**SEBI'**) for further action. Thereafter, SEBI conducted an investigation into the trading activities of certain suspected entities in the scrip of Veeram during the investigation period.

2. Based on the findings of the investigation, it was observed that three promoter entities of Veeram i.e. Rakshit Mahendrabhai Shah HUF, Mr. Rakshit Mahendra Shah and Mrs. Pinal Rakshitbhai Shah executed trades in the scrip of Veeram during the investigation period and accordingly gained profits of Rs.19,98,000, Rs.25,66,500 and Rs.45,30,000 respectively. In this regard, the following allegations, *inter alia*, were made in the investigation report:

i. *it is alleged that the execution of said trades by the three entities was in contravention of securities laws i.e. Clause 10 of Schedule B Minimum Standards for Code of Conduct to Regulate, Monitor and Report Trading by designated persons read with Regulation 9 (1) of Securities and Exchange Board of India (Prohibition of Insider Trading) Regulations, 2015 (hereinafter referred to as '**PIT Regulations**').*
ii. *the profits earned from such trades have not been disgorged and remitted to SEBI as stipulated under Clause 10 of Schedule B Minimum Standards for Code of Conduct to Regulate, Monitor and Report Trading by designated persons read with regulation 9(1) of SEBI (PIT) Regulations, 2015.*
iii. *as per SEBI (PIT) Regulations, 2015, it is the responsibility of the compliance officer of the company to administer the code of conduct and monitor compliance with the regulations.*
iv. *the compliance officer of Veeram during the relevant period was one Mr. Mahendrabhai Ramniklal Shah (hereinafter referred to as '**Noticee**').*

3. In view of the above, it is alleged that the Noticee in the capacity of being compliance officer of Veeram failed to disgorge the profits earned by the three promoter entities by executing trades as mentioned above. Therefore, the Noticee has allegedly violated the provisions of Clause 10 of Schedule B Minimum Standards for Code of Conduct to Regulate, Monitor and Report Trading by Designated persons read with Regulation 9(1) of PIT Regulations.

4. In view thereof, adjudication proceedings were initiated against the Noticee.

5. It is pertinent to mention that incidentally in the instant matter, proceedings were also initiated before the Whole Time Member – SEBI under Section 11(1), 11(4), 11(4A), 11B(1) and 11B(2) of the SEBI Act, against entities who executed the alleged contra trades during the investigation period. I note that the allegations made against the said three promoter entities of Veeram arise out of the same investigation as in the instant matter.

APPOINTMENT OF ADJUDICATING OFFICER

6. Shri Suresh B Menon was appointed as the Adjudicating Officer ('**AO**') in the matter vide communique dated May 31, 2021 under Section 19 of the SEBI Act read with Section 15-I of the SEBI Act and Rule 3 of SEBI (Procedure for Holding Inquiry and Imposing Penalties) Rules, 1995 ('**Adjudication Rules'**), to inquire into and adjudge, the aforementioned alleged violations of the provisions of law by the Noticee, under the provisions of Section 15HB of the SEBI Act, 1992. Pursuant to the superannuation of Shri Suresh B Menon, the undersigned was appointed as AO in the instant matter vide communique dated June 07, 2022.

SHOW CAUSE NOTICE, REPLY AND HEARING

7. Show Cause Notice bearing reference no. SEBI/EAD-1/SBM/JR/SCN/19475//2021 dated August 13, 2021 ('SCN') was issued to the Noticee in terms of Rule 4(1) of the Adjudication Rules read with Section 15I of the SEBI Act, 1992, by the then AO, to show cause as to why an inquiry should not be held against the Noticee and why penalty be not imposed on him in terms of the provisions of Section 15HB of the SEBI

Act, 1992 for the violations alleged to have been committed by the Noticee. The relevant extract of the SCN is reproduced *in verbatim* below:

i. *Upon analysing the trade details of promoters/ directors/ designated persons of the company, viz. Rakshit Mahendrabhai Shah HUF (hereinafter referred to as "Rakshit HUF"), Rakshit Mahendra Shah (hereinafter referred to as "Rakshit Shah") and Pinal Rakshitbhai Shah (hereinafter referred to as "Pinal Shah") during the investigation period, it was observed that the said persons/entities had executed contra trades within 6 months of their prior transaction in the scrip of Veeram Ornaments Limited.*

ii. *It was observed that Rakshit HUF, Rakshit Shah and Pinal Shah have made profits of Rs.19,98,000, Rs.25,66,500 and Rs.45,30,000 respectively, by executing contra trades in the scrip of the company.*

iii. *Further, it is observed that the profits from such contra trades has not been disgorged and remitted to SEBI as stipulated under Clause 10 of Schedule B Minimum Standards for Code of Conduct to Regulate, Monitor and Report Trading by designated persons read with regulation 9(1) of SEBI (PIT) Regulations, 2015.*

iv. *As per PIT Regulations, it is the responsibility of the compliance officer of the company to administer the code of conduct and monitor compliance with the regulations. It is alleged that the company has failed to disgorge the profits arising out of the contra trades.*

v. *In view of the above, the Noticee being the compliance officer of the company is called upon to show cause as to why an inquiry should not be held against him in terms of Rule 4 of SEBI Adjudication Rules read with Section 15 I (1) &*

(2) of SEBI Act, and penalty be not imposed under Section 15HB of SEBI Act for the alleged violation of clause 10 of Schedule B Minimum Standards for Code of Conduct to Regulate, Monitor and Report Trading by Designated persons read with Regulation 9(1) of PIT Regulations.

8. The Noticee vide emails dated August 26, 2021, December 11, 2021 and March 03, 2022 requested for additional time to make submissions in reply to the SCN. In the interest of natural justice, additional time was granted to the Noticee as requested. Thereafter, vide letter dated June 06, 2022, the Noticee, *inter-alia*, submitted the following in reply to the SCN:

(i) I would like to state that during the period when the trading plan was approved i.e. 12.04.2017, I was not a compliance officer of VSL. I was Managing Director of VSL.

(ii) It is pertinent to mention that during the period when the trading plan was submitted and when it was approved i.e. 12.04.2017, the Company Secretary of VSL was on leave. Hence, the said trading plan was approved by two directors including me.

(iii) It is pertinent to note that I was appointed as compliance officer of VSL only vide board resolution dated 01.09.2017, before that I was only Managing Director of VSL. Further, I resigned from the post of compliance officer when new company secretary and compliance officer was appointed.

(iv) It is further pertinent to note that all disclosure matters were handled by the secretarial department of VSL and they used to make appropriate disclosures from time to time.

(v) It is pertinent to note that based on the approved trading plan as submitted by Rakshit M Shah, Rakshit M Shah HUF and Pinal Shah on 01.02.2017 and approved in the board meeting dated 12.04.2017, I had received pre clearance request from the aforesaid persons w.r.t. purchase and sell of shares of VSL

(vi) On receipt of pre clearance for buying of shares of VSL consequent to their sell of shares in January 2018, I had sought opinion from an external company secretary viz. Mr. Manohar Chunara w.r.t. the said application. By letter dated 18.03.2018, Mr. Manohar Chunara gave his opinion that the pre clearance as sought by the 3 entities can be given subject to compliance of SEBI (Substantial Acquisition of Shares and Takeovers), 2011.

(vii) Pursuant to the said opinion received from Mr. Manohar Chunara, preclearance for buying shares was granted to the said 3 entities as and when a request was received from them. It is pertinent to note that when preclearance was granted to the said 3 entities, they were also told to comply with relevant provisions of SEBI (Substantial Acquisition of Shares and Takeovers), 2011 and make appropriate disclosures as and when triggered.

(viii) It is pertinent to note that in the preclearance of for selling as well as for buying, it was clearly mentioned that the shares to be sold/sold by entities was due to urgent requirement of funds for repaying financial debts that were due and required urgent repayment.

(ix) It is pertinent to note that post buying shares of VSL, all the 3 entities have made requisite disclosures with the Company as well as with BSE.

(x) It is pertinent to note that selling and buying shares of VSL was as per the trading plan submitted by them which was approved in the meeting of Board of Directors.

Hence, the said trades cannot be classified as contra trades as alleged in the SCN or otherwise as the trades were approved via trading plan as well as necessary pre clearances for selling and buying of shares of VSL was sought & the same was granted and necessary disclosures were made to the Stock Exchange. The trading plan was filed with Ahmedabad Office of BSE as well as couriered to BSE, Mumbai. Hence there was no violation of any rules or regulations as alleged or otherwise.

(xi) I would like to mention that the Insider Trading Prohibition Code of Veeram Ornaments Ltd gives power to the Compliance Officer to waive off the holding period if the sale is necessitated by personal emergency, (however necessary application for waver has to be submitted to the Compliance Officer in the format as mentioned in the Insider Trading Prohibition Code of Veeram Ornaments Ltd.

(xii) Thus, according to the Insider Trading Prohibition Code of Veeram Ornaments Ltd, I granted waiver to the promoters of VSL to buy shares of VSL within 6 months after sale of shares of VSL by them as they had submitted requisite waiver application as prescribed under Insider Trading Prohibition Code of Veeram Ornaments Ltd. Hence, 1 submit that I acted in accordance to Insider Trading Prohibition Code of Veeram Ornaments Ltd.

(xii) It is pertinent to mention that in the preclearance for selling as well as for buying shares of VSL, it was clearly mentioned that the shares to be sold/sold by entities was due to urgent requirement of funds for repaying financial debts that were due and required urgent repayment. Further, in the application for clearance for sell, it was clearly mentioned by the said promoters that whenever

(xiv) The funds are available with them post selling shares of VSL, they will buy the shares of VSL whenever they have surplus funds available with them and for which necessary approvals will be sought.

(xv) It is pertinent to mention that, it is only on the said promoters' assurances of buying back the shares of VSL when they have funds available with them, clearance for selling shares of VSL was given to them based on the pre clearance application for sale as submitted by them.

(xvii) it is wrongly alleged in the SCN that the trading plan has not been filed with the stock exchange as in fact trading plan has been filed with BSE at its Ahmedabad office on 10.05.2017 and it was also sent to BSE at its Mumbai office via courier on 10.05.2017.

(xviii) Apart from what is stated aforesaid, I would like to state that in the investigation conducted by SEBI, facts have not been. Considered. The manner in which the investigation has been conducted, great prejudice is caused to me. In this regard, I would like to state as under:

a. *It is also pertinent to note that the representation given by Ms. Noopur Jain was not considered in totality. Only certain portions are considered. The fact that Ms. Noopur Jain was on leave from 21.01.2017 to 30.04.2017 and the trading plan was submitted by the said promoters on 01.02.2017 and was approved by the board on 12.04.2017 is not considered. Hence, the trading plan was not approved by Noopur Jain as she was on leave during the said period.*
b. *Further, SEBI has not considered the Insider Trading Prohibition Code of Veeram Ornaments Ltd gives power to the Compliance Officer to waive off the*

holding period if the sale is necessitated by personal emergency, however necessary application for waiver has to be submitted to the Compliance Officer in the format as mentioned in the Insider Trading Prohibition Code of Veeram Ornaments Ltd which was done by the said promoters. Further, SEBI has totally ignored the fact that I have followed in totality the Insider Trading Prohibition Code of Veeram Ornaments Ltd and have acted in accordance to the code.

c. *SEBI has without granting me adequate opportunity of statement recording, has relied on the statement given by Mr. Rakshit Shah on my behalf. It is pertinent to note that, I had in fact conveyed to SEBI that due to ill health, I will not be in a position to come for statement recording and upon insistence of SEBI, Mr. Rakshit Shah was authorized to go for statement recording. It is also pertinent to note that the statement recorded by SEBI of Rakshit Shah on my behalf due to my ill health was not confirmed with me neither a copy of the same was provided to me after the statement recording to verify the contents of the same.*

d. *SEBI in its Investigation has completely ignored the fact that all efforts were made to ensure that all rules and regulations as applicable have been followed. Further, the facts as represented by me have been completely avoided by SEBI.*

e. *As a Managing Director of the Company, I have to look after large no. of things to ensure that there is proper compliance of the relevant rules and regulations as applicable from time to time. I have dedicated my efforts and time to follow proper procedures in letter and in spirit. I state that I have always ensured that*

Company functions in the best interest of shareholders & stakeholders and therefore no grievance of whatsoever nature has been raised by anyone. This it proves my performance as Managing Director of the Company.

f. SEBI has completely ignored the fact that it is only in absence of Compliance Officer, I was compelled and constrained to act as an compliance officer of the Company.

(xix) Hence, in view of the aforesaid submissions, I strongly and vehemently deny alleged violation of Clause 10 of Schedule B Minimum Standards for Code of Conduct to regulate, Monitor and Report Trading by designated persons r/w Regulation 9(1) of SEBI (Prohibition of Insider Trading) Regulations, 2015.

9. In the interest of natural justice, the Noticee was provided with an opportunity of personal hearing before the undersigned on October 19, 2022. As the Noticee failed to appear on the aforesaid date, in the interest of natural justice, another opportunity of hearing was granted and scheduled on November 16, 2022. Mr. Prakash Shah (Advocate), Mr. Keyur Shah (Advocate), Mr. Meit Shah and Mr. Rakshit Shah (Promoter of Veeram) appeared as the authorised representatives (ARs) on the stipulated date of hearing at the SEBI's head office at Mumbai. During the course of hearing, the ARs reiterated the earlier submissions made by the Noticee in reply to the SCN vide letter dated June 06, 2022. On request of the ARs, the Noticee was granted additional time until November 21, 2022 to make further submissions, if any. Subsequently, vide letter dated November 21, 2022, the Noticee, inter-alia, made the following submissions:

I would like to submit that BSE had vide circular dated 11.03.2016 (Ref No. DCS/COMP/33/2015-16) had made it mandatory to file disclosures in Electronic mode (Ref Point No. 12 of the Notice). However, there was no compulsion/mandatory to file trading plan in electronic mode. Hence, the said trading plan was physically filed with BSE (Ahmedabad Office) and the same was also couriered to BSE, Mumbai office. Hence, no adverse inferences be drawn against me in this regard.

The SCN is issued in my individual name and the alleged violation of Code of Conduct mentions the role of the Company in failure to disgorge the profits arising out of the alleged contra trades. Hence, no allegation in my individual capacity as a compliance officer can be alleged against me.

In this regard, I would like to state that section 15(HB) is a residual provision with no reference as to which violation would be one penalized for. It is not a specific provision and is very general in nature. Further, in the whole SCN there is no allegation of any violation on my part for giving clearance to the trades of Rakshit Shah, Pinal Shah or Rakshit Shah HUF.

As regards violation of Regulation 9(1) of SEBI (Prohibition of Insider Trading) Regulations, 2015, the said regulation only provides for the board of directors of every listed company and market intermediary to formulate a code of conduct towards achieving compliance with the PIT Regulations and adopting the minimum standards as set out in Schedule B without diluting the provisions of the PIT Regulations. In this regard, I submit that SEBI has not alleged that the code of conduct is not formulated. It is also not alleged that in the code of conduct so formulated, the minimum standards are not adopted or the PIT regulations are diluted. Therefore, there is no violation of Regulation 9(1) of SEBI (Prohibition of Insider Trading) Regulations, 2015.

I strongly and vehemently deny alleged violation of Clause 10 of Schedule B Minimum Standards for Code of Conduct to regulate, Monitor and Report Trading *by designated persons r.w. Regulation 9(1) of SEBI (Prohibition of Insider Trading) Regulations, 2015.*

I would like to submit that I am a law abiding citizen and I have always complied with rules/regulations governing securities market. It is for the first time that a proceeding has been initiated against me by SEBI. In case any penalty is imposed by a reputed and credible organization like SEBI, it shall cause loss of goodwill, credibility, market standing and professional reputation which has been built over past many years. Thus, I humbly request that we may be discharged from present proceedings at the earliest.

10. I note that the principles of natural justice were adhered to in the matter.

CONSIDERATION OF ISSUES AND FINDINGS

11. I have carefully perused the allegations leveled against the Noticee in the SCN, the replies of the Noticee and also the documents/evidence available on record. The issues that arise for consideration in the present case are:

    I. Whether the Noticee was a compliance officer of the company at the time of the alleged violations and if so, whether the Noticee failed to administer code of conduct of company and thereby violated the provisions of Clause 10 of Schedule B Minimum Standards for Code of Conduct to Regulate, Monitor and Report Trading by Designated persons read with Regulation 9(1) of PIT Regulations?

    II. If yes, whether the violations would attract monetary penalty on the Noticees under the provisions of the Section 15HB of SEBI Act?

    III. If yes, what should be the quantum of monetary penalty

12. It is pertinent to refer to the aforesaid provisions which are alleged to have been violated by the Noticee. The said provisions are mentioned below:

PIT Regulations:

Clause 10 of Schedule B

"The code of conduct shall specify the period, which in any event shall not be less than six months, within which a designated person who is permitted to trade shall not execute a contra trade. The compliance officer may be empowered to grant relaxation from strict application of such restriction for reasons to be recorded in writing provided that such relaxation does not violate these regulations. Should a contra trade be executed, inadvertently or otherwise, in violation of such a restriction, the profits from such trade shall be liable to be disgorged for remittance to the Board for credit to the Investor Protection and Education Fund administered by the Board under the Act."

Code of Conduct

9(1) The board of directors of every listed company and market intermediary shall formulate a code of conduct towards achieving compliance with these regulations, adopting the minimum standards set out in Schedule B to these regulations, without diluting the provisions of these regulations in any manner.

ISSUE I:- Whether the Noticee was a compliance officer of the company at the time of the alleged violations and if so, whether the Noticee failed to administer code of conduct of company and thereby violated the provisions of Clause 10 of Schedule

B Minimum Standards for Code of Conduct to Regulate, Monitor and Report Trading by Designated persons read with Regulation 9(1) of PIT Regulations??

13. Pursuant to the investigation conducted in the instant matter, I note that the concerned department of SEBI in its report, *inter-alia*, stated the following:

"..As per SEBI (PIT) Regulations, 2015, ***it is the responsibility of the compliance officer of the company to administer the code of conduct and monitor compliance with the regulations****..*

Further, Adjudication Proceeding under Section 15HB of SEBI Act, 1992 is recommended against Mahendrabhai Ramniklal Shah, ***MD and Compliance Officer of the company at that point of time, for not remitting to SEBI the profits earned from contra trades executed by*** *Rakshit Mahendrabhai Shah HUF, Rakshit Mahendra Shah and Pinal Rakshitbhai Shah in violation of Clause 10 of Schedule B Minimum Standards for Code of Conduct to Regulate, Monitor and Report Trading by designated persons read with Regulation 9(1) of SEBI (PIT) Regulations, 2015. "*
(emphasis supplied)

14. In this context, the preliminary issue which arises is, whether the Noticee was a compliance officer of the company at the time of alleged violations i.e. execution of trades by the three entities during the investigation period.

15. The material available on record does not conclusively establish if the Noticee was a compliance officer of the company at the time of alleged violations. I further note that in respect of the proceedings initiated against the three promoter entities of Veeram, the Whole Time Member – SEBI vide order ref no. WTM/AB/IVD/ID2/22813/2022-23 dated January 11, 2023, *inter-alia*, held the following:

*"…16. In view of the above discussion**, I find that Mr. Mahendrabhai Ramniklal Shah was not appointed as the compliance officer of VSL**, in fact he was not even qualified to be appointed as the compliance officer of the VSL. **Contention that Mr. Mahendrabhai Shah was compliance officer is an afterthought to wriggle out the outcome of the present proceedings**. Therefore, I find that the contention of the Noticees that they had the waiver from the compliance officer of VSL for carrying out the contra trades, is not sustainable.*

17. In view of the above, I find that the Noticees have executed contra trades in the scrip of VSL within a period of 6 months of their prior transaction and thereby violated Clause 10 of Schedule B Minimum Standards for Code of Conduct to Regulate, Monitor and Report Trading by designated persons read with Regulation 9(1) of PIT Regulations, 2015. Further, the profits from such contra trades has not been disgorged and remitted to SEBI as stipulated under Clause 10 of Schedule B Minimum Standards for Code of Conduct to Regulate, Monitor and Report Trading by designated persons read with Regulation 9(1) of PIT Regulations, 2015…

…

Directions and monetary penalties

23.

(i) Noticees are directed to disgorge the amounts indicated against their respective names in table below, along with an interest at the rate of 12% per annum payable from the respective dates of sale of shares made by them in January, 2017 till the date of actual payment, within a period of 45 days from the date of this Order.

..

(iii) The Noticees are hereby imposed with the penalties, as specified hereunder:

Noticee No.	***Name of Noticees***	***Provisions under which penalty imposed***	***Penalty Amount (In Rupees)***
Noticee no. 1	*Rakshit Mahendrabhai Shah HUF*	*Section 15HB of the SEBI Act, 1992.*	*Rs. 5,00,000/- (Rupees Five Lakh Only)*
Noticee no. 2	*Mr. Rakshit Mahendra Shah*	*Section 15HB of SEBI Act, 1992*	*Rs. 5,00,000/- (Rupees Five Lakh Only)*
Noticee no. 3	*Ms. Pinal Rakshitbhai Shah*	*Section 15HB of SEBI Act, 1992*	*Rs. 5,00,000/- (Rupees Five Lakh Only)*

(emphasis supplied).

16. As observed from the above, I note that the Whole Time Member - SEBI vide the aforesaid order has held that the three entities committed violations of Clause 10 of Schedule B - Minimum Standards for Code of Conduct to Regulate, Monitor and Report Trading by designated persons, read with Regulation 9(1) of PIT Regulations and,

inter-alia, directed them to disgorge profits earned by the contra trades and further imposed monetary penalties on them respectively as specified therein. I also note from the aforesaid order that Whole Time Member – SEBI has held that Noticee was not appointed as the compliance officer of Veeram during the investigation period.

17. In view of the observations made above, and the material made available before me, I note that the allegation that '*Noticee being compliance officer of company at the time of execution of contra trades by the three promoter entities, failed to remit to SEBI the profits earned from such contra trades'* cannot be conclusively established. Accordingly, the consideration of Issues II and III does not arise.

ORDER

18. In view of the observations made above, and in exercise of the powers conferred upon me under Section 15-I of the SEBI Act and rule 5 of the Adjudication Rules, I hereby dispose off the proceedings initiated against the Noticee vide the SCN dated August 13, 2021 without imposing monetary penalty on the Noticee.

19. In terms of the provisions of Rule 6 of the Adjudication Rules, copies of this order are sent to the Noticee and also to the Securities and Exchange Board of India.

Date: January 31, 2023 **N HARIHARAN**

Place: Mumbai **ADJUDICATING OFFICER**