BEFORE THE ADJUDICATING OFFICER

SECURITIES AND EXCHANGE BOARD OF INDIA

[ADJUDICATION ORDER NO. EAD/ AO-NP/ JR/ 41 /2017]

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

In respect of:

Madhu Jhunjhunwala [PAN AAFPJ7148H]

Sudhir Jhunjhunwala [PAN AEFPJ4819K]

Sanjay Talati [PAN AADPJ0037D]

In the matter of Trading activities in shares of Agnite Education Limited (formerly known as Teledata Informatics Ltd.)

FACTS OF THE CASE IN BRIEF

1. Based on the reference letters dated December 18, 2012 received from Office of Brihan Mumbai Police, Economic Offences Wing, Securities and Exchange Board of India (hereinafter referred to as "**SEBI"**), conducted investigation in the scrip of Agnite Education Limited (hereinafter referred to as "Company") (formerly known as Teledata Informatics Limited) and into the possible violation of the provisions of the Securities and Exchange Board of India Act 1992 (hereinafter referred to as the **"SEBI Act**") and various Rules and Regulations made thereunder during the period from March 1, 2007 to December 31, 2007 (hereinafter referred to as " **Investigation Period " / IP**). The shares of the company are listed at The Bombay Stock Exchange Ltd. (hereinafter

referred to as "**BSE**") and National Stock Exchange Ltd. (hereinafter referred to as "**NSE**").

2. The brief observation of the Economic Offences Wing, Brihan Mumbai Police is as under:

    a) Jamsheed M Panday (also known as Jimmy Pande) is an authorised representative of Amoha Financial Services Limited and Arma Traders Pvt. Ltd. Mr. Sanjay Talati is known to Jimmy Pande for the last 10 years.
    b) Mr Sanjay Talati introduced Madhu Jhunjhunwala and Sudhir Jhunjhunwala (related as Wife-Husband) as experts in securities market. Madhu and Sudhir Jhunjhunwala promised Jimmy Pande minimum 20% returns on investments with them within a period of 6 months.
    c) Jimmy Pande transferred Rs. 6 crores through his companies in the account of Madhu Jhunjhunwala in March 2007.
    d) After considerable time when Madhu and Sudhir Jhunjhunwala failed to return the amount, Jimmy Pande lodged complaint with EOW, Brihan Mumbai Police.
    e) During the course of investigation by EOW, Sudhir Jhunjhunwala stated that Sanjay Talati had started visiting his office since December 2006. He started trading through the accounts of Madhu and Sudhir Jhunjhunwala until September 2007.
    f) Sudhir Jhunjhunwala also stated that Rs. 6 crore was deposited in Madhu Jhunjhunwala account by the management of Teledata Informatics Ltd. And Jimmy Pande is their office bearer. Further, he also stated that Sanjay Talati indulged in insider trading while trading through his account.

3. Investigation observed from the bank statements as under:

Sl. No.	**Date**	**Source Account name**	**Target Account Name**	**Amount (in Rs.)**
1	09/03/2007	Arma Financial Services Limited	Madhu Jhunjhunwala/ Sudhir Jhunjhunwala	1,00,00,000

2	10/03/2007	Teledata Informatics Limited	Arma Financial Services Limited	5,00,00,000
3	10/03/2007	Arma Financial Services Limited	Amoha Traders Pvt. Ltd.	4,00,00,000
4	14/03/2007	Arma Financial Services Limited	Madhu Jhunjhunwala/ Sudhir Jhunjhunwala	1,00,00,000
5	29/03/2007	Amoha Traders Pvt. Ltd.	Madhu Jhunjhunwala/ Sudhir Jhunjhunwala	3,99,99,895

4. In order to obtain information from the abovementioned entities regarding their rationale for trading in the scrip, bank account details, connection, if any, with promoters/ directors of Teledata Informatics Ltd., and receipt of any unpublished price sensitive information, the Investigating Authority of SEBI (hereinafter referred to as "IA") issued summons dated September 26, 2014 and October 9, 2014 to Madhu Jhunjhunwala (Noticee 1) and Sudhir Jhunjhunwala (Noticee 2) and summons dated September 26, 2014 and January 9, 2015 to Sanjay (Noticee 3) (collectively known as "Noticees") to provide certain information pertaining to their dealing in the shares of the company. It was alleged that the Noticees had not complied with the summonses issued by SEBI under section 11C (3) read with 11(2)(ia) of SEBI Act and consequently, liable for monetary penalty under section 15A (a) of the SEBI Act.

APPOINTMENT OF ADJUDICATING OFFICER

5. Mr. Prasad Jagdale was appointed as Adjudicating Officer vide order dated April 24, 2015 under section 15 I of SEBI Act read with rule 3 of SEBI (Procedure for Holding Inquiry and Imposing Penalties by Adjudicating Officer) Rules, 1995 (hereinafter referred to as '**Rules**') to inquire into and adjudge the alleged violations of SEBI Act committed by the Noticee.

6. Subsequent to the transfer of Mr. Prasad Jagdale, the undersigned was appointed as the Adjudicating Officer vide order dated December 14, 2016.

SHOW CAUSE NOTICE, REPLY AND PERSONAL HEARING

7. Show Cause Notice/s dated February 9, 2016 (hereinafter referred to as "SCN") were issued to the Noticees through hand delivery under rule 4(1) of SEBI (Procedure for Holding Inquiry and Imposing Penalties by Adjudicating Officer) Rules, 1995 to show cause as to why an inquiry should not be initiated against them and penalty be not imposed under section 15A(a) of SEBI Act for his failure to comply with the provisions of sections 11C (3) of SEBI Act.

8. Vide letter dated February 20, 2016, the Noticee 1 and 2 submitted a reply to the SCN. No reply was received from Noticee 3. In the interest of natural justice and in order to conduct an inquiry in terms of rule 4(3) of the Rules, the Noticees were granted an opportunity of personal hearing on March 8, 2016 vide notice dated February 29, 2016. None of the Noticees appeared on the scheduled date of hearing. Vide email dated March 8, 2016, the advocate of Noticee 3 sought adjournment of the personal hearing. Acceding to his request another opportunity of personal hearing was given to Noticee 3 on March 22, 2016 vide letter dated March 9, 2016. However none of the Noticee 3 did not appear for personal hearing.

Submissions by Noticee 1 and 2

9. Noticee 1 and 2, vide letter dated February 20, 2016 made the following submissions:

We, Sudhir Jhunjhunwala and Madhu Jhunjhunwala, are a married couple and were engaged in the stock market to earn our living. We were falsely induced by Mr. Sanjay Talati. In this entire matter of Teledata Informatics Ltd. and M/S. Gemini Communication Ltd., we worked only as financers and were no where connected to the trade carried on by him. We have been falsely dragged into this case.

Moreover, these complaints in the matter of Gemini Communication Ltd. and Teledata Informatics Ltd. was initiated by me itself.

I, hereby submit the synopsis of the events that occurred:

March, 2007	*One of my friends interoduce me to Mr. Sanjay Talati. Mr. Sanjay Talati was doing business in share market and also has a good rapport with HNI clients. He was interested in doing business with me. He was interested in margin funding wherein he would give me a margin of 25-30% and the balance 75-70% would be financed by me. In return he committed to give me 24% interest and some sharing in the profit. I considered the proposal to be sound and accepted the same. The reason for my acceptance was that he required a funding for only Rs. 30-40 crore whereas my stock portfolio was always worth Rs. 300 – 400 crores (cash and F&O).*
March, 2007	*One day he called me saying that he was interested in buying some shares for which he would transfer shares (off market) of M/s. Teledata Informatics Ltd. for security purposes.*
March, 2007	*I gave him mine and my wife's demat account no. of Standard Chartered Bank to transfer the shares and also my wife's bank account no. to transfer some money for margin funding purpose.*
March, 2007-June, 2007	*He transferred the shares to mine and my wife's demat account and margin money to my wife's bank account. He started to buy the shares from the market in small quantities. I was adamant to not buy shares worth more than Rs. 30-35 Crores for which he gave me sufficient margin as committed.*
March, 2007-June, 2007	*He started to visit my office and sit with me during market hours. He also started some F&O business due to sufficient margin available with me.*

March, 2007-June, 2007	*As per the data available with me, he had purchased approx. 6-7 lac shares of M/s. Teledata Informatics Ltd. As per our deal all the shares were bought in mine or my wife's demat account. Sometimes, I had to manage the shares between mine and wife's account due to less of margin.*

Sir, As already explained in my synopsis, my wife and I were only financers to the entire deal and it was Mr. Sanjay Talati who was the key person who had done all the business, transaction and deals and who always affirmed and confirmed that shares and money transferred to mine and my wife's demat account belonged solely to him. The said shares and money transferred by him to mine and wife's demat account was only for collateral and margin purpose for the shares to be purchased from the market. I and my wife were only financers to the entire deal for which we had incurred huge losses. In return we had filed a Civil Summary Suit in the Hon'ble Bombay High Court against recovery of the losses borne by us.

10. Noticee 1 and 2 submitted the details of the broker and enclosed their respective bank statements.

11. No reply was ever received from Noticee 3.

12. In the interest of natural justice, another opportunity of personal hearing was given to all the Noticees on May 4, 2017. However, the Noticees failed to appear on the scheduled date of hearing. Enough opportunity to represent their case by way of reply to SCN and also by appearance for personal hearing had been given to the Noticee. I am constrained to proceed with the matter on the basis of the material available on record.

CONSIDERATION OF ISSUES, EVIDENCE AND FINDINGS

13. I have carefully perused the charges levelled against the Noticees in their respective SCNs, their respective replies and the material / documents available on record. In the instant matter, the following issues arise for consideration and determination:-

(a) Whether the Noticees have violated the provisions of section 11C(3) of SEBI Act,1992;
(b) Do the violations, if any, on the part of the Noticees attract monetary penalty under Section 15A(a) for the alleged violation by the said Noticees?; and,
(c) If so, what would be the quantum of monetary penalty that can be imposed on the Noticees after taking into consideration the factors mentioned in Section 15J of the SEBI Act,1992?

14. Before proceeding further, I would like to refer to the relevant provisions of the SEBI Act.

SEBI Act,1992 *:*

Sec. 11C

(3) The Investigating Authority may require any intermediary or any person associated with securities market in any manner to furnish such information to, or produce such books, or registers, or other documents, or record before him or any person authorised by it in this behalf as it may consider necessary if the furnishing of such information or the production of such books, or registers, or other documents, or record is relevant or necessary for the purpose of its investigation.

FINDINGS:

15. The details of summonses issued to Noticee 1 and 2 vis-à-vis status of its compliance by Noticee 1 and 2 are as under:

ate of Summons	Mode of Delivery	Proof of delivery	Status of Compliance
26.09.2014	Through Hand Delivery	Received, signed and acknowledged	No reply given
09.10.2014	Through Hand Delivery	Received, signed and acknowledged	No reply given till 10.03.2015

16. The details of information sought by the IA from the Noticee 1 and 2 through the aforesaid summons included rationale for buying, selling the shares of the company, details of all transactions in the scrip, mode and source of payment to brokers/ sub brokers for purchase in the securities market and off-market, relationship with the company and other entities, details of all bank accounts etc. It is observed from the records that the Noticee 1 and 2 acknowledged the receipt of the summons but failed to submit required information. Noticee 1 and 2 in their reply to SCN had also not submitted any satisfactory reason for not submitting information as required vide various summons issued to Noticee 1 and 2 by IA.

17. The details of summons issued to Noticee 3 vis-à-vis status of its compliance by Noticee 3 are as under:

Date of Summons	Mode of Delivery	Proof of delivery	Status of Compliance
26.09.2014	Through Hand Delivery	Returned undelivered	NA
09.01.2015	Through Hand Delivery	Received, signed and acknowledged	No reply given

23.01.2015	Through Hand Delivery	Received, signed and acknowledged	No response was received till 10.03.2015

18. The details of information sought by the IA from the Noticee 3 through the aforesaid summons included rationale for buying, selling the shares of the company, details of all transactions in the scrip, mode and source of payment to brokers/ sub brokers for purchase in the securities market and off-market, relationship with the company and other entities, details of all bank accounts etc. No information as sought by the summons were received from Noticee 3. Further, The Noticee did not reply to the SCN in order to defend himself against the alleged charges of non-compliance of summons. The Noticee also failed to appear for the personal hearing to defend his case. Hence, it can be presumed that the Noticee is admitting the charges leveled against him. In this regard, I would like to rely upon the findings of the Hon'ble SAT in the matter of Classic Credit Limited Vs. SEBI (Appeal No. 68 of 2003 order dated December 8, 2006 reported on January 8, 2007) regarding the significance of filing the reply to the SCN, in which it stated that "*the appellant 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*".

19. The Honorable Securities Appellate Tribunal (hereinafter referred to as "SAT") in Appeal No.95/04 in Mayfair Paper & Board Pvt.Ltd. V SEBI held that *"failure to furnish information to the Investigating Authority of SEBI shall attract the penalty prescribed under section 15A of the SEBI Act"*.

20. The Hon'ble Supreme Court of India in the matter of *SEBI Vs. Shri Ram Mutual Fund* [2006] 68 SCL 216(SC) 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 and hence the intention of the parties committing such violation becomes wholly irrelevant…".*

21. Thus, the aforesaid violation of Section 11C(3) of the SEBI Act by the Noticees make them liable for penalty under Section 15A (a) of SEBI Act, 1992 which read as follows:

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,—

(a) to furnish any document, return or report to the Board, fails to furnish the same, he shall be liable to a penalty 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;

22. While determining the quantum of penalty under Section 15A(a) of the SEBI Act, it is important to consider the factors relevantly as stipulated in Section 15J of the SEBI Act which read as under:-

Section 15J *- Factors to be taken into account by the adjudicating officer While adjudging quantum of penalty under section 15-I, 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.

23. I find that the Noticees were given adequate opportunity by the IA to comply with the summonses. I am also of the view that it is the duty, responsibility and obligation of every person from whom information is sought to fully co-operate with IA and promptly produce all documents, records, information, etc., to the IA. If persons are allowed to flout the summons issued to them during the course of the investigation, SEBI will not be able to discharge its statutory obligations in protecting the interests of the investors and safeguarding the integrity of the securities market. Thus, as the Noticees did not

provide the information, the same thwarted the attempts of SEBI to effectively gather vital evidence for the timely conclusion of the investigation proceedings.

24. I find that the investigation did not bring out the disproportionate gain or unfair advantages to the Noticees. Further, loss to investors as a result of non-submission of information by Noticees were brought out in investigation report. However, Noticees were issued summons on multiple occasion and they failed to provide the information. This indicates the repetitive and willful nature of their offence.

ORDER

25. In view of the above, after considering all the facts and circumstances of the case and the factors mentioned in the provisions of Section 15-J of the SEBI Act, I, in exercise of the powers conferred upon me under Section 15-I(2) of the SEBI Act read with Rule 5 of the SEBI Adjudication Rules, conclude that the proceedings against the Noticees viz. Madhu Jhunjhunwala, Sudhir Jhunjhunwala and Sanjay Talati stand established in terms of the provisions of the SEBI Act. Hence, in view of the charges established under the provisions of the SEBI Act, I, hereby impose monetary penalty on the said three Noticees as per the following Table:-

Name of the Noticee	**Penalty imposed**
Madhu Jhunjhunwala	₹5,00,000/- (Rupees Five Lakh only)
Sudhir Jhunjhunwala	₹5,00,000/- (Rupees Five Lakh only)
Sanjay Talati	₹5,00,000/- (Rupees Five Lakh only)

26. The Noticees shall remit / pay the said amounts of penalties **separately** within 45 (forty five) days of receipt of this order either by way of Demand Draft (DD) in favour of "SEBI - Penalties Remittable to Government of India", payable at Mumbai and 1) the said DD should be forwarded to the Division Chief, Enforcement Department (EFD), Division

of Regulatory Action - IV [**EFD-DRA-IV**] SEBI Bhavan, Plot No.C4-A,‘ G’ Block, Bandra Kurla Complex (BKC), Bandra (East), Mumbai – 400 051 OR 2) through e-payment facility into Bank Account, the details whereof are given as below :-

Account No. for remittance of penalty(ies) levied by Adjudication Officer :-

Bank Name	State Bank of India
Branch	Bandra-Kurla Complex
RTGS Code	SBIN0004380
Beneficiary Name	SEBI – Penalties Remittable To Government of India
Beneficiary A/c No.	31465271959

27. The Noticees shall forward the said Demand Drafts or the details / confirmation of penalty so paid through e-payment to the Chief General Manager of the aforesaid Enforcement Department (EFD) of SEBI.

28. The Format for forwarding details / confirmations of e-payments made to SEBI shall be in the Form as provided at Annexure `A' of Press Release No. 131/2016 dated August 09, 2016 shown at the SEBI Website which is reproduced as under:-

1. Case Name :	
2. Name of Payee:	
3. Date of Payment :	
4. Amount Paid :	
5. Transaction No :	
6. Bank Details in which payment is made:	
7. Payment is made for : (like penalties / disgorgement / recovery/Settlement amount and legal charges along with order details)	

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

Date : May 25, 2017
Place : Mumbai

NAGENDRAA PARAKH
CHIEF GENERAL MANAGER &
ADJUDICATING OFFICER