BEFORE THE ADJUDICATING OFFICER
SECURITIES AND EXCHANGE BOARD OF INDIA
[ADJUDICATION ORDER NO. ORDER/BM/LD/2022-23/ 17939]

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:

Shri Hirji Kanji Patel
(**PAN**: **AHFPP7456D)**
51, Sunvilla,
Off Chонcholi Bunder Road,
Next to Infant Jesus School,
Malad West,
Mumbai – 400064.

In the matter of
Allied Computers International (Asia) Ltd.

Background :

1. Securities and Exchange Board of India (hereinafter referred to as ''**SEBI**") initiated adjudication proceedings under Section 15A(b) of the SEBI Act, 1992 (hereinafter referred to as "**SEBI Act"**) against Shri Hirji Kanji Patel (hereinafter referred to as "**Noticee**" for alleged violation of the provisions of Regulation 13(4) read with 13(5) of SEBI (Prohibition of Insider Trading) Regulations, 1992 (hereinafter referred to as "**PIT Regulations, 1992**") read with Regulation 12 of SEBI (Prohibition of Insider Trading) Regulations, 2015 (hereinafter referred to as "**PIT Regulations, 2015**") and Regulation 7(1A) of SEBI (Substantial Acquisition of Shares and Takeovers) Regulations, 1997 (hereinafter referred to as "**SAST Regulations, 1997**") read with Regulation 29 of SEBI (Substantial Acquisition of Shares and Takeovers) Regulations, 2011 (hereinafter referred to as "**SAST Regulations, 2011**") in the matter of Allied Computers International (Asia) Limited.

Appointment of Adjudicating Officer:

2. SEBI appointed the undersigned as Adjudicating Officer (hereinafter referred to as "**AO"**) vide order dated September 16, 2021 under Sub-section 1 of Section 15-I of SEBI Act, 1992 and Rule 3 of SEBI (Procedure for Holding Inquiry and imposing penalties) Rules, 1995 (hereinafter referred to as *'**Rules**'*).

3. SEBI conducted an investigation in the matter of Allied Computers International (Asia) Ltd (hereinafter referred to as "**ACIL/Company**"), a company listed on BSE Limited (hereinafter referred to as "**BSE**"), to ascertain whether there was any violation of the provisions of PIT Regulations, 2015 and SAST Regulations, 2011 during the period November 23, 2007 to September 22, 2012 (hereinafter referred to as '**Investigation Period/IP'**).

4. It was observed that there was change in the shareholding of Noticee during the IP, through acquisition/disposal of shares through various modes i.e on-market, off-market and physical transfers.

5. Noticee, promoter-cum-director of the Company, had acquired 44,42,839 shares in 13 days and disposed 5,58,04,735 shares in 197 days through on-market, off-market and physical transfers during the IP as given in the table below :

SNo.	Mode	Share acquired	Number of days	Shares disposed	Number of days
1	On Market	50,100	2	3,75,22,035	173
2	Off Market	11,93,869	9	182,82,700	24
3	Physical transfer	31,98,870	2	Nil	
	Total	**44,42,839**	**13**	**5,58,04,735**	**(197)**

6. It was observed that Noticee had disposed more than 2% shares around 15 times for which disclosure was not made by him as required under Regulation 7(1A) of SAST Regulations, 1997 read with Regulation 29 of the SAST Regulations, 2011.

7. From the information received from BSE with regard to details of disclosure(s) made by the Noticee during the IP, it was observed that Noticee had made disclosures under regulation 7(1A) of SAST Regulations, 1997 of acquisition of 94500 shares (0.50%) and sale of 164711 shares (0.87%) from July 19, 2010 to August 25, 2010. However, for the acquisition /disposal of shares prior to the aforesaid period which was more than 2%, no disclosure was made by the Noticee as per disclosure requirement under regulation 7(1A) of SAST Regulations, 1997 read with regulation 29 of the SAST Regulations, 2011.

8. It was also observed that Noticee had purchased /sold more than 25000 shares through various modes i.e through on-market, off-market and physical transfer around 168 times and had failed to disclose the same as required under regulations 13(4) read with 13(5) of the PIT Regulations, 1992.

9. In view of the above, it is alleged that Noticee by failing to make the required disclosures to the Company and the Stock Exchange had violated regulation 7(1A) read with 7(2) of SAST Regulations, 1997 read with regulation 29 of SAST Regulations, 2011 and regulation 13(4) read with 13(5) of PIT Regulations, 1992 (read with regulation 12 of PIT Regulations, 2015)

SHOW CAUSE NOTICE, REPLY AND PERSONAL HEARING

10. Show Cause Notice no. EAD-3/LD/BM/OW/28166/2021 dated October 08, 2021 (hereinafter referred to as 'SCN') was issued in terms of Rule 4(1) of the SEBI (Procedure for Holding Inquiry and Imposing Penalties) Rules, 1995 (hereinafter referred to as 'the Adjudication Rules') read with section 15-I of the SEBI Act.

11. The SCN dated October 08, 2021 was issued at the last known address of the Noticee through Speed Post Acknowledgement Due, which was returned "undelivered". In the said SCN, the Noticee was asked to reply within a period of 14 days. However, no reply was received from the Noticee. Attempt was made to affix the SCN at the last known address of the Noticee. However, the notice could

not be affixed at the last known address of the Noticee and it was returned with the comment "consignee shifted". Thereafter, in terms of the adjudication rules, a public notice was issued in the newspapers viz. the Times of India, Mumbai edition and Prahar on December 31, 2021 wherein the Noticee was intimated about the fact that a copy of the SCN issued to him has been uploaded on the website of SEBI and he may also appear for a personal hearing before the Adjudicating Officer on January 24, 2022. However, it is on record that the Noticee did not appear on the stipulated date of hearing.

12. I note that sufficient opportunities have been provided to the Noticee to represent his case by way of reply to the SCN and also by way of personal hearing. However, it is a matter of record that Noticee failed to furnish his reply and also failed to appear for the personal hearing fixed on the stipulated date despite the service of the SCN through newspaper publication. Therefore, in the absence of reply from the Noticee and/or his failure to make personal appearance, I am inclined to presume that the Noticee has nothing to offer in its defence and therefore, he has admitted to the allegations levelled against him in the SCN. In this context, Hon'ble SAT in the matter of Sanjay Kumar Tayal vs SEBI, vide Order dated February 11, 2014 held 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 to the charges levelled against them in the show cause notice".*

ISSUES FOR CONSIDERATION, EVIDENCE AND FINDINGS

13. After perusal of the material available on record, I have the following issues for consideration.

ISSUE I: Whether Noticee has violated regulation 13(4) and read with 13(5) of PIT Regulations, 1992 r/w regulation 12 of PIT Regulations, 2015 and regulation 7(1A) of SAST Regulations, 1997 r/w regulation 29 of SAST Regulations, 2011?

ISSUE II: Does the violation, if any, on part of the Noticee attract penalty under section 15A (b) of the SEBI Act?

ISSUE III: If so, how much penalty should be imposed on the Noticee taking into consideration the factors mentioned in section 15J of the SEBI Act?

14. Before proceeding, I would like to refer to the relevant provisions of PIT Regulations, 1992, PIT Regulations, 2015, SAST Regulations, 1997 and SAST Regulations, 2011, which reads as under:

PIT Regulations, 1992

13(4) *Any person who is a director or officer of a listed company, shall disclose to the company and the stock exchange where the securities are listed in Form D, the total number of shares or voting rights held and change in shareholding or voting rights, if there has been a change in such holdings of such person and his dependents (as defined by the company) from the last disclosure made under sub-regulation (2) or under this sub regulation, and the change exceeds Rs. 5 lakh in value or 25,000 shares or 1% of total shareholding or voting rights, whichever is lower.*

13(5) *The disclosure mentioned in sub-regulations (3) and (4) shall be made within [two] working days of :*

(a) the receipts of intimation of allotment of shares, or

(b) the acquisition or sale of shares or voting rights, as the case may be.

Regulation 12 of PIT Regulations, 2015

Repeal and Savings.

12. (1) The Securities and Exchange Board of India (Prohibition of Insider Trading) Regulations, 1992 are hereby repealed.

(2) Notwithstanding such repeal,—

(a) the previous operation of the repealed regulations or anything duly done or suffered thereunder, any right, privilege, obligation or liability acquired, accrued or incurred under the repealed regulations, any penalty, forfeiture or punishment incurred in respect of any offence committed against the repealed

regulations, or any investigation, legal proceeding or remedy in respect of any such right, privilege, obligation, liability, penalty, forfeiture or punishment as aforesaid, shall remain unaffected as if the repealed regulations had never been repealed; and

(b) anything done or any action taken or purported to have been done or taken including any adjudication, enquiry or investigation commenced or show-cause notice issued under the repealed regulations prior to such repeal, shall be deemed to have been done or taken under the corresponding provisions of these regulations;

(3) After the repeal of Securities and Exchange Board of India (Prohibition of Insider Trading) Regulations, 1992, any reference thereto in any other regulations made, guidelines or circulars issued thereunder by the Board shall be deemed to be a reference to the corresponding provisions of these regulations.

SAST Regulations, 1997

7(1A) *Any acquirer who has acquired shares or voting rights of a company under sub-regulation (1) of regulation 11, or under second proviso to sub-regulation (2) of regulation 11 shall disclose purchase or sale aggregating two per cent or more of the share capital of the target company to the target company, and the stock exchanges where shares of the target company are listed within two days of such purchase or sale along with the aggregate shareholding after such acquisition or sale.] [Explanation.— For the purposes of sub-regulations (1) and (1A), the term acquirer' shall include a pledgee, other than a bank or a financial institution and such pledgee shall make disclosure to the target company and the stock exchange within two days of creation of pledge.*

Regulation 29 of SAST Regulations, 2011

29.(1) *Any acquirer who acquires shares or voting rights in a target company which taken together with shares or voting rights, if any, held by him and by persons acting in concert with him in such target company, aggregating to five per cent or more of the shares of such target company, shall disclose their* *aggregate shareholding and voting rights in such target company in such form as may be specified:}*

[(2) Any person, who together with persons acting in concert with him, holds shares or voting rights entitling them to five per cent or more of the shares or voting rights in a target company, shall disclose the number of shares or voting rights held and change in shareholding or voting rights, even if such change results in shareholding falling below five per cent, if there has been change in such holdings from the last disclosure made under sub-regulation (1) or under this sub-regulation; and such change exceeds two per cent of total shareholding or voting rights in the target company, in such form as may be specified.

(3) The disclosures required under sub-regulation (1) and sub-regulation (2) shall be made within two working days of the receipt of intimation of allotment of shares or the acquisition85[or the disposal] of shares or voting rights in the target company to,—

(a)every stock exchange where the shares of the target company are listed; and

(b)the target company at its registered office.

(4) For the purposes of this regulation, shares taken by way of encumbrance shall be treated as an acquisition, shares given upon release of encumbrance shall be treated as a disposal, and disclosures shall be made by such person accordingly in such form as may be specified:

FINDINGS

15. On perusal of the material available on record and giving regard to the facts and circumstances of the case and material available on record, I record my findings hereunder:

Issue I: Whether Noticee has violated regulation 7 (1A) read with 7(2) of SAST Regulation,1997 read with regulation 29 of SAST Regulation, 2011 and regulation 13(4) read with 13(5) of PIT Regulations, 1992 read with regulation 12 of PIT Regulations, 2015?

16. It is alleged that the Noticee has violated provisions of regulation 7(1A) of SAST Regulations, 1997 read with regulation 29 of the SAST Regulations, 2011 by not disclosing disposal of more than 2% shares.

17. The Noticee had acquired 44,42,839 shares in 13 days and disposed 5,58,04,735 shares in 198 days through on-market, off-market and physical transfers during the IP as seen in the table below :

SNo.	Mode	Share acquired	Number of days	Shares disposed	Number of days
1	On Market	50,100	2	3,75,22,035	174
2	Off Market	11,93,869	9	1,82,82,700	24
3	Physical transfer	31,98,870	2	Nil	
	Total	**44,42,839**	**13**	**5,58,04,735**	**(198)**

18. Details of the acquisition and disposal are as under:

No	Date	Number of share held before Acquistion or disposal	number of share acquired	Number of share disposed off	Net Purchase or sale	number of share acquired /disposed off as a % of paid up capital	Number of share post acquistion	total share capital of the company	Mode of acquisition /disposal	Disclosure requirement with respect to 13(4) of SEBI PIT Regulation , 1992	Disclosure requirement with respect to 7(1A) of SEBI (SAST) Regulation , 1997 o(Every 2% acquisition /disposal)
1	18/11/2008	10113284	0	300000	300000	1.58	9813284	19004952	On-Market	Y	Not disclosed
2	19/11/2008	9813284	0	516748	516748	2.72	9296536	19004952	On-Market	Y	
3	20/11/2008	9296536	0	538440	538440	2.83	8758096	19004952	On-Market	Y	Not disclosed
4	21/11/2008	8758096	0	422438	422438	2.22	8335658	19004952	On-Market	Y	Not disclosed
5	24/11/2008	8335658	0	5555	5555	0.03	8330103	19004952	On-Market		Not disclosed
6	25/11/2008	8330103	0	13495	13495	0.07	8316608	19004952	On-Market		
7	26/11/2008	8316608	0	2815	2815	0.01	8313793	19004952	On-Market		
8	28/11/2008	8313793	0	15000	15000	0.08	8298793	19004952	On-Market		
9	01/12/2008	8298793	0	1700	1700	0.01	8297093	19004952	On-Market		
10	05/12/2008	8297093	0	126000	126000	0.66	8171093	19004952	On-Market	Y	
11	08/12/2008	8171093	0	357809	357809	1.88	7813284	19004952	On-Market	Y	

12	26/12/2008	7813284	1248870	0	-1248870	-6.57	9062154	19004952	Physical	Y	Not disclosed
13	**29/12/2008**	**9062154**					**90621540**	190049520			
14	**31/12/2008**	**90621540**					**90621540**	190049520			
15	02/01/2009	90621540	0	9400000	9400000	4.95	81221540	190049520	On-Market	Y	Not disclosed
16	06/01/2009	81221540	0	2438302	2438302	1.28	78783238	190049520	On-Market	Y	Not disclosed
17	13/01/2009	78783238	0	700000	700000	0.37	78083238	190049520	On-Market	Y	
18	21/02/2009	78083238	0	2000000	2000000	1.05	76083238	190049520	Off-Market	Y	
19	19/03/2009	76083238	0	115000	115000	0.06	75968238	190049520	Off-Market	Y	Not disclosed
20	**31/03/2009**	**75968238**					**75968238**	190049520			
21	06/04/2009	75968238		468000	2745500	1.44	75500238	190049520	On-Market	Y	
				2277500			73222738	190049520	Off-Market		
22	08/04/2009	73222738		280000	610000	0.32	72942738	190049520	On-Market	Y	
				330000			72612738	190049520	Off-Market		
23	09/04/2009	72612738	100	2296100	2306000	1.21	70316738	190049520	On-Market	Y	
				10000			70306738	190049520	Off-Market		
24	15/04/2009	70306738		127200	127200	0.07	70179538	190049520	On-Market	Y	Not disclosed
25	16/04/2009	70179538		2000000	2000000	1.05	68179538	190049520	Off-Market	Y	
26	17/04/2009	68179538	5000	0	-5000	0.00	68184538	190049520	Off-Market	Y	
27	20/04/2009	68184538	5000	0	-5000	0.00	68189538	190049520	Off-Market		
28	21/04/2009	68189538	50000	398962	348962	0.18	67840576	190049520	On-Market		
29	22/04/2009	67840576		85647	85647	0.05	67754929	190049520	On-Market	Y	
30	24/04/2009	67754929		211025	211025	0.11	67543904	190049520	On-Market	Y	
31	27/04/2009	67543904		115010	115010	0.06	67428894	190049520	On-Market	Y	
32	28/04/2009	67428894		103000	103000	0.05	67325894	190049520	On-Market	Y	
33	29/04/2009	67325894		99350	99350	0.05	67226544	190049520	On-Market	Y	
34	04/05/2009	67226544		143200	143200	0.08	67083344	190049520	On-Market	Y	
35	05/05/2009	67083344		169500	169500	0.09	66913844	190049520	On-Market	Y	
36	06/05/2009	66913844	0	134820	124820	0.07	66779024	190049520	On-Market	Y	
			10000	0			66789024	190049520	Off-Market		
37	07/05/2009	66789024		108000	108000	0.06	66681024	190049520	On-Market	Y	
38	08/05/2009	66681024		174899	174899	0.09	66506125	190049520	On-Market	Y	
39	11/05/2009	66506125		164000	164000	0.09	66342125	190049520	On-Market	Y	Not disclosed

40	12/05/2009	66342125		45000	45000	0.02	66297125	190049520	On-Market	Y	
41	14/05/2009	66297125		125850	125850	0.07	66171275	190049520	On-Market	Y	
42	15/05/2009	66171275		111900	111900	0.06	66059375	190049520	On-Market	Y	
43	19/05/2009	66059375		345200	345200	0.18	65714175	190049520	On-Market	Y	
44	20/05/2009	65714175	0	95500	-913869	-0.48	65618675	190049520	On-Market	Y	
			1009369	0			66628044	190049520	Off-Market		
45	21/05/2009	66628044		149000	149000	0.08	66479044	190049520	On-Market	Y	
46	22/05/2009	66479044		34800	34800	0.02	66444244	190049520	On-Market	Y	
47	25/05/2009	66444244		462000	462000	0.24	65982244	190049520	On-Market	Y	
48	26/05/2009	65982244		87399	87399	0.05	65894845	190049520	On-Market	Y	
49	27/05/2009	65894845		129250	129250	0.07	65765595	190049520	On-Market	Y	
50	28/05/2009	65765595		207360	207360	0.11	65558235	190049520	On-Market	Y	
51	29/05/2009	65558235		357810	357810	0.19	65200425	190049520	On-Market	Y	
52	01/06/2009	65200425		817138	817138	0.43	64383287	190049520	On-Market	Y	
53	02/06/2009	64383287		513920	513920	0.27	63869367	190049520	On-Market	Y	
54	03/06/2009	63869367		551307	551307	0.29	63318060	190049520	On-Market	Y	
55	04/06/2009	63318060		501530	621530	0.33	62816530	190049520	On-Market	Y	
				120000			62696530	190049520	Off-Market		
56	05/06/2009	62696530		560540	560540	0.29	62135990	190049520	On-Market	Y	Not disclosed
57	08/06/2009	62135990		139769	139769	0.07	61996221	190049520	On-Market	Y	
58	09/06/2009	61996221		26000	26000	0.01	61970221	190049520	On-Market	Y	
59	10/06/2009	61970221		96800	96800	0.05	61873421	190049520	On-Market	Y	
60	17/06/2009	61873421		516992	516992	0.27	61356429	190049520	On-Market	Y	
61	18/06/2009	61356429		2000000	2000000	1.05	59356429	190049520	Off-Market	Y	
62	19/06/2009	59356429		330631	-1619369	-0.85	59025798	190049520	On-Market	Y	
			1950000	0			60975798	190049520	Physical		
63	22/06/2009	60975798	0	293761	293761	0.15	60682037	190049520	On-Market	Y	
64	23/06/2009	60682037		127285	127285	0.07	60554752	190049520	On-Market	Y	
65	24/06/2009	60554752		343172	343172	0.18	60211580	190049520	On-Market	Y	
66	25/06/2009	60211580		230801	230801	0.12	59980779	190049520	On-Market	Y	
67	26/06/2009	59980779		128987	128987	0.07	59851792	190049520	On-Market	Y	
68	29/06/2009	59851792		103000	103000	0.05	59748792	190049520	On-Market	Y	
69	30/06/2009	59748792		90500	90500	0.05	59658292	190049520	On-Market	Y	

		59658292					**59658292**	190049520			
70	01/07/2009	59658292		92000	92000	0.05	59566292	190049520	On-Market	Y	
71	02/07/2009	59566292		145033	145033	0.08	59421259	190049520	On-Market	Y	
72	03/07/2009	59421259		79000	79000	0.04	59342259	190049520	On-Market	Y	
73	06/07/2009	59342259		33000	33000	0.02	59309259	190049520	On-Market	Y	
74	07/07/2009	59309259		135981	135981	0.07	59173278	190049520	On-Market	Y	
75	08/07/2009	59173278		64020	64020	0.03	59109258	190049520	On-Market	Y	
76	10/07/2009	59109258		279046	279046	0.15	58830212	190049520	On-Market	Y	
77	13/07/2009	58830212		39331	39331	0.02	58790881	190049520	On-Market	Y	Not disclosed
78	14/07/2009	58790881		112000	112000	0.06	58678881	190049520	On-Market	Y	
79	15/07/2009	58678881		148899	148899	0.08	58529982	190049520	On-Market	Y	
80	16/07/2009	58529982		172550	172550	0.09	58357432	190049520	On-Market	Y	
81	17/07/2009	58357432		244000	184000	0.10	58113432	190049520	On-Market	Y	
			60000				58173432	190049520	Off-Market		
82	20/07/2009	58173432		226034	226034	0.12	57947398	190049520	On-Market	Y	
83	21/07/2009	57947398		232813	232813	0.12	57714585	190049520	On-Market	Y	
84	22/07/2009	57714585		99855	99855	0.05	57614730	190049520	On-Market	Y	
85	23/07/2009	57614730		255361	255361	0.13	57359369	190049520	On-Market	Y	
86	24/07/2009	57359369		147776	147776	0.08	57211593	190049520	On-Market	Y	
87	27/07/2009	57211593		119436	119436	0.06	57092157	190049520	On-Market	Y	
88	28/07/2009	57092157		148564	148564	0.08	56943593	190049520	On-Market	Y	
89	29/07/2009	56943593		135848	135848	0.07	56807745	190049520	On-Market	Y	
90	30/07/2009	56807745		182832	1182832	0.62	56624913	190049520	On-Market	Y	
				1000000			55624913	190049520	Off-Market		
91	03/08/2009	55624913		65000	65000	0.03	55559913	190049520	On-Market	Y	
92	04/08/2009	55559913		100000	2105000	1.11	55459913	190049520	On-Market	Y	
				2005000			53454913	190049520	Off-Market		
93	06/08/2009	53454913		43000	43000	0.02	53411913	190049520	On-Market	Y	Not disclosed
94	07/08/2009	53411913		171087	171087	0.09	53240826	190049520	On-Market	Y	
95	10/08/2009	53240826		166900	166900	0.09	53073926	190049520	On-Market	Y	
96	12/08/2009	53073926		161789	161789	0.09	52912137	190049520	On-Market	Y	
97	13/08/2009	52912137		109464	109464	0.06	52802673	190049520	On-Market	Y	

98	17/08/2009	52802673		41771	41771	0.02	52760902	190049520	On-Market	Y	
99	18/08/2009	52760902		60000	60000	0.03	52700902	190049520	On-Market	Y	
100	19/08/2009	52700902		214219	214219	0.11	52486683	190049520	On-Market	Y	
101	20/08/2009	52486683		54000	64000	0.03	52432683	190049520	On-Market	Y	
				10000			52422683	190049520	Off-Market		
102	21/08/2009	52422683		146000	156000	0.08	52276683	190049520	On-Market	Y	
				10000			52266683	190049520	Off-Market		
103	24/08/2009	52266683		17500	17500	0.01	52249183	190049520	On-Market	Y	
104	25/08/2009	52249183		27000	27000	0.01	52222183	190049520	On-Market		
105	26/08/2009	52222183		100171	100171	0.05	52122012	190049520	On-Market	Y	
106	27/08/2009	52122012		67100	67100	0.04	52054912	190049520	On-Market	Y	
107	28/08/2009	52054912		97350	97350	0.05	51957562	190049520	On-Market	Y	
108	31/08/2009	51957562		111657	111657	0.06	51845905	190049520	On-Market	Y	
109	01/09/2009	51845905		120000	120000	0.06	51725905	190049520	On-Market	Y	
110	02/09/2009	51725905		26000	26000	0.01	51699905	190049520	On-Market	Y	
111	03/09/2009	51699905		74309	74309	0.04	51625596	190049520	On-Market	Y	
112	04/09/2009	51625596		146812	146812	0.08	51478784	190049520	On-Market	Y	
113	07/09/2009	51478784		64000	64000	0.03	51414784	190049520	On-Market	Y	
114	10/09/2009	51414784		13000	13000	0.01	51401784	190049520	On-Market	Y	
115	11/09/2009	51401784		136963	136963	0.07	51264821	190049520	On-Market	Y	
116	14/09/2009	51264821		106000	106000	0.06	51158821	190049520	On-Market	Y	
117	15/09/2009	51158821		74000	74000	0.04	51084821	190049520	On-Market	Y	
118	16/09/2009	51084821		109149	109149	0.06	50975672	190049520	On-Market	Y	
119	17/09/2009	50975672		50963	50963	0.03	50924709	190049520	On-Market	Y	
120	18/09/2009	50924709		50963	50963	0.03	50873746	190049520	On-Market	Y	
121	22/09/2009	50873746		82963	82963	0.04	50790783	190049520	On-Market	Y	
122	23/09/2009	50790783		112556	112556	0.06	50678227	190049520	On-Market	Y	
123	24/09/2009	50678227		105112	105112	0.06	50573115	190049520	On-Market	Y	
124	25/09/2009	50573115		104954	104954	0.06	50468161	190049520	On-Market	Y	
125	29/09/2009	50468161		83926	83926	0.04	50384235	190049520	On-Market	Y	
126	30/09/2009	50384235		36963	36963	0.02	50347272	190049520	On-Market	Y	

		50347272					**50347272**	190049520			
127	01/10/2009	50347272		140445	140445	0.07	50206827	190049520	On-Market	Y	
128	05/10/2009	50206827		100889	100889	0.05	50105938	190049520	On-Market	Y	
129	06/10/2009	50105938		32460	1032460	0.54	50073478	190049520	On-Market	Y	
				1000000			49073478	190049520	Off-Market		
130	07/10/2009	49073478		80963	80963	0.04	48992515	190049520	On-Market	Y	Not disclosed
131	08/10/2009	48992515		66963	66963	0.04	48925552	190049520	On-Market	Y	
132	09/10/2009	48925552		70112	70112	0.04	48855440	190049520	On-Market	Y	
133	12/10/2009	48855440		4593	4593	0.00	48850847	190049520	On-Market	Y	
134	14/10/2009	48850847		26963	26963	0.01	48823884	190049520	On-Market	Y	
135	21/10/2009	48823884		100928	100928	0.05	48722956	190049520	On-Market	Y	
136	22/10/2009	48722956		1000	1000	0.00	48721956	190049520	On-Market	Y	
137	23/10/2009	48721956		24186	24186	0.01	48697770	190049520	On-Market		
138	26/10/2009	48697770		28100	28100	0.01	48669670	190049520	On-Market	Y	
139	16/11/2009	48669670		5000	5000	0.00	48664670	190049520	On-Market	Y	
140	18/11/2009	48664670		59237	59237	0.03	48605433	190049520	On-Market		
141	20/11/2009	48605433		121858	121858	0.06	48483575	190049520	On-Market	Y	
142	23/11/2009	48483575		56000	56000	0.03	48427575	190049520	On-Market	Y	
143	24/11/2024	48427575		91503	91503	0.05	48336072	190049520	On-Market	Y	
144	25/11/2009	48336072		55000	55000	0.03	48281072	190049520	On-Market	Y	
145	26/11/2009	48281072		4234	4234	0.00	48276838	190049520	On-Market	Y	
146	30/11/2009	48276838		134346	134346	0.07	48142492	190049520	On-Market		
147	01/12/2009	48142492		38000	38000	0.02	48104492	190049520	On-Market	Y	
148	02/12/2009	48104492		44000	44000	0.02	48060492	190049520	On-Market	Y	
149	03/12/2009	48060492		23686	23686	0.01	48036806	190049520	On-Market	Y	
150	07/12/2009	48036806		114000	114000	0.06	47922806	190049520	On-Market		
151	08/12/2009	47922806		120000	120000	0.06	47802806	190049520	On-Market	Y	
152	09/12/2009	47802806		20000	20000	0.01	47782806	190049520	On-Market	Y	
153	10/12/2009	47782806		140876	140876	0.07	47641930	190049520	On-Market		
154	15/12/2009	47641930		104021	104021	0.05	47537909	190049520	On-Market	Y	
155	16/12/2009	47537909		147569	147569	0.08	47390340	190049520	On-Market	Y	

156	17/12/2009	47390340		111614	111614	0.06	47278726	190049520	On-Market	Y	
157	18/12/2009	47278726		142789	142789	0.08	47135937	190049520	On-Market	Y	
158	21/12/2009	47135937		134385	134385	0.07	47001552	190049520	On-Market	Y	
159	22/12/2009	47001552		78873	78873	0.04	46922679	190049520	On-Market	Y	
160	23/12/2009	46922679		130338	130338	0.07	46792341	190049520	On-Market	Y	
161	24/12/2009	46792341		117345	117345	0.06	46674996	190049520	On-Market	Y	
162	29/12/2009	46674996		216583	216583	0.11	46458413	190049520	On-Market	Y	
163	30/12/2009	46458413		161504	161504	0.08	46296909	190049520	On-Market	Y	
164	31/12/2009	46296909		74974	74974	0.04	46221935	190049520	On-Market	Y	
165	07/01/2010	46221935		67987	67987	0.04	46153948	190049520	On-Market	Y	
166	08/01/2010	46153948		81479	81479	0.04	46072469	190049520	On-Market	Y	
167	09/01/2010	46072469		1500000	1500000	0.79	44572469	190049520	Off-Market	Y	
168	12/01/2010	44572469		66912	66912	0.04	44505557	190049520	On-Market	Y	Not disclosed
169	18/01/2010	44505557		33456	33456	0.02	44472101	190049520	On-Market	Y	
170	22/01/2010	44472101		500000	500000	0.26	43972101	190049520	Off-Market	Y	
171	28/01/2010	43972101		7752	7752	0.00	43964349	190049520	On-Market	Y	
172	29/01/2010	43964349		24752	24752	0.01	43939597	190049520	On-Market		
173	01/02/2010	43939597		49628	49628	0.03	43889969	190049520	On-Market	Y	
174	09/02/2010	43889969		37685	37685	0.02	43852284	190049520	On-Market	Y	
175	10/02/2010	43852284		29099	29099	0.02	43823185	190049520	On-Market	Y	
176	11/02/2010	43823185		30000	30000	0.02	43793185	190049520	On-Market	Y	
177	17/02/2010	43793185		14000	14000	0.01	43779185	190049520	On-Market	Y	
178	24/02/2010	43779185		3000	3000	0.00	43776185	190049520	On-Market		
179	18/03/2010	43776185	10000	0	-10000	-0.01	43786185	190049520	Off-Market		
180	12/04/2010	43786185		1700000	1700000	0.89	42086185	190049520	Off-Market	Y	
181	13/04/2010	42086185		1700000	1700000	0.89	40386185	190049520	Off-Market	Y	
182	20/05/2010	40386185	10000		-10000	-0.01	40396185	190049520	Off-Market	N	
183	19/07/2010	4039619		30000	30000	0.16	4009619	19004952	On-Market	Y	Disclosed
184	23/07/2010	4009619		10000	10000	0.05	3999619	19004952	On-Market	Y	Disclosed
185	09/08/2010	3999619		35000	35000	0.18	3964619	19004952	On-Market		Disclosed
186	16/08/2010	3964619		15006	15006	0.08	3949613	19004952	On-Market	Y	Disclosed
187	19/08/2010	3949613		4705	4705	0.02	3944908	19004952	On-Market		Disclosed
188	20/08/2010	3944908		20000	20000	0.11	3924908	19004952	On-Market		Disclosed

189	23/08/2010	3924908		50000	50000	0.26	3874908	19004952	On-Market	Y	Disclosed
190	25/08/2010	3874908	94500		-94500	-0.50	3969408	19004952	Off-Market	Y	Disclosed

19. From the material available before me, I note that the disclosure under regulation 7(1A) of SAST Regulations, 1997 read with regulation 29 of the SAST Regulations, 2011 was first triggered on November 19, 2008 as the change in shareholding exceeds 2% of the total shareholding. As the Noticee did not make any disclosure thereafter, disclosures under the said regulation were getting triggered on each day as cumulative change in the shareholding exceeded 2% from the previous disclosure. It is observed that change in the shareholding exceeding 2% occurred on 15 instances.

20. The disclosures requirement under Regulation 7(1A) of SAST Regulations, 1997 r/w Regulation 29 of SAST Regulations, 2011 arises on every acquisition or disposal of shares of Target Company representing 2% or more of the shares or voting rights in such target company. The disclosures are required to be made both to the target Company and the stock exchange within two working days of such acquisition or disposal. As per the information received from the stock exchange vide email dated September 28, 2020, there is no evidence to show that he had made the requisite disclosure for the IP prior to July 19, 2010. Further, information was sought from the company with regard to the disclosures made by the Noticee to the company. However, the company did not provide the relevant information. Therefore, there is no evidence on record to show that the Noticee made the relevant disclosures for the change in his shareholding.

21. Thus, by not disclosing to the Company and the stock exchange about the acquisition /disposal of shares, which was more than 2%, the Noticee had violated the disclosure requirements mandated under regulation 7(1A) of SAST Regulations, 1997 r/w regulation 29 of SAST Regulations, 2011. Therefore, the allegation of violation of the said Regulations stand established.

22. Further the disclosure requirement under erstwhile regulation 13(4) read with 13(5) of PIT Regulations, 1992 arises when the change in shareholding exceeds Rs. 5 lakh in value or 25,000 shares or 1% of total shareholding / voting rights, whichever is lower.

23. It was also observed that Noticee had purchased /sold more than 25,000 shares through various modes i.e. through -market, off-market and physical transfer around 167 times and had failed to disclose the same to the Company and the stock exchange which is in violation of regulations 13(4) read with 13(5) of the PIT Regulations, 1992 read with regulation 12 of PIT regulations, 2015.

24. Correct and timely disclosures play an essential role in the proper functioning of the securities market and failure to do so results in depriving the investors from taking well informed investment decision. In this context, I would like to rely on the observation of Hon'ble SAT in the matter of Coimbatore Flavours & Fragrances Ltd. vs SEBI (Appeal No. 209 of 2014 order dated August 11, 2014) wherein it was held that "*Undoubtedly, the purpose of these disclosures is to bring about more transparency in the affairs of the companies. True and timely disclosures by a company or its promoters are very essential from two angles. Firstly; investors can take a more informed decision to invest or not to invest in a particular scrip secondly; the Regulator can properly monitor the transactions in the capital market to effectively regulate the same*." Further, in the matter of *Milan Mahendra Securities Pvt. Ltd. vs. SEBI (Appeal No. 66 of 2003)* –the Hon'ble SAT, vide its order dated April 15, 2005 held that, *"the purpose of these disclosures is to bring about transparency in the transactions and assist the Regulator to effectively monitor the transactions in the market".*

25. Thus by not disclosing to the Company and the Stock Exchange, the change in its shareholdings through purchase/sale of more than 25000 shares through market, off-market and physical delivery, the Noticee has violated Regulation 13(4A) read with 13(5) of PIT Regulations, 1992 r/w Regulation 12 of PIT Regulations, 2015 and the acquisition /disposal of shares, which was more than 2%, the Noticee has

violated the disclosure requirements mandated under Regulation 7(1A) of SAST Regulations , 1997 r/w Regulation 29 of SAST Regulations, 2011.

26. In view of the charges as established, the facts and circumstances of the case and the judgments referred to and mentioned hereinabove, the quantum of penalty would depend on the factors referred in Section 15-J of SEBI Act as stated above. The main objective of the SAST Regulations and PIT Regulations is to afford fair treatment for shareholders who are affected by the change in shareholdings. The Regulations seek to achieve fair treatment by *inter alia* mandating disclosure of timely and adequate information to enable shareholders to make an informed decision and ensuring that there is a fair and informed market in the shares of companies affected by such change. Correct and timely disclosures are also an essential part of the proper functioning of the securities market and failure to do so results in preventing investors from taking well-informed decisions. Thus, the cornerstone of the SAST Regulations and PIT Regulations is investor protection. Further the disclosure as required under the SAST and PIT Regulations are of significant importance from the point of view of the Regulator also.

Issue II: The violation, if any, on part of the Noticee attract penalty under Section 15A(b) of the SEBI Act?

27. The provisions of Section 15A(b) of the SEBI Act read as under:

<u>Penalties and Adjudication</u>

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, he shall be liable to a penalty of one lakh rupees for each day during which such failure continues or one crore rupees, whichever is less.

28. I note that, the Hon'ble Supreme Court of India in the matter of Chairman, SEBI Vs Shriram Mutual Fund {[2006]5 SCC 361} 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 and hence the intention of the parties committing such violation becomes wholly irrelevant..............."

29. Hence, in view of the findings as given above, I am convinced that the Noticee is liable for monetary penalty under section 15A(b) of the SEBI Act for violating the provisions of regulation 13(4) read with 13(5) of PIT Regulations 1992 read with regulation 12 of PIT Regulations, 2015 and regulation 7(1A) of SAST Regulations, 1997 read with regulation 29 of SAST Regulations, 2011.

ISSUE III: If so, how much penalty should be imposed on the Noticee taking into consideration the factors mentioned in Section 15J of the SEBI Act?

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

15J - Factors to be taken into account by the adjudicating officer

While padjudging 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 investor/+s as a result of the default;

(c) the repetitive nature of the default.

31. I observe, that the material available on record does not quantify any disproportionate gains or unfair advantage, if any, made by the Noticee. Further from the material available on record, it is not possible to ascertain the exact monetary loss to the investors on account of non-compliance by the Noticee. In this case, from the material

available on record, any quantifiable gain or unfair advantage accrued to the Noticee or the extent of loss suffered by the investors as a result of the default cannot be computed. However, the non-disclosure of the transactions made by the Noticee and continuation of the same till date demonstrates violation of PIT Regulations, 1992 and SAST Regulations, 1997.

ORDER

32. Having considered the facts and circumstances of the case, the material available on record, the factors mentioned in Section 15J of the SEBI Act, the purpose of PIT Regulations, 1992 and SAST Regulations, 2011, taking note of section 15A(b) of the SEBI Act, and also taking into account judgement of the Hon'ble Supreme Court in *SEBI vs. Bhavesh Pabari (2019) 5 SCC 90* and in exercise of power conferred upon me under section 15-I of the SEBI Act read with rule 5 of the Adjudication Rules, I hereby impose following penalty under section 15A(b) of the SEBI Act, 1992 on the Noticee:

Name of the Noticee	Provisions violated	Penalty
Shri Hirji Kanji Patel (PAN : AHFPP7456D)	Regulations 13(4A) read with 13(5) of PIT Regulations, 1992 read with regulation 12 of PIT Regulations, 2015; regulations 7(1A) of SAST Regulations, 1997 read with regulation 29 of SAST Regulations, 2011	Rs. 15,00,000/- (Rupees Fifteen Lakh only)

33. I am of the view that the said penalty is commensurate with the lapse/omission on the part of the Noticee.

34. 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 favour of "SEBI - Penalties Remittable to Government of India", payable at Mumbai, OR through online payment facility available on the website of SEBI, i.e. www.sebi.gov.in on the following path, by clicking on the payment link:

ENFORCEMENT → Orders → Orders of AO → PAY NOW

35. The aforesaid Noticee shall forward said Demand Draft or the details / confirmation of penalty so paid to "The Division Chief (Enforcement Department 1 DRA-4), Securities and Exchange Board of India, SEBI Bhavan, Plot No. C – 4 A, "G" Block, Bandra Kurla Complex, Bandra (E), Mumbai – 400 051." The Noticee shall also provide the following details while forwarding DD / payment information:
    - Name and PAN of the Noticee
    - Name of the case / matter
    - Purpose of Payment – Payment of penalty under AO proceedings
    - Bank Name and Account Number
    - Transaction Number

36. In the event of failure to pay the said amount of penalty within 45 days of the receipt of this Order, SEBI may initiate consequential actions including but not limited to recovery proceedings under section 28A of the SEBI Act, 1992 for realization of the said amount of penalty along with interest thereon, *inter alia*, by attachment and sale of movable and immovable properties.

37. In terms of the provisions of rule 6 of the Adjudication Rules, a copy of this order is being sent to the Noticee viz. Hirji Kanji Patel (PAN: AHFPP7456D) and also to the Securities and Exchange Board of India.

Date: July 18, 2022 | **BARNALI MUKHERJEE**

Place: Mumbai | **ADJUDICATING OFFICER**