BEFORE THE ADJUDICATING OFFICER
SECURITIES AND EXCHANGE BOARD OF INDIA
[ADJUDICATION ORDER NO. Order/SR/2022-23/37/22681

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

In respect of

Prafulbhai C Patel
(Address: Radhe Developers (India) Ltd,
First Floor, Chunibhai Chambers,
Behind City Gold Cinema ,
Ashram Road
Ahmedabad - 380009)

(PAN: AGUPP9330N)
In the matter of Radhe Developers (India) Ltd.

BACKGROUND

1. A Department (**OD**) of Securities and Exchange Board of India (hereinafter referred to as the **SEBI**) conducted an investigation regarding trading activities in the scrip of Radhe Developers (India) Ltd. (hereinafter referred to as **RDIL**/**Company**) for the period from October 01, 2009 to July 30, 2010 (hereinafter referred to as **Investigation Period**) on the basis of a reference received from Financial Intelligence Unit (FIU-IND). The company was listed on Bombay Stock Exchange (BSE) during the investigation period. During the course of investigation it was observed by Investigating Authority (**IA**) of SEBI that Prafulbhai C Patel (hereinafter referred to as **Noticee**) has violated the provisions of regulation 13(4) read with (r/w) 13(5) of SEBI (Prohibition of Insider Trading) Regulations, 1992 (hereinafter referred to as **PIT Regulations, 1992**).

APPOINTMENT OF ADJUDICATING OFFICER

2. Based on the investigation, SEBI initiated adjudication proceedings against the Noticee, to inquire into and adjudge under section 15A(b) of the Securities and Exchange Board of India Act, 1992 (hereinafter referred to as **the SEBI Act, 1992**) for alleged violations of provisions under regulation 13(4) r/w 13(5) of PIT Regulations, 1992. Shri Nagendraa Parakh was appointed as the Adjudicating Officer (AO) under section 15-I of the SEBI Act, 1992 r/w rule 3 of the SEBI (Procedure for Holding Inquiry

and Imposing Penalties by Adjudicating Officer) Rules, 1995 (hereinafter referred to as **Adjudication Rules, 1995**) to inquire into and adjudge under section 15A(b) of the SEBI Act, 1992 for the alleged violations of 13(4) r/w 13(5) of PIT Regulations, 1992 by the Noticee. Subsequently, the matter was transferred and undersigned was appointed AO vide order dated July 10, 2017.

SHOW CAUSE NOTICE, REPLY AND PERSONAL HEARING

3. A Show Cause Notice dated December 07, 2016 (hereinafter referred to as **SCN**) was issued to the Noticee in terms of rule 4 of the Adjudication Rules, 1995 requiring the Noticee to show cause as to why an inquiry should not be held against it for the alleged violations of provisions under regulations 13(4) r/w 13(5) of PIT Regulations, 1992 and why penalty be not imposed on the Noticee under section 15A(b) of the SEBI Act, 1992 for the alleged violations as specified in the SCN. The SCN was issued to the Noticee through speed post acknowledgement due (SPAD) and the same was delivered to the Noticee as seen from the material available on record.

4. It was alleged in the SCN as follows:

- IA observed that Mrs. Madhuben Patel(wife of/dependent on Mr. Praful C Patel, Director of RDIL) was holding 76,50,870 shares of RDIL i.e 3.04% of the total shares of Company as on October 01, 2009. Following change was noted in her holding:

Date	Trans	Market		Violations
		Buy	Sell	
30-Oct-09	Mkt	0	1,60,000	No disclosure made to the Company and exchange under 13(4) of SEBI (PIT) Reg., 1992
03-Nov-09	Mkt	0	2,39,377	
05-Nov-09	Mkt	0	20,000	Not applicable
06-Nov-09	Mkt	0	2,90,305	No disclosure made to the Company and exchange under 13(4) of SEBI (PIT) Reg., 1992
09-Nov-09	Mkt	0	7,70,000	
10-Nov-09	Mkt	0	2,50,000	
26-Nov-09	Mkt	0	152	Not applicable
23-Dec-09	Mkt	0	3,00,000	No disclosure made to the Company and exchange under 13(4) of SEBI (PIT) Reg., 1992
24-Dec-09	Mkt	0	1,00,000	
29-Dec-09	Mkt	0	11,00,000	
30-Dec-09	Mkt	0	12,00,000	
31-Dec-09	Mkt	0	10,00,000	
05-Jan-10	Mkt	0	10,00,000	
06-Jan-10	Mkt	0	1,57,561	
07-Jan-10	Mkt	0	10,00,000	
12-Jan-10	Mkt	0	63,475	

- IA observed that Madhuben sold shares and made disclosures to the company however failed to make disclosures to the Stock Exchanges. IA observed that it was Noticee's responsibility to make the said disclosure to the Stock Exchange and the company on behalf of his dependent wife, therefore Noticee failed to comply with provisions of regulations 13(4) r/w 13(5) of PIT Regulations, 1992
- Noticee was advised to show cause as to why an inquiry should not be held against you in terms of Rule 4 of the Adjudication Rules, 1995 read with section 15-I of the SEBI Act, 1992 and why penalty, if any, should not be imposed on you under section 15A(b) of the SEBI Act, 1992 for the alleged violation of the provisions of law enumerated above, if any.

5. Noticee replied vide letter dated January 18, 2017 seeking documents relied upon, opportunity for inspection. Upon my appointment as AO, vide hearing notice dated November 21, 2017 enclosing the SCN, the Noticee was granted an opportunity of personal hearing on December 14, 2017. In the said hearing notice, the Noticee was also advised to submit reply to the SCN by December 10, 2017. The said hearing notice was served to the Noticee through SPAD. The Noticee vide letter dated November 30, 2017 submitted the reply to the SCN requesting to provide various documents and also for inspection of documents and that Noticee has filed a consent application dated March 7, 2017. Office of AO ascertained from the relevant Department of SEBI regarding whether such an application was pending, upon ascertaining the matter was kept on abeyance. Vide email dated October 19, 2019 relevant department informed about status of consent application of Noticee. As the matter was no longer on abeyance, vide letter dated October 16, 2019 another opportunity of hearing was given vide letter sent and delivered through SPAD. Noticee replied vide email dated October 17, 2019 that seeking documents. Vide email (secretarial at radheinfra dot com) dated November 05, 2019 the company sent a letter on behalf of the Noticee to relevant Department of SEBI regarding rejection of the said consent application. Vide letter dated January 17, 2020 sent and delivered by SPAD, documents sought by Noticee were sent with an advice to reply within 15 days from receipt. Noticee sent a reply dated January 30, 2020 seeking inspection of documents. Inspection request was sent by undersigned AO to the relevant Department vide letter dated February 27, 2020 with a copy to Noticee. Relevant department vide email dated

July 17, 2020 sent email regarding sharing all the documents for inspection by email with the Noticee. Noticee sent a copy of letter it sent to BSE dated July 25, 2020 asking BSE to provide system and records of receipt of disclosure and dissemination of the same so as to enable the Noticee to verify what could have happened to their postal sending of registered AD at prevalent point of time. In this regard, vide email dated August 21, 2020 Noticee was advised to file reply to the SCN else the matter shall be proceeded upon on the basis of material on record. Vide email dated August 28, 2020 relevant Department sent final confirmation to AO that inspection has been provided to Noticee. Undersigned AO vide email dated August 28, 2020 advised the Noticee that, extended periods of delay have been allowed in the interest of natural justice, however, in case Noticee fails to defend itself against the charges levied in the SCN through written submissions/personal hearings, the material already on record (including letters mentioned in trailing email) will be relied upon to take the instant adjudication proceedings to its end. Vide letter dated August 27, 2020 Noticee requested for more time. Hearing Notice dated August 23, 2021 was sent to Noticee for hearing scheduled from August 30, 2021 to September 03, 2021 at any date between 11:00 AM to 04:00 PM through any mode convenient to Noticee. Noticee sought postponement. Another opportunity of hearing was provided vide email dated October 13, 2021 for any date from October 20 to 22, 2021, failing which matter will be proceeded upon on the basis of material on record. Noticee intimated about his Authorized representative and confirmed about attending the hearing as scheduled. Hearing proceedings were completed on October 20, 2021. Noticee attended with Authorised Representative. Minutes were confirmed over email. During the hearing Noticee requested for additional time to be given for reply, the same was given. Noticee filed a reply dated December 21, 2021.

6. The Noticee submitted following reply:
   - Madhuben Patel is not a dependent and her trades are her own decision. The word spouse cannot be taken as dependent. No obligation on the Noticee can be invited for the trades of the spouse who is not a dependent.
   - Noticee’s income is very less Income tax returns for FY 2009-10 and 2010-11 attached.

7. After taking into account, the allegations levelled in the SCN, reply to the SCN and other materials available on record, I hereby, proceed to decide the case on merit.

CONSIDERATION OF ISSUES

8. The issues that arise for consideration in the present case are:

(a) Whether the Noticee has violated the provisions of regulation 13(4) r/w 13(5) of PIT Regulations, 1992?

(b) Do the violations, if any, on the part of the Noticee attract monetary penalty under section 15A(b) of the SEBI Act, 1992?

(c) If so, what would be the quantum of monetary penalty that can be imposed on the Noticee after taking into consideration the factors mentioned in section 15J of the SEBI Act, 1992?

9. Before proceeding further, it will be appropriate to refer to the relevant provisions of PIT Regulations, 1992 which read as under:-

PIT Regulations, 1992
Continual disclosure
13(4) Any person who is a director or officer of a listed company, shall disclose to the 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 subregulation, 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), (4) and (4A) 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.

FINDINGS

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

Issue (a): Whether the Noticee has violated the provisions of regulation 13(4) r/w 13(5) of PIT Regulations, 1992?

(a) I note that allegation on the Noticee is that he has failed to ensure compliance of regulations 13(4) r/w 13(5) of PIT Regulations, 1992 by failing to make disclosures of the trades of his spouse Mrs. Madhuben Patel to the Stock Exchanges, further it is alleged that it was Noticee's responsibility to make the said disclosure to the Stock Exchange and the company on behalf of his dependent wife. As per regulation 13(4) of PIT Regulations, 1992, Any person who is a director or officer of a listed company, shall disclose regarding the change in shares/voting rights if the change exceeds Rs. 5 lakh in value or 25,000 shares or 1% of total shareholding or voting rights, whichever is lower, including change in such holdings his dependents (as defined by the company). It is alleged that Noticee has not made disclosure to the Stock Exchange regarding such change in the holding of his dependent spouse within the specified time as prescribed under regulation 13(4) r/w 13(5) of PIT Regulations, 1992 and hence allegedly violated the provisions of regulation 13(4) r/w 13(5) of PIT Regulations, 1992.

(b) It is seen from the latest reply of Noticee that the Noticee has contended that the spouse is not his dependent and therefore he may not be liable of making such disclosures. In this regard, I note that the regulation mentions, "as defined by the company", there is nothing on record that shows such definition being made by the company or any confirmation from the company that the said spouse is defined to be dependent of the Noticee. I also note from the evidentiary proof of the copy of Income Tax Returns submitted by the Noticee, that it shows income as Rs. 850 for the year 2009-10 and Rs. 43,520 for year 2010-11. Noticee has submitted same for both instances. Based on the material available on record, I cannot conclude that Madhuben was dependent of Noticee at the time of the alleged violation and therefore aforementioned allegations levelled against the Noticee do not get established.

(c) In view of the above, issue (b) and (c) do not merit consideration.

ORDER

11. In light of the material available on record and the evidence adduced by the Noticee, I find that allegations of violations of provision of regulation 13(4) r/w 13(5) of PIT Regulations, 1992 levelled against Noticee i.e. Prafulbhai C Patel do not stand established and therefore in exercise of the powers conferred under section 15-I of the SEBI Act, 1992 and rule 5 of the Adjudication Rules, 1995, I hereby dispose off the said SCN without imposing monetary penalty.

12. In terms of the rule 6 of the Adjudication Rules, 1995, copy of this order is sent to the Noticee at his last known address and also to Securities and Exchange Board of India.

Date: December 30, 2022 **SANGEETA RATHOD**

Place: Mumbai **ADJUDICATING OFFICER**