BEFORE THE ADJUDICATING OFFICER

SECURITIES AND EXCHANGE BOARD OF INDIA

[ADJUDICATION ORDER NO. ORDER/SR/2022-23/39/22683

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

(PAN: AAACR9177L)
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/Noticee**) 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 Noticee has violated the provisions of regulation 13(6) of SEBI (Prohibition of Insider Trading) Regulations, 1992 (hereinafter referred to as **PIT Regulations, 1992**) and clause 1.2 of Code of Conduct specified under Part A of Schedule I read with Regulation 12(1) and 12(3) of the 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(6) of PIT Regulations, 1992 and

under section 15HB of the SEBI act, 1992 the provisions of clause 1.2 of Code of Conduct specified under Part A of Schedule I read with Regulation 12(1) and 12(3) of the 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(3) r/w 13(5) of PIT Regulations, 1992 and under section 15HB of the SEBI act, 1992 violations of provisions of clause 1.2 of Code of Conduct specified under Part A of Schedule I read with Regulation 12(1) and 12(3) of the PIT Regulations, 1992 by the Noticee. Subsequently, the matter was transferred to me 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 by the previous AO 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 of regulations 13(6) and provisions of clause 1.2 of Code of Conduct specified under Part A of Schedule I read with Regulation 12(1) and 12(3) of the PIT Regulations, 1992 and why penalty be not imposed on the Noticee under section 15A(b) and 15HB respectively 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 that the Notice made delayed disclosures of the change in shareholding of Ashish Pate (promoter/managing director), Jahnavi Patel and Madhuben Patel (promoter related entities of RDIL) to the stock exchange. The details of disclosure made by entities to Noticee and Noticee to exchange were provided in the SCN indicating delay.

Date	Name	Date of Disclosure from entity to RDIL	Stipulated date of disclosure by RDIL to stock exchange	Date of disclosure by RDIL to stock exchange	Delay by RDIL

17-Oct-09	Ashish Patel	21-Oct-09	23-Oct-09	21-Dec-09	59
26-Oct-09	Ashish Patel	28-Oct-09	30-Oct-09	21-Dec-09	52
31-Dec-09	Ashish Patel	02-Jan-10	05-Jan-10	11-Jan-10	6
05-Jan-10	Ashish Patel	07-Jan-10	11-Jan-10	11-Jan-10	0
06-Jan-10	Ashish Patel	08-Jan-10	12-Jan-10	14-Jan-10	2
07-Jan-10	Ashish Patel	09-Jan-10	12-Jan-10	14-Jan-10	2
12-Jan-10	Ashish Patel	14-Jan-10	18-Jan-10	21-Jan-10	3
13-Jan-10	Ashish Patel	15-Jan-10	19-Jan-10	19-Feb-10	31
15-Jan-10	Ashish Patel	18-Jan-10	20-Jan-10	21-Jan-10	1
18-Jan-10	Ashish Patel	20-Jan-10	22-Jan-10	19-Feb-10	28
19-Jan-10	Ashish Patel	21-Jan-10	25-Jan-10	01-Feb-10	7
21-Jan-10	Ashish Patel	25-Jan-10	28-Jan-10	01-Feb-10	4
06-Feb-10	Ashish Patel	08-Feb-10	10-Feb-10	23-Apr-10	72
30-Oct-09	Madhuben Patel	02-Nov-09	05-Nov-09	21-Dec-09	46
03-Nov-09	Madhuben Patel	05-Nov-09	09-Nov-09	21-Dec-09	42
06-Nov-09	Madhuben Patel	10-Nov-09	12-Nov-09	21-Dec-09	39
09-Nov-09	Madhuben Patel	11-Nov-09	13-Nov-09	21-Dec-09	38
10-Nov-09	Madhuben Patel	12-Nov-09	16-Nov-09	21-Dec-09	35
23-Dec-09	Madhuben Patel	26-Dec-09	30-Dec-09	07-Jan-10	8
24-Dec-09	Madhuben Patel	26-Dec-09	30-Dec-09	07-Jan-10	8
29-Dec-09	Madhuben Patel	31-Dec-09	05-Jan-10	07-Jan-10	2
30-Dec-09	Madhuben Patel	01-Jan-10	05-Jan-10	07-Jan-10	2
31-Dec-09	Madhuben Patel	02-Jan-10	05-Jan-10	11-Jan-09	6
05-Jan-10	Madhuben Patel	07-Jan-10	11-Jan-10	11-Jan-09	0
06-Jan-10	Madhuben Patel	08-Jan-10	12-Jan-10	14-Jan-10	2
07-Jan-10	Madhuben Patel	09-Jan-10	12-Jan-10	14-Jan-10	2
12-Jan-10	Madhuben Patel	14-Jan-10	18-Jan-10	21-Jan-10	3
05-Oct-09	Jahnavi Patel	07-Oct-09	09-Oct-09	20-Oct-09	11
14-May-10	Jahnavi Patel	15-May-10	18-May-10	20-May-10	2

It was alleged that Noticee made delayed disclosures on all occasions except trades of Ashish Patel and Madhuben Patel on January 05, 2010, thereby violated provisions of regulation 13(6) of PIT Regulations, 1992. It was further alleged that Noticee was under an obligation to frame a code of internal procedures and conduct without diluting in any manner and ensure compliance of the same in terms of Regulation 12(1) and 12(3) of the PIT Regulations, 1992 and the clause 1.2 of the Code of Conduct specified under Part A of the Schedule I. Further that Noticee has failed to ensure and enforce compliance of clause 4 of the Code of conduct of the company, which read as: *"All Directors/officers/designated employees who buy or sell any number of shares of the company shall not enter into an opposite transaction i.e. sell or buy any number of shares during the next six months following the prior transaction…".* Noticee is therefore alleged to have prima facie violated the clause 1.2 of the Code of Conduct specified under Part A of the Schedule I read with regulation 12(1) and 12(3) of PIT Regulations, 1992. Previous AO provided details of transactions and alleged observations are given in the Investigation Report enclosed with the SCN. Following provisions were given in the SCN:

PIT Regulations, 1992

4 [CHAPTER IV POLICY ON DISCLOSURES AND INTERNAL PROCEDURE FOR PREVENTION OF INSIDER TRADING

Disclosure of interest or holding by directors and officers and substantial shareholders in a listed companies - Initial Disclosure.

13. (1) Any person who holds more than 5% shares or voting rights in any listed company shall disclose to the company [in Form A], the number of shares or voting rights held by such person, on becoming such holder, within [2 working days] of :— (a) the receipt of intimation of allotment of shares; or (b) the acquisition of shares or voting rights, as the case may be.

(2) [Any person who is a director or officer of a listed company shall disclose to the company in Form B the number of shares or voting rights held and positions taken in derivatives by such person and his dependents (as defined by the company), within two working days of becoming a director or officer of the company.]

Continual disclosure.

(3) Any person who holds more than 5% shares for voting rights in any listed company shall disclose to the company [in Form C] the number of shares or voting rights held and change in shareholding or voting rights, even if such change results in

shareholding falling below 5%, 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 2% of total shareholding or voting rights in the company.

[(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 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.] ….

Disclosure by company to stock exchanges.

(6) Every listed company, [within two working days] of receipt, shall disclose to all stock exchanges on which the company is listed, the information received under sub-regulations (1), (2), (3) and (4) [in the respective formats specified in Schedule III.]

[SCHEDULE I

[Under regulation 12(1)]

PART A

MODEL CODE OF CONDUCT FOR PREVENTION OF INSIDER TRADING FOR LISTED COMPANIES

1.2 The compliance officer shall be responsible for setting forth policies, procedures, monitoring adherence to the rules for the preservation of "Price Sensitive Information", pre-clearing; of designated employees' and their dependents' trades (directly or through respective department heads as decided by the company), monitoring of trades and the implementation of the code of conduct under the overall supervision of the Board of the listed company.

Explanation : For the purpose of this Schedule, the term 'designated employee' shall include :— (i) officers comprising the top three tiers of the company management [***]; (ii) the employees designated by the company to whom these trading restrictions shall be applicable, keeping in mind the objectives of this code of conduct.

Code of internal procedures and conduct for listed companies and other entities.

12. (1) All listed companies and organisations associated with securities markets including : (a) the intermediaries as mentioned in section 12 of the Act, asset management company and trustees of mutual funds; (b) the self-regulatory organisations recognised or authorised by the Board; (c) the recognised stock exchanges and clearing house or corporations; (d) the public financial institutions as defined in section 4A of the Companies Act, 1956; and (e) the professional firms such as auditors, accountancy firms, law firms, analysts, consultants, etc., assisting or advising listed companies, shall frame a code of internal procedures and conduct as near thereto the Model Code specified in Schedule I of these Regulations [without diluting it in any manner and ensure compliance of the same].

(2) The entities mentioned in sub-regulation (1), shall abide by the code of Corporate Disclosure Practices as specified in Schedule II of these Regulations.

(3) All entities mentioned in sub-regulation (1), shall adopt appropriate mechanisms and procedures to enforce the codes specified under sub-regulations (1) and (2).

(4) Action taken by the entities mentioned in sub-regulation (1) against any person for violation of the code under sub-regulation (3) shall not preclude the Board from initiating proceedings for violation of these Regulations.

Securities and Exchange Board of India (Prohibition of Insider Trading) Regulations, 2015

Repeal and Savings.

12.

(1)…..

(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;

5. Upon my appointment as AO, vide hearing notice dated November 22, 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. Company Secretary of the Noticee vide letter dated November 8, 2017 submitted the reply informing that Noticee has filed for consent application vide letter dated March 07, 2017, requesting inspection of certain documents and also that Ashish Patel, Managing Director is undergoing knee surgery hence hearing may be postponed. 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 (secretarial at radheinfra dot com) dated November 05, 2019 the company sent a letter to relevant Department of SEBI regarding rejection of the said consent application. As the consent application was rejected and the matter was no longer on abeyance, 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 26, 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 sent a letter dated September 02, 2021 for postponement of hearing. Vide email dated October 10, 2021 Noticee sought further postponement. Another opportunity of hearing was provided vide email dated October 20, 2021 for any date from November 10 to 12, 2021. Noticee filed reply dated November 03, 2021. Hearing proceedings were completed on November 09, 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 15, 2021.

6. The Noticee submitted many contentions vide his various replies, *inter alia* mentioning (paraphrased) the following:
   a) Once insider code is adopted by Noticee, question of violation of Regulaton 12(1) of PIT Regulations, 1992.
   b) Company was also listed at Ahmedabad Stock Exchange and not just BSE at the prevalent time. Therefore observation of IA regarding non-compliance on BSE in isolation of compliance at ASE lacks merit otherwise it deserves to be.
   c) As regards, disclosures regarding Jahnavi and Madhuben were not required to me made the provision regarding promoter related entities came into force on August 16, 2011 and therefore not attracted during IP.
   d) Ashish Patel had made timely disclosures to the company. Company had also made timely disclosures to BSE through registered AD. There is one case of timely compliance and majority other cases are due to transit. Overall conduct of Ashish Patel and the company is such that they were observing the governance of fair disclosure code put in place by the company and therefore there is no case to view adversely the same in year 2021.

e) There is corroborative evidence in the matter of disclosure with ASE where the company was listed and company has complied with the listing agreement and PIT requirement. Copy of ASE disclosures are enclosed herewith.

f) IA observed that Ashish Patel, Madhuben Patel and Jahnavi Patel did not trade when trading window was closed, further IA observed that they traded with PSI when trading window was open.

g) Para 20.8.2, IA mentions about selling of 1,25,962 shares on 17.10.2009 as against buying of 1,00,000 shares on 16.09.2009, as counter trades. Trades before have not been considered as regards compliance of clause 1.2 of the Code of Conduct specified under Part A of the Schedule I of PIT Regulations, 1992.

h) Disclosures were made but RP AD acknowledgement could not be traced. There was an income tax raid on company and the company could not pay attention to BSE website, where the said disclosures were not appearing for almost 3-4 months and when it was found that the said disclosures which were sent through RP AD were not on BSE website, it was discussed with BSE officials and immediately sent the same. However, BSE acknowledged in its records with its subsequent date of receipt and therefore the delay is being shown. All information was given to IA but IA has formed its view on BSE letter.

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

(b) Whether the Noticee has violated the provisions of regulations 12(1) and 12(3) of the PIT Regulations, 1992 and the clause 1.2 of the Code of Conduct specified under Part A of the Schedule I of PIT Regulations, 1992? Do the violations, if any, on the part of the Noticee attract monetary penalty under section 15HB 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?

FINDINGS

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

(a) I note from the SCN that Noticee has been alleged to not have made disclosures of the transactions of Ashish Patel, Jahnavi Patel and Madhuben Patel in the time as specified in regulation 13(6) of PIT Regulations, 1992. I note that regulation 13(6) requires every listed company to disclose within two working days of receipt, the information regarding said transactions to all stock exchanges. The allegations are levelled based on information from BSE. As regards Noticee's contentions regarding the disclosure violations not attracted for Jahnavi Patel and Madhuben Patel, I note that the said provisions of 13 (4A) were inserted by the SEBI (Prohibition of Insider Trading) (Amendment) Regulations, 2011 w.e.f. 16-08-2011 and I am inclined accept the said contentions of the Noticee. The Noticee has furnished copies of letters despatched to BSE and letters inwarded at ASE. From the evidentiary proof submitted by the Noticee and Noticee's admitted position I note that disclosures for the following dates have not been submitted in the time stipulated in the regulation 13(6) of PIT Regulations 1997: January 13, 2010, January 15, 2010 and February 06, 2010. Relying upon the evidence submitted by Noticee, it is established that for the said transactions of Ashish Patel. In light of which, I observe that, these violations by Noticee attracts a monetary penalty under section 15A(b) of the SEBI Act, 1992 for non-disclosure within the stipulated time period.

(b) As regards, non-compliance of provisions of regulations 12(1) and 12(3) of the PIT Regulations, 1992 and the clause 1.2 of the Code of Conduct specified under Part A of the Schedule I of PIT Regulations, 1992, I note that the allegation is that Noticee has failed to ensure that counter trades were avoided by *Directors/officers/designated employees, in this case Ashish Patel having* *entered in buy and sell trades in less than the prohibited time period, ie sold* 1,25,962 shares on October 17, 2009, just after he had bought 1,00,000 shares on September 16, 2009. Even a plain reading of the said clause 4 of Code of Conduct specified under Part A of the Schedule I of the PIT regulations, 1992 made it clear that opposite trades were not allowed within a period of six months of each other. Noticee has not given any evidentiary proof of having stopped the said trade and it's an admitted position that the said trades had taken place. I observe that the said allegations stand established. In light of this the said non-compliance by the Noticee attract monetary penalty 15HB of the SEBI Act, 1992 for the violation of regulations 12(1) and 12(3) of the PIT Regulations, 1992 and the clause 1.2 of the Code of Conduct specified under Part A of the Schedule I of PIT Regulations, 1992.

10. In light of my findings at above para, question before me is, what 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. In this regard while determining the quantum of penalty, it is pertinent to refer to and consider the factors stipulated in section 15J of SEBI Act read with Rule 5 (2) of the Adjudication Rules, which reads as under:-

SEBI Act, 1992

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

While adjudging quantum of penalty under section 23 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."

I am inclined to consider the mitigating factors which are as follows, record does not indicate any disproportionate gain or unfair advantage to the Noticees or loss caused to an investor or group of investors as a result of the default and the number of instance of violation established is four. In light of this I am of a considered view that following quantum of penalty shall meet the ends of justice.

Name and PAN of the entity	Violation provisions	Penalty provisions	Amount of Penalty
Radhe Developers (India) Ltd. PAN: AACR9177L	13(6) of PIT Regulations, 1992	15A(b) of the SEBI Act, 1992	Rs. 3, 00,000/- (Rs. Three Lakh only)
	Regulations 12(1) and 12(3) of the PIT Regulations, 1992 and the clause 1.2 of the Code of Conduct specified under Part A of the Schedule I of PIT Regulations, 1992	15A(b) of the SEBI Act, 1992	Rs. 5, 00,000/- (Rs. One Lakh only)

ORDER

11. In light of the material available on record and the evidence adduced by the Noticee, I find that aforesaid instances of allegations of violations levelled against the Noticee stand established and the 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 impose a penalty of Rs. 8,00,000/- (Rs. Eight lakh only) on the Noticee Radhe Developers (India) Ltd.

12. The Noticee shall remit/ pay the said total amount of penalty within 45 days of the receipt of this order either by way of Demand Draft in favour of "SEBI- Penalties Remittable to Government of India ", payable at Mumbai, or by following the path at SEBI website www.sebi.gov.in, ENFORCEMENT>Orders>Orders of AO > PAY NOW; OR by using the web link https://siportal.sebi.gov.in/ RTA /AOPaymentGateway.html. In case of any difficulties in payment of penalties, the Noticee may contact the support at portalhelp@sebi.gov.in The said confirmation of e – payment made in the format as given below should be sent to "The Division Chief, EFD1 – DRA - V, Securities and Exchange Board of India, SEBI Bhavan, Plot no. C - 7, "G" Block, Bandra Kurla Complex, Bandra (E), Mumbai - 400 051" and also to e- mail id:- tad@sebi.gov.in

    1. Case Name:
    2. Name of payee:
    3. Date of payment:

4. Amount Paid:
5. Transaction no:
6. Bank Details in which payment made
7. Payment made for: penalties/ disgorgement/recovery/ settlement amount and legal charges along with order details)

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**