BEFORE THE ADJUDICATING OFFICER
SECURITIES AND EXCHANGE BOARD OF INDIA
[ADJUDICATION ORDER NO. Order/SKV/DP/2023-24/29990]

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) RULES, 1995

In respect of:

Ms. Priyanka Brijmohan Chiripal

(PAN: AGYPA8935G)

Address 1: Chiripal House, Shivranjani Cross road satellite,
Ahmedabad, Gujarat-380015

Address 2: 10 Nand Hill Society Opp ISRO Satellite,
Ahmedabad, Gujarat-380015

In the matter of Vishal Fabrics Ltd.

FACTS OF THE CASE

1. Securities and Exchange Board of India ('hereinafter referred to as **'SEBI'**) had conducted an investigation in the scrip of Vishal fabrics Ltd (hereinafter referred to as "**VFL/company**"). The focus of the investigation was to ascertain whether there was any violation of Securities and Exchange Board of India Act, 1992 (hereinafter referred to as "**SEBI Act, 1992**) and SEBI (Prohibition of Insider Trading) Regulations, 2015 (hereinafter referred to as "**PIT Regulations**"). The investigation period ('hereinafter referred to as **'IP'**) for the aforesaid investigation was from March 25, 2020 to October 20, 2020.

APPOINTMENT OF ADJUDICATING OFFICER

2. SEBI had appointed undersigned as the Adjudicating Officer (hereinafter referred to as '**AO**') in the matter vide communique dated August 23, 2023 under Section 15-I of the SEBI Act read with Rule 3 of SEBI (Procedure for Holding Inquiry and Imposing Penalties) Rules, 1995 (hereinafter referred to as **'Adjudication Rules'**) read with Section 19 of the SEBI Act, 1992, to inquire into and adjudge under the provisions of the Sections 15A(b) and15HB of the SEBI Act, for the violations alleged to have been committed by Priyanka Brijmohan Chiripal (hereinafter referred to as "**Noticee**").

SHOW CAUSE NOTICE, REPLY AND HEARING

3. Based on the findings by SEBI, Show Cause Notice dated October 05, 2023 (hereinafter referred to as 'SCN') was issued to the Noticee under Rule 4(1) of the Adjudication Rules to show cause as to why an inquiry should not be held and penalty be not imposed on them under Sections 15A(b) and15HB of SEBI Act for the alleged violation of the provisions PIT Regulations. The SCN, inter alia, alleged the following:
   3.1 During the investigation, it was observed from the Noticee had executed contra trade within 6 months of her prior transactions. Details of the said transactions are given below:

Name of Promoter Group entity	Trade Date	Buy Qty	Buy Value	Sell Qty	Sell Value	Contra Trade Qty	Profit (in Rs.)
Priyanka Brijmohan Chiripal (AGYPA8935G)	08/09/2020	4000	11,16,087.30	0		4,000	1,91,112.70
	29/09/2020	0	0	4,000	13,07,200.00		

**Profit = Sell Value of Contra Trade Qty. – Buy Value of Contra Trade Qty.*

   3.2 VFL, vide email dated January 08, 2023, had confirmed that Noticee was categorized as a designated person of VFL during the F.Y. 2020-21. VFL has vide email dated January 11, 2023 and January 18, 2023, *inter-alia*, submitted the following:

- *VFL was not aware of such transaction and has only after the SEBI's email sent on January 09, 2023 became aware of the same.*
- *Since the value of the transaction is in excess of ten lakhs, in compliance with Regulation 7(2)(b) of the SEBI (PIT) Regulations, 2015, VFL is in the process of notifying the particulars of such trading to the stock exchange within two trading days from becoming aware of such information through the SEBI email sent on January 09, 2023.*
- *In compliance with Clause 10 of Schedule B of SEBI (PIT) Regulations, 2015, VFL has penalized by disgorging the profits of abovementioned trades amounting to Rs.1,91,112.70 for remittance to SEBI for credit to the Investor Protection and Education Fund. Remittance has been done through NEFT (IB Ref. no. 230113173825) in favour of SEBI IPEF.*
- *Priyanka Brijmohan Chiripal had not obtained any pre-clearance during the month of September 2020.*

3.3 SEBI vide email dated January 09, 2023 sought comments on execution of contra trade. Noticee in reply vide email dated January 13, 2023 had submitted that she has received a letter from VFL in relation to trade undertaken by her on September 08 and 29, 2020 in the scrip of VFL directing her to pay the entire profit of Rs.1,91,112.70 to VFL. She had made the necessary remittance to the company and also after having been informed by VFL, she had made required disclosure to the company.

3.4 BSE vide email dated January 27, 2023 submitted that it had not received any disclosure from the Noticee during the period February 17, 2020 to December 23, 2020.

3.5 In view of the same, it was alleged that the Noticee, part of the promoter group and also designated person of the company:

3.5.1 executed contra trade in less than 6 months of her prior transaction during the month of September 2020 and thus, violated Clause 10 of Schedule B Minimum Standards for Code of Conduct to regulate, monitor and report trading by designated persons read with Regulation 9(1) of SEBI (PIT) Regulations, 2015;

3.5.2 Did not obtain pre-clearance for her trades executed in the scrip of VFL during the month of September 2020 and therefore, it was alleged that she had violated Clause 6 of Schedule B Minimum Standards for Code of Conduct to regulate, monitor and report trading by designated persons read with Regulation 9(1) of SEBI (PIT) Regulations, 2015.

3.5.3 Did not make disclosure w.r.t. trading in the scrip of VFL exceeding Rs.10 lakh and therefore, it was alleged she had violated Regulation 7(2)(a) of SEBI (PIT) Regulations, 2015.

4. Vide letter dated October 27, 2023, Regstreet Law Advisors informed that they have been authorized by the Noticee to represent and communicate on her behalf. The Authorised Representatives (AR) of the Noticee sought inspection of certain documents listed in the said letter.

5. Vide email dated October 30, 2023, the ARs of the Noticee were informed to undertake the inspection of documents on October 31, 2023. The ARs, vide email dated October 30, 2023 confirmed their attendance for the inspection granted to them.

6. On October 31, 2023, the ARs of the Noticee undertook the inspection of certain documents as listed in the proceedings of inspection of the documents.

7. Subsequently vide Notice of Hearing dated December 15, 2023, Noticee was granted an opportunity of personal hearing on January 02, 2024. Vide the said Notice, the Noticee was also advised to file reply to the SCN on or before December 27, 2023.

8. Vide email dated December 28, 2023, the ARs of the Noticee confirmed their attendance for the personal hearing and requested that they may be allowed to file the reply to the SCN at the time of hearing or immediately after to cover any specific queries. In reply to the same, vide email dated December 29, 2023, the ARs of the Noticee were advised to file the reply on or before January 01, 2024. The ARs were further informed that specific queries, if any, may be answered in the additional reply.

9. Vide letter dated January 01, 2024, the ARs filed reply to the SCN on behalf of the Noticee and made the following submissions:

9.1. Noticee is a medical practitioner with specialized training in oncoplasty, rendering assistance in the realm of breast cancer surgery and the purported date of the cause of action transpired during the zenith of the COVID-19 pandemic and the ensuing nationwide lockdown.

9.2. Noticee's affiliation with VFL emanates exclusively from her status as a member of the promoter group, maintaining a nominal 0.13% stake in VFL by virtue of her relationship with Mr. Brijmohan Chiripal, a constituent of the said promoter group.

9.3. the inspection minutes dated October 31, 2023 in response to request of inspection demonstrate SEBI's failure to provide various documents which are relevant to the proceedings and the non-supply of which causes great prejudice to the Noticee and fails to determine foundational facts.

9.4. The Noticee has already disgorged the purported profits and has received a warning/ cautionary admonishment from the Company.

9.5. The settled principle dictates that where remedial action has promptly been taken, punitive measures should not be applied. In the current circumstances, where the Noticee has already undertaken corrective measures, the imposition of punitive measures would be unwarranted and contrary to established legal principles.

9.6. No separate penalty can be imposed by SEBI for undertaking contra- trade under the residuary power of Section 15HB when the Regulations itself provide for appropriate remedy to the securities market i.e disgorgement of the alleged profit made from contra-trade. Further, in the instant case the disgorgement of the profit was undertaken and even informed to SEBI.

9.7. In light of the above, reliance is placed on the decision of the Hon'ble Securities Appellate Tribunal in the matter of Snehlata R. Tiwari Vs SEBI (SAT Appeal No.175 of 2020 decision dated April 28, 2021) (Para 11-13) wherein with respect to a violation of contra trade, the Tribunal had explicitly observed that SEBI cannot invoke section 15HB to impose penalty and only the profit earned by the appellant could have been disgorged.

9.8. Subsequently, SEBI filed an appeal before the Hon'ble Supreme Court of India. The Apex Court, in its order dated August 16, 2021 (Supreme Court Civil Appeal

No. 4652/2021), dismissed SEBI's appeal while accepting SEBI's request that the SAT Order in Snehlata Tiwari (Supra) should not be treated as a precedent.

9.9. *The matter again came before the Hon'ble Securities Appellate Tribunal in the case of Uday Agarwal Vs SEBI (SAT Appeal No. 14 of 2022, decision dated December 05, 2022) (Para 6, 9, 10), where the Tribunal set aside the monetary penalty levied by SEBI.* It is submitted that even against this order, SEBI filed an appeal before the Hon'ble Supreme Court in ***SEBI v. Uday Agarwal*** *(Civil Appeal 1273 of 2023 vide order dated February 28, 2023)* wherein the Apex Court dismissed the said Civil Appeal of SEBI.

9.10. Since the decision of SAT in Uday Agarwal (Supra) has been upheld by the Hon'ble Supreme Court by dismissing the Civil Appeal of SEBI under Section 15Z of the SEBI Act, 1992, the legal principle decided in the SAT judgment is deemed to be the law of the land.

9.11. Further, it is also binding on all courts and tribunals in the country by virtue of Article 141 of the Constitution of India as well as the constitutional principle of 'Doctrine of Merger'. The dismissal of a Civil Appeal through a non-speaking order also cannot be interpreted differently and according to the doctrine of merger the question of fact and law propounded by the lower court / tribunal gets merged as if it is the judgement of the Supreme Court of India.

9.12. It is vehemently contended that SEBI is precluded from levying any penalty under Section 15A(b) of the SEBI Act, 1992, premised on the alleged violation of non- disclosure of trades under Regulation 7(2) of the PIT Regulations. This assertion is grounded in the fact that the said alleged violation pertains to the same transaction for which the Noticee has already disgorged the amount. The act of dissecting an inadvertent contra trade into discrete allegations of non-disclosure and failure to obtain pre-clearance is not only a bad policy but also an ineffectual enforcement strategy of SEBI. The imposition of a penalty for the same transaction on varying grounds is patently unjust and prejudicial in the specific circumstances of this case, constituting an egregious abuse of process and powers.

10. The ARs of the Noticee appeared for the hearing on January 02, 2024 and reiterated the submissions made vide reply dated January 01, 2024. The ARs of the Noticee submitted that the Noticee did not have the knowledge of her being the "Designated person" of the company. Upon receipt of the letter from the company, the Noticee made the requisite disclosure to the company. The ARs of the Noticee further submitted that the alleged violation of Regulation 7(2) of the PIT Regulations may be inquired along with the contra trades, because they emanate from the same transactions and therefore, do not warrant the penalty. The ARs of the Noticee also undertook to file additional submissions on or before January 14, 2024.

11. Vide letter dated January 10, 2024, the ARs of the Noticee filed written submissions and *inter-alia* submitted the following:

11.1. *There was no information with the Noticee that she was a designated by the Company or its Board of Directors as a 'designated person'.*

11.2. Kindly note that there is no express provision defining the term 'designated person' under the PIT Regulations, and it is the sole discretion of the Board of Directors and the Compliance Officer to name any person as 'designated person' without their approval or consent.

11.3. There is no disproportionate gain or unfair advantage as canvassed under Section 15J of the SEBI Act, 1992. Section 15J(a) of the SEBI Act, 1992 stipulates that an individual may be penalized for the "amount of disproportionate gain or unfair advantage, wherever quantifiable, made as a result of the default." It is duly recorded that as of the issuance of the Show Cause Notice, the Noticee has not derived any "disproportionate gain or unfair advantage," given that the alleged profit amounting to Rs. 1,91,112.70/- had already been disgorged to the SEBI IPEF prior to the Show Cause Notice issuance. This fact remains undisputed and is acknowledged by the investigating authority in the Investigation Report. The same is also mentioned in the Show Cause Notice.

11.4. Crucially, the Show Cause Notice and the accompanying Investigation Report fails to "quantify" any "amount of disproportionate gain or unfair advantage" attributable to the Noticee, as mandated by Section 15J(a) of the SEBI Act, 1992. Notably, neither of them (the Show Cause Notice / Investigation Report) provides any indication of proportionality or disproportionality for the purpose of quantification.

11.5. SEBI, in relation to a singular transaction, has alleged violations of three distinct provisions, namely: (i) Clause 6 of Schedule B (Minimum Standards Code of Conduct to Regulate, Monitor, and Report Trading by Designated Persons), in conjunction with Regulation 9(1); (ii) Clause 10 of Schedule B (Minimum Standards Code of Conduct to Regulate, Monitor, and Report Trading by Designated Persons), in conjunction with Regulation 9(1); and (iii) Regulation 7(2)(a) of the PIT Regulations.

11.6. The execution of the trade forms the core of the cause of action, and the alleged non- disclosure, requirement to seek pre-clearance, and execution of the contra-trade are intrinsically linked and cannot be treated as separate causes of action, especially when neither the Investigation Report nor the Show Cause Notice identified them as such, and no contradictory documents were presented during the inspection proceedings.

CONSIDERATION OF ISSUES AND EVIDENCE

12. I have carefully perused the allegations levelled against the Noticee in the SCN, their replies and the material / documents available on record. In the instant matter, the following issues arise for consideration and determination: -

I. **Whether *Noticee has violated following provisions :***

   a. Clause 6 and 10 of Schedule B (Minimum Standards for Code of Conduct to regulate, monitor and report trading by designated persons) read with Regulation 9(1) of SEBI (PIT) Regulations, 2015;

   b. Regulation 7(2)(a) of SEBI (PIT) Regulations, 2015.

II. Do the violations, if any, on the part of the Noticee attract monetary penalty under sections 15A(b) and 15HB of the SEBI Act, 1992?

III. 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?

13. Before proceeding with the matter on merits, it would be relevant to reproduce the provisions of law:

"*7(2) Continual Disclosures.*

(a). Every promoter, employee and director of every company shall disclose to the company the number of such securities acquired or disposed of within two trading days of such transaction if the value of the securities traded, whether in one transaction or a series of transactions over any calendar quarter, aggregates to a traded value in excess of ten lakh rupees or such other value as may be specified;

'…Code of Conduct.

9. (1) The board of directors of every listed company and the board of directors or head(s) of the organization of every intermediary shall ensure that the chief executive officer or managing director shall formulate a code of conduct with their approval to regulate, monitor and report trading by its designated persons and immediate *relatives of designated persons towards achieving compliance with these regulations, adopting the minimum standards set out in Schedule B (in case of a listed company) and Schedule C (in case of an intermediary)] to these regulations, without diluting the provisions of these regulations in any manner…'.*

6.'…When the trading window is open, trading by designated persons shall be subject to preclearance by the compliance officer, if the value of the proposed trades is above such thresholds as the board of directors may stipulate. No designated person shall apply for pre-clearance of any proposed trade if such designated person is in possession of unpublished price sensitive information even if the trading window is not closed…'

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

14. Now I deal with the preliminary issue raised by the ARs of the Noticee. The ARs of the Noticee had submitted that SEBI did not provide various documents which are relevant to the proceedings during the inspection and the non-supply of which has caused great prejudice to the Noticee. The minutes of inspection have been perused and it is noted that all the documents relied upon during the proceedings were provided to the ARs of the Noticee for the inspection. In this regard, attention is drawn to judgment of Hon'ble Supreme Court in the matter of Kavi Arora vs. Securities and Exchange Board of India (14.09.2022 - SC) : MANU/SC/1163/2022), wherein it was provided that:

"*49. It is well settled that the documents which are not relied upon by the Authority need not be supplied..*"

15. It is noted that apart from the documents provided to the Noticee, no other document has been relied upon in the extant proceedings in arriving at the conclusion. Therefore,

I do not find any merit of the Noticee that non-supply of the documents have caused great prejudice to the Noticee.

16. Now I deal with the allegations levelled against the Noticee.

Issue No. 1: Whether Noticee has violated following provisions :

a. ***Clause 6 and 10 of Schedule B (Minimum Standards for Code of Conduct to regulate, monitor and report trading by designated persons) read with Regulation 9(1) of SEBI (PIT) Regulations, 2015;***
b. ***Regulation 7(2)(a) of SEBI (PIT) Regulations, 2015.***

<u>Allegation 1: Execution of Contra Trades</u>

17. It is alleged that the Noticee has entered into contra trades in less than 6 months of her prior transaction during the month of September 2020. The details of the contra trades entered by the Noticee is as below:

Name of Promoter Group entity	Trade Date	Buy Qty	Buy Value	Sell Qty	Sell Value	Contra Trade Qty	Profit (in Rs.)
Priyanka Brijmohan Chiripal (AGYPA8935G)	08/09/2020	4000	11,16,087.30	0		4,000	1,91,112.70
	29/09/2020	0	0	4,000	13,07,200.00		

18. In the regard, it is noted from the reply of the Noticee that admittedly Noticee had entered into contra trades. The same was informed to her by the company and in terms of Clause 10 of Code of Conduct in Schedule B to the PIT Regulations, she remitted the profit of Rs. 1,91,112.70 to the company which was disgorged and credited to the Investor Protection and Education Fund (IPEF). The details of the same is available on record and was also mentioned in the SCN. In this regard the ARs of the Noticee has cited the decision of Hon’ble Securities Appellate Tribunal (SAT) in

the matter of Snehlata Tiwari Vs. SEBI (Appeal No. 175 of 2020 decided on April 28, 2021) and Uday Agarwal Vs. SEBI (Appeal No. 14 of 2022 decided on December 05, 2022) wherein Hon'ble SAT observed that SEBI cannot invoke Section 15 HB of the SEBI Act to impose penalty when the profit earned by the appellant is disgorged.

19. I note that the company has disgorged the profits accrued from the contra trades to IPEF in terms of Clause 10 of Code of Conduct in Schedule B to the PIT Regulations. And therefore, as laid down by Hon'ble SAT in the matters of Snehlata Tiwari and Uday Agarwal, I do not find the present matter to be a fit case to impose penalty for executing contra trades.

Allegation 2: Not obtaining pre-clearance of trades

20. It was further alleged in the SCN that the Noticee being a designated person of the company, did not obtain pre-clearance for her trades executed in the scrip of VFL during the month of September 2020. In this regard, the Noticee has submitted that she did not have any knowledge of being a "Designated Person" of the company. She was made aware of her being the "designated person" only after she received the letter from the company.

21. I have perused the documents available on record. And I note that Noticee is not only the Designated person of the company but was also a part of the promoter group holding 57,300 shares constituting 0.13% of the shareholding in the company in the quarter ending September 2020. It is further observed that she is a part of the promoter group from the time of listing of the company i.e. since 2014. The Noticee (Priyanka Brijmohan Chiripal) is a close family member of the Chairman of the company i.e. Brijmohan Devkinandan Chiripal, who is also a Managing Director of the Chiripal Group of Industries. Being part of the promoter group of a listed company and also being associated with the MD of a business conglomerate, I am of the opinion that the Noticee is informed of the compliances that a promoter has to make and well equipped

to make such compliances. The argument of the Noticee that any person can be appointed as ‘designated person’ without approval can not be accepted as she is “designated person” of VFL by virtue of being a part of the promoter group of the company and she has been a part of the promoter group from the time of its listing therefore, it is expected that she is in knowledge of various regulatory requirements of being a part of the promoter group. Hence, I do not find merits in the argument of the Noticee that she had no knowledge of being a “Designated person”. Therefore, I am of the opinion that the Noticee by not obtaining preclearance for her trades executed in the scrip of VFL during the month of September 2020, has violated Clause 6 of Schedule B Minimum Standards for Code of Conduct to regulate, monitor and report trading by designated persons read with Regulation 9(1) of PIT Regulations.

Allegation 3: Non-disclosure of the trades exceeding INR 10 Lakh

22. It was further alleged in the SCN that the Noticee did not make disclosure with respect to trading in the scrip of VFL exceeding INR 10 Lakh. In this regard, the Noticee has submitted that the Noticee as a medical professional, was an essential worker during the COVID-19 pandemic and nationwide lockdown. Consequently, the situation does not warrant classification as a “failure” to furnish/file thereby negating the imposition of penalty under Section 15A(b).

23. The documents available on record have been perused and it is noted that admittedly Noticee did not make the disclosure under Regulation 7(2) of the PIT Regulations. The Noticee has submitted that after she was informed by the company, she made the disclosure to the VFL. The Noticee has not disputed the allegation the SCN that she did not make the required disclosures when her transaction value exceeded ten lakh rupees and triggered mandatory disclosure under Regulations 7(2) of PIT Regulations. The Noticee was a frontline worker during the COVID-19 pandemic, however, that does not excuse the Noticee from making the disclosures. Therefore, I conclude that the Noticee has violated Regulation 7(2) of the PIT Regulations.

24. The ARs of the Noticee had submitted that the all three violations emanate from the same transactions and may be inquired along with the contra trades therefore, do not warrant the penalty. In this regard, it is noted that the requirements with respect to not obtaining the pre-clearance and the disclosure of the transactions worth more than ten lakh rupee had got triggered at the time of Noticee's transactions done on September 08, 2020 itself, when she purchased 4000 shares of the company for INR. 11,16,087.30 and thus, by not obtaining pre-clearance of transaction as well as not disclosing the transaction executed within two trading days of the same, had lead to the violations of Clause 6 of Schedule B Minimum Standards for Code of Conduct to regulate, monitor and report trading by designated persons read with Regulation 9(1) of PIT Regulations and Regulation 7(2) of the PIT Regulations. These violations occurred again at the time of the contra trade executed on September 29, 2020. Thus, I hold that the Noticee has violated Clause 6 of Schedule B Minimum Standards for Code of Conduct to regulate, monitor and report trading by designated persons read with Regulation 9(1) of PIT Regulations and Regulation 7(2) of the PIT Regulations.

Issue No. 2: Do the violations, if any, on the part of the Noticee attract monetary penalty under sections 15A(b) and 15HB of the SEBI Act, 1992?

25. I note that the Hon'ble Supreme Court of India in the matter of SEBI v/s 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......".*

26. Since failure of the Noticee in making disclosures to Company under Regulations 7(2) of PIT Regulations and in complying with the Conduct prescribed under Regulation 9(1) of PIT Regulations read with Clause 6 of Schedule B of PIT Regulations is established, I am of the view that it warrants imposition of monetary penalty under

Section 15A(b) and 15HB of the SEBI Act on the Noticee, text of which is reproduced as under:

"***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 or who furnishes or files false, incorrect or incomplete information, return, report, books or other documents, 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.

Penalty for contravention where no separate penalty has been provided.

15HB. Whoever fails to comply with any provision of this Act, the rules or the regulations made or directions issued by the Board thereunder for which no separate penalty has been provided, shall be liable to a penalty which shall not be less than one lakh rupees but which may extend to one crore rupees."

Issue No. III: 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?

27. While determining the quantum of penalty under Sections 15A(b) and 15HB of the Act, it is important to consider the factors stipulated in Section 15J of SEBI Act, which read as under:-

"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.

28. From the material available on record, I observe that any quantifiable gain or unfair advantage accrued to the Noticee has been remitted to IEPF and the extent of loss suffered by the investors as a result of the default cannot be computed. Further, there appears nothing on record that Noticee has been a repetitive defaulter. However, I also note that 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.

29. I also note that there is no allegation of possession of UPSI by the Noticee, or of trading on the basis of UPSI. Hence, based on submissions made by the Noticee, I am of the view that the non-disclosure and failure to take pre-clearance in respect of the impugned trades by the Noticee was a technical breach by the Noticee. However, as the Noticee failed to comply with legal obligations which are an important part of the mechanism to prevent insider trading, she is liable for an appropriate penalty as prescribed.

30. Therefore, taking into account the facts and circumstances of this matter, and the mitigating factors, I am of the view that suitable penalty under Sections 15A(b) and 15HB need to be levied on the Noticee.

ORDER

31. Having considered all the facts and circumstances of the case, the material available on record as well as the factors mentioned in section 15J of SEBI Act and in exercise of the powers conferred upon me under Section 15-I of the SEBI Act read with Rule 5 of the Adjudication Rules 1995, I hereby impose a penalty of INR1,00,000/- (Rupees One Lakh only) under section 15A(b) and INR 1,00,000/- (Rupees One Lakh only) under section 15HB on the Noticee. I am of the view that the said penalty is commensurate with the violations committed by Noticee.

32. Noticee shall remit / pay the said amount of penalty within 45 days of receipt of this order through online payment facility available on the SEBI website www.sebi.gov.in on the following path, by clicking on the payment link:
ENFORCEMENT -> Orders -> Orders of AO -> PAY NOW.

    In case of any difficulties in payment of penalties, Noticee may contact the support at portalhelp@sebi.gov.in.

33. In the event of failure to pay the said amount of penalty by Noticee within 45 days of the receipt of this Order, recovery proceedings may be initiated against Noticee under section 28A of the SEBI Act, for realization of the said amount of penalty along with interest thereon, inter alia, by attachment and sale of movable and immovable properties.

34. In terms of the provisions of Rule 6 of the Adjudication Rules, copies of this order are being sent to the Noticee, viz., Priyanka Brijmohan Chiripal and also to the Securities and Exchange Board of India.

Date : January 24, 2024
Place : Mumbai

Shashikumar Valsakumar
Adjudicating Officer