

BEFORE THE ADJUDICATING OFFICER
SECURITIES AND EXCHANGE BOARD OF INDIA
[ADJUDICATION ORDER NO. Order/SM/HG/2022-23/20798]

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

Mr. Venkatapathi Varadharaj
[PAN: ABUPV1289K]

In the matter of Titan Company Limited

FACTS OF THE CASE IN BRIEF

1. Securities and Exchange Board of India (hereinafter referred to as '**SEBI**') received a letter from Titan Company Limited (hereinafter referred to as '**Company/Titan/TCL**') wherein the company intimated SEBI about contravention of SEBI (Prohibition of Insider Trading) Regulations, 2015 (hereinafter referred to as '**PIT Regulations**') and Company's Code of Conduct for Prevention of Insider Trading by some of its designated persons/employees. The securities of Titan are listed on Bombay Stock Exchange Limited (**BSE**) and the National Stock Exchange of India Ltd (**NSE**) (both collectively called 'exchanges').
2. Thereafter, SEBI conducted an investigation in the scrip of Titan and observed several non-compliances of PIT Regulations during the period April 01, 2018 to March 31, 2019 (hereinafter referred to as '**Investigation Period/IP**') by employees / designated persons of TCL including Mr. Venkatapathi Varadharaj (hereinafter referred to as '**Noticee/by name**'). Pursuant to investigation, SEBI initiated adjudication proceedings against Noticee under the provisions of Section 15A(b) of Securities and Exchange Board of India Act, 1992 (hereinafter referred

to as '**SEBI Act**') for alleged violation of Regulation 7(2)(a) of PIT Regulations by Noticee.

APPOINTMENT OF ADJUDICATING OFFICER

3. Vide order dated March 02, 2021, SEBI appointed the undersigned as Adjudicating Officer under Section 15I of the SEBI Act read with Section 19 of the SEBI Act and Rule 3 of the SEBI (Procedure for Holding Inquiry and Imposing Penalties) Rules, 1995 (hereinafter referred to as '**Adjudication Rules**') to inquire into and adjudge under the provisions of Section 15A(b) of SEBI Act, the aforesaid alleged violation by Noticee.

SHOW CAUSE NOTICE, REPLY AND PERSONAL HEARING

4. A show-cause notice dated August 09, 2021 (hereinafter referred to as '**SCN**') was issued to Noticee under Rule 4 of the Adjudication Rules to show-cause as to why an inquiry should not be initiated against Noticee and penalty, if any, not be imposed upon him under the provisions of Section 15A(b) of SEBI Act for the aforesaid violation alleged to have been committed by him.
5. The allegations levelled against Noticee in the SCN are as under:

- a) During the course of investigation, it was observed that Noticee had traded in the securities of the Titan during the Investigation Period. Details of his trading are as under:

Name of Noticee	Total Traded Value (BSE+NSE) (in Rs.)		No. of occasions on which traded value exceeded Rs. 10 lakh
	July – Sep 2018	Oct – Dec 2018	
Mr. Venkatapathi Varadharaj	78,59,568	1,44,24,974	13

- b) It was observed from the table above that in the calendar quarter ending on September 2018 and December 2018, the total traded value of the securities traded by Noticee in the scrip of Titan was Rs 78,59,568/- and Rs. 1,44,24,974/- respectively. It was also observed that on 13 occasions in the aforesaid calendar quarters, Noticee's traded value of securities exceeded rupees ten

lakhs. Therefore, for the aforesaid transactions, which were in excess of the limit specified in Regulation 7(2)(a) of PIT Regulations, Noticee was required to make disclosure in terms of the aforesaid regulation. In this regard, in reply to a query by SEBI, TCL vide email dated October 28, 2020, confirmed that it had not received any disclosures from Noticee.

c) In view of the above observations, it was alleged that Noticee has violated Regulation 7(2)(a) of PIT Regulations, on 13 occasions by not making disclosures as required in terms of aforesaid regulation.

6. The SCN was sent to Noticee through Speed Post Acknowledgement due (herein after referred to as '**SPAD**') on August 09, 2021, and digitally signed email dated August 12, 2021 and was duly served on Noticee. Noticee was given fourteen (14) days' time to make his submissions in respect of the allegations made in the SCN. Vide letter dated September 03, 2021, Noticee submitted his reply to the SCN.

7. Thereafter, in the interest of natural justice, vide hearing notice dated September 12, 2022, Noticee was granted an opportunity of personal hearing before the undersigned on September 26, 2022. The aforesaid hearing notice was sent to Noticee through SPAD and also through digitally signed email and was duly served upon him. Noticee appeared for hearing on the scheduled date and reiterated the submissions by him vide his earlier letter. Further, during the hearing, Noticee sought time till October 03, 2022 for making additional submission and the same was granted. However, till date of this order, no additional submission has been received from the Noticee. Due to difficulties in view of the Covid-19 pandemic, hearing was conducted through video conferencing.

8. The submissions by Noticee are summarized hereunder:-

- a. He was an employee in Titan watches factory in the profile of machine operator.
- b. He has done the trading for investment purpose and he was not having any price sensitive information.
- c. He was neither a designated person nor a top management person in the company.

CONSIDERATION OF ISSUES, EVIDENCE AND FINDINGS

9. I have carefully perused the charges levelled against Noticee, replies/submissions filed by Noticee and other documents/ evidence available on record. The issues that arise for consideration in the present case are:

I. Whether Noticee has violated Regulation 7(2)(a) of PIT Regulations?

II. Does the violation, if any, attract monetary penalty under Section 15A(b) of SEBI Act?

III. If the answer to issue no. 2 is in affirmative, then what should be the quantum of monetary penalty?

10. Before moving forward, it is pertinent to refer to the relevant provision of the PIT Regulations which was in force at the time of impugned transactions, which are reproduced as under:

Relevant provisions of PIT Regulations:

Disclosures by certain persons.

7(2) continual disclosure.

(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;

Issue No. I- Whether Noticee has violated Regulation 7(2)(a) of PIT Regulations?

11. I note from the available records that Noticee was one of the employees of Titan at the relevant time. While in employment of Titan, Noticee had transacted in securities of Titan as seen from the details extracted from the trade log obtained from exchanges, which are given below: -

Date	Segment	Buy Qty	Buy Value/Sum of Notional Day Buy Value (Rs.)	Sell Qty	Sell Value/Sum of Notional Day Sell Value (Rs.)	Gross Value/Gross Notional Value (Notional Day Buy Value + Notional Day Sell Value) (Rs.)	Cumulative Value (Rs.)
30-07-18	Cash	100	88,800	100	89,800	1,78,600	1,78,600
02-08-18	Cash	100	92,760	100	92,280	1,85,040	3,63,640
08-08-18	FUTSTK	750	7,02,000	750	7,02,975	14,04,975	17,68,615
09-08-18	Cash	100	91,240	100	91,950	1,83,190	19,51,805
13-08-18	FUTSTK	750	6,92,963	750	6,93,000	13,85,963	33,37,768
17-08-18	Cash	50	47,053	50	46,905	93,958	34,31,725
11-09-18	FUTSTK	1,500	12,62,063	1,500	12,58,163	25,20,225	59,51,950
17-09-18	Cash	300	2,47,500	300	2,47,697	4,95,197	64,47,147
17-09-18	FUTSTK	750	6,22,500	750	6,23,550	12,46,050	76,93,197
18-09-18	Cash	2	1,659	2	1,662	3,321	76,96,518
28-09-18	Cash	100	81,500	100	81,550	1,63,050	78,59,568
Total		4,502	39,30,036	4,502	39,29,532	78,59,568	
05-10-18	FUTSTK	750	6,05,625	750	6,06,375	12,12,000	12,12,000
09-10-18	FUTSTK	750	6,03,338	750	6,03,750	12,07,088	24,19,088
11-10-18	Cash	100	78,215	100	78,000	1,56,215	25,75,303
12-10-18	Cash	300	2,36,135	300	2,36,340	4,72,475	30,47,778
15-10-18	FUTSTK	1,500	11,98,688	1,500	11,99,250	23,97,938	54,45,715
16-10-18	FUTSTK	1,500	12,21,675	1,500	12,25,125	24,46,800	78,92,515
17-10-18	FUTSTK	750	6,01,500	750	5,99,588	12,01,088	90,93,603
19-10-18	FUTSTK	750	5,96,250	750	5,96,400	11,92,650	1,02,86,253
23-10-18	FUTSTK	750	5,84,625	750	5,87,025	11,71,650	1,14,57,903
24-10-18	FUTSTK	750	5,85,000	750	5,83,463	11,68,463	1,26,26,365
30-10-18	FUTSTK	750	6,26,250	750	6,28,125	12,54,375	1,38,80,740
02-11-18	Cash	100	87,545	100	87,675	1,75,220	1,40,55,960
19-11-18	Cash	100	92,166	100	92,300	1,84,466	1,42,40,426
21-11-18	Cash	100	92,398	100	92,150	1,84,548	1,44,24,974
Total		8,950	72,09,409	8,950	72,15,565	1,44,24,974	

12. From the above table, I note that during the quarter ended September 2018, the value of trades by Noticee in the securities of Titan on August 08, 2018, August 13, 2018, September 11, 2018 and September 17, 2018 amounted to Rs. 14,04,975/-, Rs. 13,85,963/-, Rs. 25,20,225/- and Rs. 12,46,050/- respectively. Further, I note that during the quarter ended December 2018, the value of trades by Noticee in the securities of Titan on October 05, 2018, October 09, 2018, October 15, 2018, October 16, 2018, October 17, 2018, October 19, 2018, October 23, 2018, October 24, 2018 and October 30, 2018 amounted to Rs. 12,12,000/-, Rs. 12,07,088/-, Rs. 23,97,938/-, Rs. 24,46,800/-, Rs. 12,01,088/-, Rs. 11,92,650/-, Rs. 11,71,650/-, Rs. 11,68,463/- and Rs. 12,54,375/- respectively.

13. Therefore, from the aforesaid transactions, I observe that the value of total transactions by Noticee on each of the aforesaid thirteen occasions exceeded rupees ten lakhs. On perusal of the submissions made by Noticee, I note that he has not disputed the impugned transactions by him in the scrip of Titan as specified above.

14. I note that it has been alleged in the SCN, that abovementioned trading of Noticee as the employee of Titan, in calendar quarters ending on September 2018 and December 2018 had resulted in violation of Regulation 7(2)(a) of the PIT Regulations by Noticee. In this context, I find it pertinent to refer to Regulation 7(2)(a) of the PIT Regulations, as it stood during the relevant time, which is reproduced hereunder:

“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.”

15. In this regard, I note that the term “employee” in the aforementioned provision was substituted with “designated employee” by Securities and Exchange Board of India (Prohibition of Insider Trading) (Amendment) Regulations, 2018. I also

note that the amendment came into effect from April 01, 2019. By virtue of the amendment, the obligation to make disclosures under Regulation 7(2)(a) of the PIT Regulations no longer lies on every employee of the company but is restricted to designated employees only. In this context, I find it pertinent to quote a recent decision of Hon'ble Securities Appellate Tribunal (hereinafter referred to as '**SAT**') in *Sudhir Bapusaheb Devkar & Anr v SEBI* in the matter of (Date of Decision: 10.10.2022, Appeal No. 654 of 2022; Appeal No. 655 of 2022); wherein Hon'ble SAT has held as under:

"In view of the aforesaid, coupled with the fact that no disproportionate gain or unfair advantage resulted to any party for the default committed by the appellants, coupled with the fact that no loss was caused to the investors, as a result of the aforesaid default, we are of the opinion that without going into the controversy as to whether the appellants had in fact acquired or disposed of the shares through intra-day trading and whether the appellants have in fact violated the provisions of Regulation 7(2)(a) of the PIT Regulations, and in view of the decision of the Hon'ble Supreme Court in Commissioner of Income Tax (supra), the amendment made in Regulation 7(2)(a) with effect from April 1, 2019 would apply retrospectively. We are of the opinion that the amendment was a beneficial piece of legislation and the benefit was conferred for the entire community as a whole. As such, even though the amendment came into effect from April 1, 2019, the amended provision would apply with retrospective effect to the transactions made by the appellants."

16. From the above, I note that Hon'ble SAT in its aforementioned decision has laid down that amendment to Regulation 7(2)(a) of PIT Regulations which came into effect on April 1, 2019, would apply with retrospective effect i.e. benefit of amendment would go to "employees" for the trades done by them prior to amendment. Considering the principle laid down in the aforementioned judgment and the fact that Noticee was not designated employee of the company at the time of impugned trades, I find that for his trades done in calendar quarters ending on September 2018 and December 2018, Noticee would not be liable for violation of Regulation 7(2)(a) of the PIT Regulations. Therefore, I find allegation in SCN that Noticee has violated Regulation 7(2)(a) of the PIT Regulations does not stand established.

17. Since the alleged violation against Noticee is not established, I find that the Issues No. II and III requires no further consideration

ORDER

18. Accordingly, taking into account the aforesaid findings and in exercise of powers conferred upon me under Section 15-I of SEBI Act read with Rule 5 of the Adjudication Rules, the Adjudication proceedings against Noticee i.e. Mr. Venkatapathi Varadharaj, initiated vide SCN dated August 09, 2021, stands disposed of without imposition of any penalty.

19. In terms of the provisions of Rule 6 of the Adjudication Rules, a copy of this order is being sent to Noticee viz. Mr. Venkatapathi Varadharaj and also to SEBI.

Place: Mumbai

Date: October 27, 2022

**SOMA MAJUMDER
ADJUDICATING OFFICER**