BEFORE THE ADJUDICATING OFFICER

SECURITIES AND EXCHANGE BOARD OF INDIA

[ADJUDICATION ORDER Ref. No. ORDER/NH/RJ/2023-24/28490]

UNDER SECTION 15-I OF THE 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. Tejas Harshadbhai Patel

PAN: BCRPP0368N

In the matter of A & M Febcon Limited.

FACTS OF THE CASE

1. Securities and Exchange Board of India (hereinafter referred to as '**SEBI'**) received a reference vide letter dated November 12, 2021, from BSE wherein it had *inter alia* observed that Mr. Tejas Harshadbhai Patel (hereinafter referred to as '**Noticee'**) has not made the requisite disclosures with regard to the changes in his shareholdings in the scrip of A & M Febcon Limited (hereinafter referred to as **'AMFL'/ 'company'**) in accordance with Securities and Exchange Board of India (Substantial Acquisition of Shares and Takeovers) Regulations, 2011 (hereinafter referred to as '**Takeover Regulations'**).

2. Pursuant to receipt of the above reference, SEBI examined the matter and *prima facie,* it was found that the Noticee had violated Regulations 29(1) and 29(2) read with Regulation 29(3) of Takeover Regulations.

3. On this background, SEBI initiated the instant adjudication proceeding against the Noticee.

APPOINTMENT OF ADJUDICATING OFFICER

4. The undersigned was appointed as the Adjudicating Officer (hereinafter referred to as '**AO'**) vide communique dated January 12, 2023, under Section 19 read with Section 15-I of Securities and Exchange Board of India, 1992 (hereinafter referred to as '**SEBI Act'**) and under Rule 3 of SEBI (Procedure for Holding Inquiry and Imposing Penalties) Rules, 1995 (hereinafter referred to as '**Adjudication Rules'**) to enquire into and adjudge under Section 15A(b) of the SEBI Act the alleged violations of Regulations 29(1) and 29(2) read with 29(3) of Takeover Regulations by the Noticee.

SHOW CAUSE NOTICE, REPLY AND HEARING

5. Show Cause Notice (hereinafter referred to as '**SCN**') bearing No. SEBI/HO/EAD/EAD2/P/OW/2023/006951/1 dated February 16, 2023, was issued to the Noticee under Rule 4 of Adjudication Rules to show cause as to why an inquiry should not be held and penalty be not imposed against the Noticee under Section 15A(b) of SEBI Act for the aforesaid alleged violations. The Noticee was also requested to submit his reply to SCN within 14 days from the date of receipt of the SCN.

6. The SCN, *inter alia*, alleged the following:
   i. *BSE vide letter dated November 12, 2021 inter alia intimated SEBI that the Noticee had traded in the scrip of the company and has not made requisite disclosures under Regulations 29(1) and 29(2) of Takeover Regulations.*
   ii. *Subsequently, SEBI conducted an examination in the scrip of AMFL for the probable violation of Takeover Regulations by the Noticee.*
   iii. *In the examination report, it is alleged that Noticee had increased his shareholding in the company from 3.93% to 5.33% pursuant to the share transaction undertaken on September 06, 2019. Thereafter, on October 04, 2019, Noticee reduced his shareholding in the*

company to 3.12% by executing sale transactions. The details of said transactions executed by Noticee are provided in the table below:

Sr. No.	Date of transaction	Type of transaction (Sale/Buy)	Pre transaction shareholding	% of total share (Pre)	Total Number of shares of the company	Post transaction shareholding	% of total share (Post)	Change
1.	September 06, 2019	Buy	3,60,000	3.93%	91,52,289	4,88,000	5.33%	1.40%
2.	October 04, 2019	Sale	4,88,000	5.33%	1,28,13,205	3,99,840	3.12%	-2.21%

iv. *It is stated in the examination report that as the shareholding of Noticee in AMFL had breached the threshold of 5% pursuant to the transaction dated September 06, 2019, Noticee was under an obligation to make disclosure of the said transaction under Regulation 29(1) of Takeover Regulations to BSE and the company. Further, it is stated that as per Regulation 29(2) and 29(3) of Takeover Regulations, the Noticee, while already holding over 5% of the shares in the company, was under an obligation to disclose the disposal of shares representing 2% or more i.e. in respect of the transaction undertaken on October 04, 2019, within two working days to BSE and the company.*

v. *In this background, it is alleged in the examination report that Noticee has not made the abovementioned disclosures. Further, allegedly BSE in its letter dated November 12, 2021, has mentioned that Noticee has not filed any disclosure under Regulations 29(1) and 29(2) of Takeover Regulations for the abovementioned transactions.*

vi. *Therefore, by failing to make the aforesaid disclosures as mandated under the Takeover Regulations, the Noticee is alleged to have violated the provisions of Regulations 29(1) and 29(2) read with Regulation 29(3) of the Takeover Regulations.*

7. The SCN along with annexures was served upon the Noticee in the following manner as mentioned below:

Sr. No.	**Mode of Delivery of SCN**	**Addresses/ Email IDs***	**Remarks**
1.	Delivered through Speed Post with Acknowledgment Due	6/10/A, ….., Ahmedabad- 380008	Delivered on February 20, 2023 as per the

			consignment tracking on India Post. The said details have been certified by the In-Charge, Matunga BPC
2.	Digitally signed SCN delivered through Email	roy....@gmail.com	Digitally Signed SCN duly delivered on February 17, 2023

**Email id and address excised for confidentiality*

The relevant records in this regard are present in the case record.

8. In response to the said SCN, Noticee, vide email dated March 02, 2023, submitted, *inter alia,* as under:

"…I clarified that disclosures with respect to subjected transactions / trades have been already submitted to Mr. Purvesh Parikh at the registered office of Company. All the disclosures to Stock Exchange were handled by Mr. Parikh and myself having very limited understanding of all the regulations, I acted in good faith by disclosing the trade to the Company.

However as Mr. Purvesh Parikh is absconding since July 2021 with his wife Mrs. Zalak Parikh and his daughter Ms. Krisha Parikh and as the registered office address is also residence of Mr. Purvesh Parikh, I am not able to retrieve said disclosures which were signed by me and handed over Mr. Purvesh Parikh.

I request you to provide me Ten (10) days' time to review the older records to make the submissions as required."

In the light of the aforesaid request of the Noticee, the Noticee was granted 15 days time till March 17, 2023, to submit his reply to SCN. However, no reply was received from Noticee till March 17, 2023.

9. In consonance with the Adjudication Rules, an opportunity of hearing on April 27, 2023 was granted to the Noticee. Further, Noticee was advised to submit his reply, if any to the SCN by April 18, 2023.

10. The Noticee citing his inability to attend the hearing on April 27, 2023, requested an adjournment vide email dated April 27, 2023. The said request was acceded to and the hearing was rescheduled to May 10, 2023. In the interest of natural justice, the Noticee was provided with another opportunity of submitting his reply before May 04, 2023. However, Noticee did not submit any reply to the SCN.

11. Subsequently, the hearing was conducted on May 10, 2023. On the said date, the Noticee and his authorized representative, Mr. Kunjit Patel attended the hearing through videoconferencing. During the hearing, Noticee and his authorized representative requested for additional time to make further submissions in the instant matter. Noticee was given additional time to make submissions till June 09, 2023.

12. In the interest of natural justice, vide emails dated June 12, 2023 and June 22, 2023 further opportunities were granted to the Noticee to make additional submissions. However, Noticee did not make any submission within the stipulated period.

13. Thereafter, Noticee, vide email dated June 28, 2023, *inter alia,* submitted the following as his additional submissions:

"My points of submission in this regard are given in two parts as under:

(A) <u>Facts with regard to trading in shares of the target Company in my accounts</u>

I am engaged in the business of retail trading in the wooden materials in Ahmedabad, Gujarat. I am Graduate. I don't have any knowledge or experience in the Capital Market. I have never done any transaction in the Capital Market till date except as done by Mr. Purvesh Parikh in my account.

I wish to inform and bring to the notice of Securities and Exchange Board of India, that (1) all the purchase and sale transactions observed by the SEBI in the shares of M/s. A.M.

Febcon Limited were done and carried out by Mr. Purvesh Parikh in my accounts, (2) all the Pay in in the Brokers account were funded by Mr. Purvesh Parikh and his connects and (3) All the Pay out against sale of shares of the target Company were siphoned off by Mr. Purvesh Parikh and his connects.

Please refer to Bank Statement of Gujarat Merchantile Co. Op Bank. of Tejas Harshadbhai Patel.

Sr. No.	*Date of Transaction*	*Amount received*	*Amount received from*	*Amount Paid*	*Amount paid to*
1	*17.07.19*	*546,000/-*	*Vinhar*	*545,738*	*ACML BSE*
2	*25.07.19*	*143,000/-*	*Vinhar*	*143,000*	*ACML BSE*
3	*30.07.19*	*73,000*	*Purvesh*	*72,893*	*ACML BSE*
4	*26.08.19*	*490,000*	*Vinhar*	*490,000*	*ACML BSE*
5	*12.09.19*	*500,000*	*Vinhar*	*500,000*	*Cash*
6	*18.09.19*	*261,000*	*Vinhar*	*261,000*	*Not known*
7	*25.10.19*	*800,000*	*Vinhar*	*800,000*	*ACML BSE*

(Please note that Vinhar Enterprise is a proprietorship firm of Ms. Zalak Purvesh Parikh. Please note that ACML BSE is a name of Broker Firm, Ahmedabad Capital Market Limited, BSE Segment where my account was opened by Mr. Purvesh Parikh.)

From the above, it transpires that whatever funds have been transferred to my account by Vinhar Enterprise i. e. Mr. Purvesh Parikh and Ms. Zalak Parikh, have been used by them for purchase of shares of M/s A. M. Febcon Limited in my accounts.

Further, the proceeds from sale of shares of M/s A.M. Febcon Limited was also appropriated by Mr. Purvesh Parikh and his connects.

If I compare the dates of (1) purchase of Shares, (2) Sale of Shares, (3) Receipt of funds from Purvesh Parikh and (4) withdrawal of funds by Purvesh Parkh, all the dates would coincide.

Your good self may please refer to my Income Tax Return. You would convince that my earnings during the year are equal to my family expenditures. I don't have any surplus funds to invest or trade in the Capital Market.

Your good self would also convince, that had I been the active participants in the Capital Market, I would have traded in the shares of number of other companies by the time. You may agree that the only trades observed in my accounts were of M/s A. M. Febcon Limited which were placed by Mr. Purvesh Parikh and connects.

I wish to confess and admit that it was my gross mistake and negligence that I permitted Mr. Purvesh Parikh to use our accounts in the grid of expansion of business. But at the same time, it is the fact, that I have not gained anything and I have not made any unlawful gain from the shares of M/s A. M. Febcon Limited.

(B) <u>REASON FOR MAKING THE DISCLOSURE UNDER REGULATION 29(1) AND 29(2) OF SEBI (SAST) REGULATIONS</u>

As mentioned and explained in the Para (A) herein above, I have not never dealt in the shares of the Company. My account was being used my Mr. Purvesh Parikh.

Hence, as I was not aware of any trades being taken place in my account and as I am not aware about the legal requirements of making disclosure to SEBI, I have not made any disclosure under Regulation 29(1) and 29(2) of SEBI (SAST) Regulations.

Since, SEBI has drawn this attention through issuance of Show Cause Notice, for the sake of compliance, I will submit disclosure under Regulation 29(1) and 29(2).

Hence, though I have not made compliance with requirement of Regulation 29(1) and 29(2) of SEBI (SAST) Regulations, it is the fact that the transactions were made on my name by the wrongdoers, I request you to have compassion for me and pardon me from imposing the fine. Since, I have never dealt in the Capital Market and as I am not going to deal in the Capital Market in future also, I request your good self not to impose fine or penalty on me.

I once again confess that I have made a gross mistake in allowing others to use my accounts for their malafide intentions. I would not repeat this mistake in future. I am not financially capable to bear any burden of fine or penalty. Hence, I request your good self to pardon me from these offences and pardon me from imposing any fine or penalty.

PRAYER

I request you to please pardon me for my first and last mistake and for being negligent in allowing other wrong doers to use my account for their malafide intentions, without imposing any fine or penalty as I have not obtained any unlawfaul gain from the shares of M/s A. M. Febcon Limited."

14. As noted in the previous paragraphs, the Noticee has been granted sufficient opportunities to make his submissions. Repeated opportunities were also given to submit reply to the SCN and a personal hearing was held on May 10, 2023. Therefore, I note that the principles of natural justice have been adhered to in the present

proceedings, by providing sufficient opportunities to the Noticee to make his submissions.

CONSIDERATION OF ISSUES AND FINDINGS

15. After careful perusal of the material on record, I note that the issues that arise for consideration in the present case are as follows:

    I. Whether the Noticee has failed to requisite disclosure as per the provisions of Regulations 29(1) and 29(2) read with Regulation 29(3) of Takeover Regulations and hence, violated the aforesaid provisions?
    II. Does the violation, if any, on the part of Noticee attract a monetary penalty under section 15A(b) of the SEBI Act?
    III. If so, what would be the monetary penalty that can be imposed upon the Noticee taking into consideration the factors stipulated in Section 15J of the SEBI Act?

16. The relevant extracts of the provisions of law, allegedly violated by the Noticee, are mentioned as under:

Regulation 29 Takeover Regulations

"1. Any acquirer, together with persons acting in concert with him acquiring shares or voting rights in a target company, which taken together aggregates 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 intimation of allotment of shares, or the acquisition or the disposal of shares or voting rights in the target company to, -

(a) every stock exchange where the shares of target company are listed; and
(b) the target company at its registered office."

FINDINGS

I. Whether the Noticee has failed to requisite disclosure as per the provisions of Regulations 29 (1) and 29(2) read with Regulation 29 (3) of Takeover Regulations and hence, violated the aforesaid provisions?

17. It is alleged in the SCN that the Noticee, in the period from August 22, 2019 to October 04, 2019 (hereinafter referred to as the '**relevant period'**), had transacted in the shares of the AMFL which in turn triggered the disclosure requirements under Regulations 29(1) and 29(2) read with Regulation 29(3) of Takeover Regulations. Thus, the SCN has alleged that Noticee has failed to comply with the said disclosure requirements under the provisions of Takeover Regulations.

18. I note that the shares of the company were listed on BSE during the relevant period. Further, Noticee was holding the position of Executive Director cum CFO in AMFL during this period. On perusal of the Noticee's reply, it is noted that the Noticee has not disputed the fact that the share transactions were undertaken through his demat account.

18.1 From the material on record, I note that the Noticee has increased his shareholding from 3.93% to 5.33% in the AMFL during the period from August 22, 2019, to September 06, 2019. The necessary details in this regard are tabulated below:

Table 1

Date of transaction	Type of transaction (Sale/Buy)	Pre transaction shareholding	% of total share (Pre)	Total Number of shares of the company	Post transaction shareholding	% of total share (Post)

September 06, 2019	Buy	3,60,000	3.93%	91,52,289	4,88,000	5.33%

It is noted that the aforesaid transaction undertaken on September 06, 2019, by Noticee has triggered disclosure requirements under Regulation 29(1) read with Regulation 29(3) of Takeover Regulations as the shareholding of Noticee in AMFL had breached the 5% shareholding threshold.

18.2 Further, I note that the Noticee has subsequently, decreased his shareholding from 5.33% (as on September 06, 2019) to 3.12% (as on October 04, 2019) in the AMFL through a series of transactions during the period from September 06, 2019, to October 04, 2019. The necessary details in this regard are tabulated below:

Table 2

Date of transaction	**Type of transaction (Sale/Buy)**	**Post transactions shareholding**	**Total Number of shares of the company**	**% of total shares (Post)**
September 06, 2019	Buy	4,88,000	91,52,289	5.33%
…	…	…	…	….
October 04, 2019	Sale	3,99,840	1,28,13,205	3.12%
Net Change in Shareholding				**-2.21%**

From the aforesaid table, I note that the shareholding of the Noticee which is more than 5% (as on September 06, 2019), underwent a change pursuant to series of transactions undertaken and it reached 3.12% on October 04, 2019. Therefore, I note that the Noticee has breached the 2% shareholding threshold as specified in Regulation 29(2) of the Takeover Regulations.

19. In the light of the aforesaid breach of threshold prescribed under Regulations 29(1) and 29(2), Noticee was under an obligation to make requisite disclosures as per Regulation 29(3) of Takeover Regulations to BSE and the company.

20. I note that BSE, vide its letter dated November 12, 2021, has stated that no disclosure has been made by the Noticee under the Takeover Regulations for the abovementioned transactions. Further, it transpires, from the material on record, that no disclosure in this regard was found on the BSE website when it was checked during the examination on December 13, 2022.

21. It is also noted that, in the course of the examination, information was sought from AMFL vide emails dated January 31, 2022 and February 11, 2022 with regard to disclosure made by Noticee under Regulation 29(1) and 29(2) read with Regulation 29(3) of Takeover Regulations. Similarly, information in this regard was sought from the Noticee vide email dated January 31, 2022 and February 11, 2022 during the examination. However, it is noted that no response was received either from the Company or the Noticee regarding the disclosure under Takeover Regulations for the abovementioned transactions during the course of examination.

22. In this regard, I note that Noticee, in his additional submission, has not disputed the aforesaid facts. The relevant extract of Noticee's reply is reproduced below:

    *"… Hence, as I was not aware of any trades being taken place in my account and as I am not aware about the legal requirements of making disclosure to SEBI**, I have not made any disclosure under Regulation 29(1) and 29(2) of SEBI (SAST) Regulations**…"* (Emphasis supplied)

23. I note that the Noticee has submitted various grounds in his defence which are discussed as under:

    - **Share transactions in the demat account of Noticee were undertaken by another person**

    23.1 The Noticee has contended that the abovementioned transactions in the scrip of AMFL were undertaken by his friend named Mr. Purvesh Parikh. Further, Noticee has submitted that the pay-in amount in Noticee's demat account was funded by Mr. Purvesh Parikh/ Vinhar Enterprise/Ms. Zalak Parikh and all the payout amount received pursuant to the sale of AMFL shares was appropriated by the said entities.

23.2 As noted in previous paragraphs, Noticee's dealings in the scrip of AMFL during the relevant period were substantial. In this regard, I note that the Noticee cannot absolve his liability by alleging misuse of his demat account by stating that all his purchase and sale transactions in the scrip of AMFL during the relevant period were carried out by his friend named Mr. Purvesh Parikh.

23.3 Here, I refer to the order of the Hon'ble Securities Appellate Tribunal (hereinafter referred to as '**SAT'**), in **Pragnesh Vishnubhai Patel v. SEBI** (Appeal No. 268 of 2020 and Order dated September 15, 2020) wherein it was, *inter alia,* held as under:

> *"We also find that admittedly the appellant allowed another noticee Lalit Amritlal Shah to use his trading account and if his trading account was misused,* ***the appellant himself is to be blamed and for this blunder, the appellant cannot escape the liability for violating the SEBI laws."***
> (Emphasis supplied)

23.4 Similarly, in **Rahul H. Shah v. SEBI** (Appeal No. 83 of 2012 and Order dated May 11, 2012) wherein the Hon'ble SAT, *inter alia,* held that

> "*name lending is a fraudulent activity and requires to be curbed for maintaining the sanctity of the securities market".*

23.5 Further, it is reiterated that the instant matter pertains to disclosure violations under Takeover Regulations. In this context, I note that even if one presumes that the transactions in the relevant period were funded by Mr. Purvesh Parikh or any entity related to him, it does not obliterate the legal obligation of the Noticee to make requisite disclosures under the Takeover Regulations.

23.6 In view of the same, this submission of the Noticee cannot be accepted.

- **Disclosure of the share transactions to the Company**

23.7 Noticee has mentioned in his email dated March 02, 2023, that he had made disclosures of the share transactions to AMFL through Mr. Purvesh Parikh. However, the Noticee in his subsequent reply dated June 28, 2023 has admitted that he has not made any requisite disclosure under Regulations 29(1) and 29(2) read with 29(3) of Takeover Regulations. Therefore, it is noted that the Noticee has made contradictory submissions in this regard. It is further reiterated that the Noticee has not adduced any material to show that he had made the requisite disclosure to the company.

23.8 Thus, in the absence of any proof of disclosure of the transaction submitted by the Noticee along with the admission made by the Noticee in his additional reply, I find that Noticee had not made any disclosure to BSE and AMFL with regard to the aforementioned transactions.

Therefore, this contention of the Noticee is untenable.

- **Unaware of the disclosure requirement under Takeover Regulations**

23.9 Though the Noticee has claimed ignorance of the disclosure requirement under Takeover Regulations, I note that it is a settled legal principle that '*ignorantia juris non excusat'* or *'ignorantia legis neminem excusat'* i.e. ignorance of the law is not an excuse. Therefore, the Noticee cannot take shelter under the plea of ignorance.

24. In view of the discussions made above, I hold that the Noticee has violated the provisions of Regulations 29(1) and 29(2) read with 29(3) of the Takeover Regulations.

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

25. As it has been established that the Noticee has violated Regulations 29(1) and 29(2) read with 29(3) of the Takeover Regulations, the Noticee is liable for payment of a monetary penalty in terms of Section 15A(b) of the SEBI Act. Here, I refer to the order of Hon'ble SAT in the matter of **Annand Sarnaaik and Ors. v. SEBI** (Appeal No. 36 of 2018 and Order dated July 23, 2019) where it was, *inter alia,* held:

"6. Having heard the learned counsel for the parties and having pondered over the matter, we find that on the facts narrated aforesaid the appellants were duty bound to make the necessary disclosures within the stipulated period under the PIT and

SAST regulations. ***Non-disclosures within the stipulated period violated the provisions of the aforesaid regulations and, consequently, the penalty became leviable****...”* (Emphasis Supplied)

26. The text of the above said Section 15A(b) of the SEBI Act is reproduced below for reference:

SEBI Act
“15A. Penalty for failure to furnish information, return, etc.- If any person, who is required under this Act or any rules or regulations made thereunder, -
(a)...
(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 be not 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. …”

III. If so, what would be the monetary penalty that can be imposed upon the Noticee taking into consideration the factors stipulated in Section 15J of the SEBI Act?

27. While determining the quantum of penalty under Section 15A(b) of the SEBI Act, the following factors stipulated in Section 15J of the SEBI Act have to be given due regard:

SEBI Act
“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. I note that the material available on record has not quantified the amount of disproportionate gain or unfair advantage, if any, made by the Noticee and the loss, if any, suffered by the investors as a result of the Noticee's failure.

29. With regard to the Noticee's contention that he has not gained anything and has not made any unlawful gain from the transactions in the shares of AMFL, I note that Hon'ble SAT in the matter of **Akriti Global Traders Ltd. v. SEBI** (Appeal No. 78 of 2014 and Order dated September 30, 2014), *inter alia,* held that

*"Argument of appellant that the delay was unintentional and that the appellant has not gained from such delay and therefore penalty ought not to have been imposed is without any merit**, because, firstly, penal liability arises as soon as provisions under the regulations are violated and that penal liability is neither dependent upon intention of parties nor gains accrued from such delay."*** (Emphasis supplied)

Similarly, in the matter of **Virendrakumar Jayantilal Patel v. SEBI** (Appeal No. 299 of 2014 and Order dated October 14, 2014), Hon'ble SAT, *inter alia,* held as under

"Similarly, argument that the failure to make disclosures within the stipulated time, was unintentional, technical or inadvertent and that no gain or unfair advantage has accrued to the appellant, is also without any merit, ***because, all these factors are mitigating factors and these factors do not obliterate the obligation to make disclosures."*** (Emphasis supplied)

Furthermore, it is noted that Noticee has adduced the Income Tax Statement for the assessment years 2021-22 and 2022-23 while the aforesaid share transactions in the scrip of AMFL were undertaken by the Noticee in the year 2019.

Therefore, this contention of the Noticee does not stand.

30. I also take into account that SEBI had previously imposed a penalty on the Noticee vide Order dated October 21, 2022, under Section 15A(b), 15HB and 15G of the SEBI Act in connection with trading in the scrip of A & M Febcon Ltd from August 23, 2019, to November 19, 2019. Here, I have noted that the aforesaid penalty was imposed on the Noticee for violations including failure to make required disclosure under the Securities and Exchange Board of India (Prohibition of Insider Trading) Regulations, 2015 for a period which includes the investigation period of the present matter.

31. As noted in Takeover Regulations Advisory Committee Report under the chairmanship of Mr. C. Achuthan, disclosure obligations under the Takeover Regulations are fairly critical and an important component of the legal regime governing the substantial acquisition of shares and takeovers.[1] It is pertinent to mention that the Hon'ble SAT in **Ankur Chaturvedi v. SEBI** (Appeal no. 434 of 2014 and Order dated August 04, 2015), *inter alia,* held that

"As rightly pointed out by the adjudicating officer the entire securities market stands on disclosure based regime and accurate and timely disclosures are fundamental in maintaining the integrity of the securities market. Therefore, omission on the part of the appellant in failing to make disclosures was detrimental to the interest of the investors in the securities market and hence no fault can be found with the decision of SEBI in imposing penalty".

32. Further, Hon'ble SAT in the case of **M/s. Coimbatore Flavors & Fragrances Ltd. & Ors v. SEBI** (Appeal No. 209 of 2014 and Order dated August 11, 2014), has, *inter alia,* 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."

33. I have noted the fact that the Noticee was holding the position of Executive Director and CFO in AMFL in that period. A person who is holding the position of Executive Director and CFO in a company is expected to show higher diligence and care in his conduct and dealings. In this background, the Noticee was expected to have been more alert to the nuances and requirements of the law. An Executive Director and

[1]Report Of The Takeover Regulations Advisory Committee Under The Chairmanship Of Mr. C. Achuthan, Available at https://www.sebi.gov.in/sebi_data/commondocs/tracreport_p.pdf and accessed on July 12, 2023

CFO of a listed company cannot be considered as an innocent illiterate regarding his knowledge about compliance of securities laws.

34. It is also an admitted fact that the Noticee has not made the requisite disclosures under Regulations 29(1) and 29(2) read with 29(3) of Takeover Regulations till date for the aforesaid transactions.

ORDER

35. Having considered all the facts and circumstances of the case, the material available on record, the factors mentioned in preceding paragraphs and in the exercise of powers conferred upon me under Section 15-I of the SEBI Act 1992 read with Rule 5 of the Adjudication Rules, I hereby impose the following penalty on the Noticee:

Table 3

Noticee	**Violations established**	**Penal Provisions**	**Penalty**
Mr.Tejas Harshadbhai Patel	Regulation 29(1) read with Regulation 29(3) of Takeover Regulations	Section 15A(b) of the SEBI Act	Rs. 5,00,000/-(Rupees Five Lakhs only)
	Regulation 29(2) read with Regulation 29(3) of Takeover Regulations	Section 15A(b) of the SEBI Act	Rs. 4,00,000/-(Rupees Four Lakhs only)
Total amount of penalty			**Rs. 9,00,000/- (Rupees Nine Lakhs only)**

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

36. Noticee shall remit/pay the said amount of penalty within 45 days of receipt of this order through the 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.

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

37. In terms of the provisions of Rule 6 of the Adjudication Rules, a copy of this order is being sent to Noticee and also to the Securities and Exchange Board of India.

Date: July 31, 2023 **N HARIHARAN**
Place: Mumbai **ADJUDICATING OFFICER**