

SECURITIES AND EXCHANGE BOARD OF INDIA
FINAL ORDER

Under Sections 11(1), 11(4) 11(4A), 11B (1) and 11B (2) read with Section 15G of the Securities and Exchange Board of India Act, 1992 and Rule 5 of the Securities and Exchange Board of India (Procedure for Holding Inquiry and Imposing Penalties) Rules, 1995.

In respect of:

Noticee No.	Name of the Noticee	PAN
1.	Pradeep Kumar Sharma	FRNPS3638R

In the matter of suspected trading activities of certain entities in the scrip of Vaibhav Global Limited

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1. The present proceedings emanate from a Show Cause Notice dated October 28, 2021 (hereinafter referred to as “**SCN**”) issued by the Securities and Exchange Board of India (hereinafter referred to as “**SEBI**”) to Shri Pradeep Sharma (hereinafter referred to as “**the Noticee**”) in the matter of Vaibhav Global Limited (hereinafter referred to as the “**the Company**”/ “**Vaibhav Global**”). The SCN called upon to show cause as to why directions under Sections 11B(1) and 11(4) read with Section 11(1) of the Securities and Exchange Board of India Act, 1992 (hereinafter referred to as “**SEBI Act, 1992**”), including disgorgement of the wrongful loss avoided, should not be issued and why penalty be not imposed under Sections 11B(2) and 11(4A) read with Section 15G (i) of the SEBI Act, 1992 against the Noticee for the alleged violations of Regulation 3(i) of SEBI (Prohibition of Insider Trading) Regulations, 1992 (since repealed) (hereinafter referred to as “**PIT Regulations, 1992**”) read with Regulation 12 of SEBI (Prohibition of Insider Trading) Regulations, 2015 (hereinafter referred to as “**PIT Regulations, 2015**”) and Section 12A(d) & (e) of SEBI Act, 1992.

2. The brief facts of the case, the brief findings of the investigation and the allegations levelled against the Noticee, as mentioned in the SCN are as follows:

- 2.1. SEBI has conducted the investigation in the scrip of the Company to ascertain as to whether certain persons/entities have traded in the scrip of the Company during the period of January 02, 2015 to August 21, 2015 (hereinafter referred to as "**investigation period**") on the basis of Unpublished Price Sensitive Information (hereinafter referred to as "**UPSI**"), in contravention of the provisions of the SEBI Act, 1992, PIT Regulations, 1992 read with Regulation 12 of the PIT Regulations, 2015.
- 2.2. Based on the investigation, the trading pattern of the Noticee, pointed towards selling in the scrip of Vaibhav Global on the basis of UPSI. Trading details of the said entity in the scrip of Vaibhav Global are as below:

Date	BSE/ NSE	Gross Buy Qty.	Gross Sell Qty.	Net Traded Qty.	Gross buy Value (Rs.)	Gross Sell Value (Rs.)
During Pre-UPSI period: January 02, 2015 to April 01, 2015						
-	-	-	-	-	-	-
During UPSI period-April 02, 2015 to May 21, 2015						
28/04/2015	NSE	0	2,000	-2,000	0.00	16,02,012
29/04/2015	BSE	0	264	-264	0.00	2,11,200
29/04/2015	NSE	0	551	-551	0.00	4,41,342
30/04/2015	BSE	0	270	-270	0.00	2,16,085
30/04/2015	NSE	0	1,373	-1,373	0.00	10,99,116
04/05/2015	BSE	0	1,000	-1,000	0.00	8,00,251
04/05/2015	NSE	0	1,393	-1,393	0.00	11,14,405
05/05/2015	BSE	0	88	-88	0.00	70,400
05/05/2015	NSE	0	549	-549	0.00	4,39,200
Total		0	7,488	-7,488	0.00	59,94,011
Post UPSI period- May 22, 2015 to August 21, 2015						
-	-	-	-	-	-	-

- 2.3. Vaibhav Global is a public limited company and listed on National Stock Exchange of India Limited (hereinafter referred to as "**NSE**") and BSE Limited (hereinafter referred to as "**BSE**"). Vaibhav Global has its registered office at K-6B, Fateh Tiba, Adarsh Nagar, Jaipur-302004, Rajasthan. The Company is vertically-integrated electronic retailer of fashion jewellery and lifestyle

products in the USA and United Kingdom on its TV Shopping channels and complimented by e-commerce websites/mobile apps.

2.4. The investigation in the matter of suspected trading activities of certain entities during the IP in the scrip of Vaibhav Global, *inter-alia*, revealed the following relevant announcements being made by Vaibhav Global during the IP:

- (i) On April 20, 2015, the Company informed the exchanges that "meeting of the Board of Directors will be held on May 21, 2015, *inter alia*, to consider and approve the audited financial results of the Company for the quarter and year ended March 31, 2015 and the Board will also consider the recommendation of final dividend, if any, for the FY ended March 31, 2015".
- (ii) On April 21, 2015, the Company announced closure of trading window for sale/ purchase of shares in the scrip w.e.f. May 06, 2015 to May 22, 2015 owing to declaration of audited financial results of the Company for the quarter and year ended March 31, 2015 and to consider the recommendation of final dividend for the financial year ended March 31, 2015 in the forthcoming board meeting to be held on May 21, 2015.
- (iii) On May 21, 2015, Vaibhav Global, *inter- alia*, announced that the Company's Board of the Directors in the meeting held on May 21, 2015, *inter-alia*, transacted the following:

Approval of financial results: The Board approved and declared the audited financials results of the company for the quarter and year ended March 31, 2015.

Final Dividend: The Companies (Amendment) Bill, 2014 puts certain restriction on payment of dividend. In view of the same, no final dividend has been proposed by the Board.

The same was disseminated on NSE at 17:07 hrs. and on BSE at 17:17

2.5. Comparative price analysis of Vaibhav Global with various indices is as follows:

	BSE	NSE
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Date	Vaibhav price (Rs.)	Vaibhav %Price change over the previous trading day	Sensex	%Price change over the previous trading day	Vaibhav price (Rs.)	Vaibhav %Price change over the previous trading day	Nifty	%Price change over the previous trading day
20.05.2015	780.15	0.67	27,837.21	0.69	781.60	0.72	8423.25	0.68
21.05.2015	772.40	-0.99	27,809.35	-0.10	773.50	-1.03	8421.00	-0.02
22.05.2015	657.50	-14.88	27,957.50	0.53	660.15	-14.65	8458.95	0.45

2.6. It is observed that price of scrip of Vaibhav Global moved down post the announcement made on May 21, 2015. However, the indices viz., BSE Sensex and NSE Nifty were moving up. This indicates that the price fall movement in the scrip of Vaibhav Global by 14.87% on BSE and 14.65% on NSE, on May 22, 2015 was not due to any market news/ sentiments, but on account of material event announced by Vaibhav Global on May 21, 2015 i.e. audited financials results of the Company for the quarter and year ended March 31, 2015.

Allegation of Unpublished Price Sensitive Information (UPSI):

2.7. As per the Regulation 2 (ha) of the PIT Regulations 1992, “price sensitive information” means “*any information which relates directly or indirectly to a company and which if published is likely to materially affect the price of the securities of company.*”

Explanation: The following shall be deemed to be price sensitive information: -

- (i) periodical financial results of the company;*
- (ii) intended declaration of dividends (both interim and final);*
- (iii) issue of securities or buy-back of securities;*
- (iv) any major expansion plans or execution of new projects;*
- (v) amalgamation, mergers or takeovers;*
- (vi) disposal of the whole or substantial part of the undertaking;*
- (vii) and significant changes in policies, plans or operations of the company;*

2.8. Further, Regulation 2 (k) of the PIT Regulations 1992 states that “*unpublished means information which is not published by the company or its agents and is not specific in nature.*”

2.9. The Board of directors of the Company in its meeting held on May 21, 2015, *inter alia*, transacted the following:

- i. The Board approved and declared the audited financial results of the company for the quarter and year ended March 31, 2015.
- ii. Final dividend was not proposed and declared in compliance with the certain provisions of the companies Act.

2.10. Vaibhav Global had *inter-alia* informed the exchanges on April 20, 2015 that "...the Board will also consider the recommendation of final dividend, if any, for the financial year ended March 31, 2015".

2.11. The Company considered this item in its Board meeting held on May 21, 2015 and recorded the following in the minutes:

"10. To consider and recommend the payment of final dividend for the financial year 2014-15.

The Group CFO informed the Board that the Companies (Amendment) Bill, 2014 (which is passed by both Houses of Parliament) prohibits payment of dividend unless past losses are fully absorbed against current year's profit. He also table a copy of the said amendment. The Board discussed the matter and after detailed discussion withdrew the proposal of final dividend."

2.12. On perusal of financial statement of the Company for financial year 2014-15, it was also observed that Vaibhav Global was having deficit to the extent of Rs. 264.27 crore as on March 31, 2015. Accordingly, it was observed that the Company had not declared final dividend for financial year 2014-15. Hence, the event of "proposing/ declaring final dividend" by the Company does not qualify as price sensitive information.

2.13. The Board approved and took on record the financial results of the Company for quarter ended March 2015 and financial year 2014-15. Vaibhav Global, *inter alia*, informed 83.88% decline in standalone Net Profit After Tax (NPAT) for the quarter ended March 2015 compared to previous quarter ended December 2014 and 91.93% decline compared to the corresponding quarter of the previous financial year i.e. March 2014.

2.14. On perusal of the standalone financial results of Vaibhav Global, it was observed that Company's standalone NPAT significantly declined from Rs.

1050.97 lakh for quarter ended December 2014 to Rs. 169.40 lakh for quarter ended March 2015.

- 2.15. As per the information provided by Vaibhav Global, vide letter dated January 07, 2021, the main reason for the Quarter on Quarter (QoQ) lower NPAT performance in March 2015 was the decline in the company's sales to the extent of Rs. 4567.63 lakh compared to the previous quarter ended December 2014. The sales figure of the company was Rs.13234.55 lakh for the quarter ended December 2014 which had come down to Rs. 8666.92 lakh for the quarter ended March 2015.
- 2.16. Further, based on the sales details provided by the Company, vide letter dated February 08, 2021, it was observed that the Company's standalone sales were largely dependent on its USA based subsidiaries i.e. The Jewelry Channel Inc. ("TJC") (also known as **Shop LC Global**) and STS Jewels Inc. ("**STS Jewels**"). Since, sales of these USA based subsidiaries had significant impact on the Company's overall sales, the decline in the Company's standalone NPAT performance for the quarter ended March 2015 was mainly attributed to substantial reduction in sales to the USA based subsidiaries.
- 2.17. It was observed that post the Company's announcement on May 21, 2015, after the market hours, regarding 83.88% decline in the Company's standalone NPAT for the quarter ended March 2015, the scrip opened at Rs. 700, touched an intraday low of Rs. 645.05, high of Rs. 724 and closed at Rs. 660.15 on NSE i.e. a fall of 14.65% in the scrip's closing price compared to the previous day's closing price. On BSE, the scrip opened at Rs. 730, touched an intraday low of Rs. 640.05, high of Rs. 730 and closed at Rs. 657.5 i.e. a fall of 14.88% in the scrip's closing price compared to the previous day's closing price.
- 2.18. Thus, the information on decline in the Company's standalone NPAT for quarter ended March 2015 was observed to have made significant impact on price of the scrip i.e. a fall of 14.65% and 14.88% on NSE and BSE, respectively, compared to the previous trading day.
- 2.19. Hence, dissemination of information by Vaibhav Global on May 21, 2015 at 17:17:09 hrs. regarding 'decline in audited standalone NPAT of the Company for the quarter ended March 2015, was considered as UPSI in terms of

Regulation 2 (ha) of PIT Regulations 1992 read with Regulation 12 of the PIT Regulations 2015.

Period of UPSI:

- 2.20. Vaibhav Global, vide letter dated December 08, 2016, *inter alia*, provided the chronology of events and vide letter dated July 22, 2021, *inter alia*, provided revised chronology of events leading to announcement of the Company's audited standalone financial results for the quarter ended March 2015 and financial year ended 2014-15.
- 2.21. Further, Vaibhav Global, vide letters dated July 05 and 15, 2021, *inter alia*, submitted that a group daily report was being prepared by the Company wherein certain key financial items of group (including the Company's standalone) likes sales, expenses, receipts, payments, debtors, stock, etc. were shared with selected persons of Vaibhav Global and its subsidiaries. It was observed that the group daily report contained the daily figures, consolidated month till date figures and consolidated year till date figures. Such report for March 31, 2015 was circulated on April 02, 2015 at 08:45 AM.
- 2.22. Based on the information and details provided by the Company, vide above mentioned letters, it is observed that the event leading to declaration of the company's standalone financial results for quarter ended March 2015 was started from April 02, 2015. Accordingly, UPSI related to declaration of the Company's audited standalone financial results for the quarter ended March 2015 is alleged to have come into existence on April 02, 2015.
- 2.23. Further, the BoD approved and took on record the audited standalone financial results of the Company for quarter ended March 2015 on May 21, 2015 and accordingly, disclosed to the exchanges viz., BSE and NSE on the same day i.e. May 21, 2015 at 17:07:02 hrs. on NSE and at 17:17:09 hrs. on BSE. Therefore, UPSI was published on May 21, 2015 at 17:07:02 hrs.
- 2.24. In view of the above, it is alleged that UPSI period with regard to dissemination of decline in audited standalone NPAT of Vaibhav Global for the quarter ended March 2015, by the Company on stock exchange on May 21, 2015 at 17:17:02 hrs. (post trading hours), was from April 02, 2015 to May 21, 2015.

Insiders/ Connected Persons:

2.25. Regulation 2 (c) (ii) of the PIT Regulations 1992, *inter alia*, states that connected persons means any person who occupies the position as an officer or an employee of the company or holds a position involving a professional or business relationship between himself and the company (whether temporary or permanent) and who may reasonably be expected to have an access to unpublished price sensitive information in relation to that company.

2.26. As per Regulation 2 (e) of the PIT Regulations 1992, “insider” means any person who,

- i. *is or was connected with the company or is deemed to have been connected with the company and is reasonably expected to have access to unpublished price sensitive information in respect of securities of company, or*
- ii. *has received or has had access to such unpublished price sensitive information.*

2.27. Further, Regulation 3 of the SEBI (PIT) Regulations 1992 states that:

“No insider shall-

- (i) *either on his own behalf or on behalf of any other person, deal in securities of a company listed on any stock exchange when in possession of any unpublished price sensitive information; or*
- (ii) *communicate or counsel or procure directly or indirectly any unpublished price sensitive information to any person who while in possession of such unpublished price sensitive information shall not deal in securities”*

2.28. Based on the information/ details provided by Vaibhav Global and with regard to the investigation carried out by SEBI in light of the provisions of PIT Regulations, 1992 read with Regulation 12 of PIT Regulations, 2015, it was observed that Ms. Reeta Sharma and Mr. Pradeep Kumar Sharma (wife and husband) were working on senior positions in the subsidiaries of Vaibhav Global. Their role and connection are discussed below:

Ms. Reeta Sharma:

2.29. As per information provided by Vaibhav Global vide letter dated February 23, 2021, Reeta Sharma was working as Finance /Corporate Controller of the company's USA based subsidiaries- The Jewelry Channel Inc. and STS Jewels Inc. She was responsible for all finance and accounting duties including treasury, reporting, audit and taxation and interacting on day to day basis with peer, sub-ordinates and group employees. Further, the Company, vide letter dated March 08, 2021, *inter-alia* stated that Reeta Sharma was responsible for

monitoring the data relating to monthly MIS/financials/profit & loss of the USA based Subsidiaries i.e. TJC and STS Jewels and was reporting to Hemant Sultania-Group CFO and Gerald Tempton-President.

- 2.30. Vaibhav Global, vide letters dated July 05 and 15, 2021, *inter alia*, submitted that a group daily report was being prepared by the company where certain key items of group, including Vaibhav Global's standalone figures like sales, expenses, receipts, payments, debtors, stock etc. were shared with selected persons of Vaibhav Global and its subsidiaries, including Ms. Reeta Sharma.
- 2.31. Vaibhav Global, vide letter dated July 22, 2021, further stated that "Mrs. Reeta Sharma was in receipt of a group daily report, where only certain key items of group (including Vaibhav's standalone) like sales, expenses, receipts, payments, debtors, stock etc. were available (not complete financial results) and she was not involved in the preparation of company's standalone financial results."
- 2.32. In this regard, comments were also sought from Ms. Reeta Sharma. She, vide letter dated August 13, 2021, *inter alia*, stated as follows:

"1. I am Chartered Accountant and have work experience of over 35 years in supervisory role in Finance field in various organisation handling multi-level tasks in Treasury, Banking, Taxes, Audit, MIS, Compliance and Financial management functions. At present, I am working as Corporate Controller for Shop LC Global Inc, (formally known as The Jewelry Channel Inc.), Austin Texas, USA, step down subsidiary of Vaibhav Global Ltd. (Vaibhav) and STS Jewels Inc, Austin Texas USA, subsidiary of Vaibhav Global Ltd. I am associated as Finance head with US subsidiaries of Vaibhav Group since January 2005 for over 16 years.

2. I confirm that as a Finance head of US companies, I was in receipt of group daily reports containing certain financial items of the Vaibhav Global Limited (Vaibhav) group (including Vaibhav's standalone) viz. actual & budgeted sales, material consumed, expenses, depreciation, gross profit, net profit, receipts, payments, debtors, stock etc. on regular basis.

3. Having knowledge of few financial items including the company's standalone financials through the above mentioned group daily reports, I deny awareness of consequent effect of such financial information and details on the company's standalone Net Profit After Tax (NPAT) for the quarter ended March 2015. The Audited results are derived after applying accounting policies, accounting standards, providing for provisions, etc. whereas Daily report is based on broadly on estimates, hence Audited Results could be substantially different from what was given on daily report of March 31st 2015.

4. I also deny that I was in possession of unpublished prices sensitive information (UPSI) related the Vaibhav's standalone financial results for the quarter ended March 2015 as I was not involved in the preparation and audit of Vaibhav's standalone financial results nor a part of the Audit Committee of the Board or Board Member of Vaibhav."

- 2.33. Vaibhav Global vide letter dated July 22, 2021, *inter alia*, forwarded scanned copy of e-mails, duly received and certified by Reeta Sharma, relating to group daily reports as on January 30, 2015, February 27, 2015 and March 31, 2015.
- 2.34. Upon examination of Vaibhav's above mentioned group daily reports, it was observed that the Company's and its subsidiaries' key financial information (including Vaibhav Global's standalone) and details viz: actual/budgeted sales, material consumed, gross profit, net profit, profit before tax, expenses, receipt & payments, debtors, etc. were being shared through group daily reports on day-to-day basis to selected recipients including Reeta Sharma.
- 2.35. It was further observed that these group daily reports contained the daily figures, consolidated month till date figures and consolidated year till date figures of Vaibhav Global and its subsidiaries. The group daily report for March 31, 2015 was circulated on April 02, 2015 at 08:45 AM and the same was received by Reeta Sharma.
- 2.36. Relevant financial information/items (year till date figures) extracted from the Company's group daily report as on March 31, 2015 forwarded vide e-mail dated April 02, 2015 are mentioned below:

Particulars	Amount (US \$ in '000)
Net Sales	67,235
Profit before Tax (PBT)	6,719

- 2.37. The above financial information/items (year till date figures) extracted from the Company's group daily report prepared on March 31, 2015 were compared with the audited standalone financial results declared by the Company for the financial year ended 2015 as below:

Particulars	Amount (US \$ in '000) as per group daily report	Exchange Rate (US \$ to INR)*	Equivalent Amount in INR (Lakh) as per group daily report	Amount in INR (Lakh) as per Vaibhav's financial statements	Difference in INR (Lakh)	% Difference
Net Sales	67,235	60	40,341.00	40,378.39	37.39	0.09%
Profit before Tax (PBT)	6,719	60	4,031.40	3,975.27	56.13	1.41%

*Exchange rate as mentioned in the group daily report as on March 31, 2015

- 2.38. As observed from the above table, the difference between net sales mentioned in the group daily report and net sales disclosed in audited standalone financial

results for the year ended March 2015 was only 0.09% and for Profit before Tax (PBT), it was also only 1.41%. It was observed that difference between the figures given in group daily report and audited financial statement was negligible.

2.39. Further, comparison of the standalone net sales figures with respect to the March quarter 2015 was also done as given below:

a) It was observed that the cumulative/total Net sales declared by the company for the quarters ended June 2014, September 2014 and December 2014 was Rs. 31,711 lakh. Further, the total net sales figure till March 2015 mentioned in the group daily report was Rs. 40,341 lakh. It is observed that the difference between the group daily figure for financial year 2014-15 and the cumulative/total Net sales till December 2014 declared by the company was Rs. 8630 lakh (Rs. 40,341 lakh - Rs. 31,711 lakh). Thus Rs. 8630 lakh was the net sales figure for the quarter ended March 2015 as per group daily report.

b) It is pertinent to mention that the company declared net sales as Rs. 8666.92 lakh for the quarter ended March 2015. The variation/ difference between the net sales amount as per the group daily report and declared audited financial statement for the quarter ended March 2015 was only 0.43% (Rs. 36.92 lakh).

In view of the above, the key financial items viz. net sales and Profit before Tax (PBT) of Vaibhav Global and its subsidiaries, shared with selected persons including Reeta Sharma through group daily report were comparable with the standalone audited financial results declared by the Company.

2.40. As claimed by Reeta Sharma, she was not involved in preparation of the Company's financial results for the quarter ended March 2015. However, for a person being Chartered Accountant with work experience of over 35 years in Finance and associated as Finance head of US subsidiaries of Vaibhav Global Group since January 2005 (over 16 years) and having knowledge of the Company's above mentioned key financial figures on daily basis was more

than sufficient for her to conclude the consequent effect of these key financial items on the Company's standalone NPAT for forthcoming quarter i.e. March 2015.

- 2.41. Further, Reeta Sharma was Finance head (Corporate Controller) of Vaibhav Global's USA based subsidiaries which had significant impact on Vaibhav Global's overall sales and the Company's standalone NPAT performance for the quarter ended March 2015. As per the Company's submission vide its letter dated July 22, 2021, Reeta Sharma was one of the persons who were privy to the event leading to declaration of Vaibhav Global's financial results for the quarter ended March 2015.
- 2.42. Vaibhav Global vide letter dated March 01, 2021, *inter alia*, confirmed that Reeta Sharma was also falling under category of designated employee in terms of the Model Code of Conduct for prevention of insider trading framed by it under the PIT Regulations, 1992.
- 2.43. In view of the above, it is alleged that Reeta Sharma being designated employee of Vaibhav was a connected person as per Regulation 2(c)(ii) of the PIT Regulations 1992. By virtue of being connected to the Company, she was reasonably expected to have access to UPSI in respect of securities of the Company. Further, investigation revealed that she was privy to the Company's financials and had access to UPSI. Hence, Reeta Sharma was an insider in terms of Regulation 2 (e)(i) and Regulation 2(e)(ii) of the PIT Regulations, 1992.

Mr. Pradeep Kumar Sharma:

- 2.44. As per information submitted by Vaibhav Global vide letter dated February 23, 2021, Pradeep Kumar Sharma was working as General Manager of STS Jewels Inc., USA and reporting to Sunil Agrawal, Managing Director of the company. The Company further, *inter alia*, stated that he was responsible for supervision of buying gemstones related activities and used to interact on day to day basis with peer, subordinates and STS team for work related matter.
- 2.45. As per the Regulation 2(g) of the PIT Regulations, 1992, the term "officer" has been defined as under:

“2(g) “officer of a company” means any person as defined in Section 2(30) of the Companies Act, 1956 and includes an auditor of the company.”

Section 2(30) of the Companies Act, 1956 defines officer as under: “2(30) “officer” includes any director, manager or secretary or any person in accordance with whose directions or instructions the Board of directors or any one or more of the directors is or are accustomed to act.”

- 2.46. Hon’ble SAT vide order dated September 04, 2019 in the matter of Gargi Dash versus SEBI *inter alia* stated that the term ‘officer’ as defined in Section 2(30) of the Companies Act, 1956 would include an employee if he has been vested with the powers of financial control over one or more fields or control for operation of a company and, therefore, such employee would be deemed to be falling under the category of the term “officer”. Hence, an “officer” would be defined as a person who has the power of directing any other person or persons to do anything.
- 2.47. Based on the details of role, duty, responsibilities provided by Vaibhav Global, vide letter dated February 23, 2021, it was observed that during the investigation period Pradeep Kumar Sharma, while working on senior position in the Company/its subsidiary was giving instructions to his sub-ordinates and therefore, he qualifies as an officer of the Company as per Regulation 2(g) of PIT Regulations, 1992 read with the above mentioned Hon’ble SAT order.
- 2.48. Further, Vaibhav Global vide letter dated March 01, 2021, *inter alia*, confirmed that Mr. Pradeep Kumar Sharma was falling under category of designated employee in terms of the Model Code of Conduct for prevention of insider trading framed by it under PIT Regulations, 1992.
- 2.49. Hence, Pradeep Kumar Sharma, being officer and also designated employee (except in the Company, was connected person in terms of Regulation 2 (c) (ii) of the PIT Regulations 1992.
- 2.50. Further, on perusal of KYC documents of Pradeep Kumar Sharma and Reeta Sharma as provided by the stock broker- O3 Securities Pvt. Ltd. vide e-mail dated February 09, 2021, the following was observed:
- a) Pradeep Kumar Sharma is husband of Reeta Sharma.
 - b) They were living at the same residential address i.e. 10004, Loxley Lane, Austin Texas, USA.

- c) They have nominated each other in their respective KYC form.
- d) Pradeep Kumar Sharma's e-mail id viz., pksharma117@yahoo.com was observed to be specified as designated e-mail id in both of their KYC forms for receiving Electronic Contract Note (ECN).

Thus, both of them are related to each other.

2.51. Pradeep Kumar Sharma, vide e-mail along with letter dated August 21, 2018, *inter alia*, submitted as follows:

- a) *Presently I am working as General Manager in STS JEWELS INC; 100 Michael Angelo way, Austin TX 7828 USA since Jan 2, 2005.*
- b) *I and my dependent didn't have the information pertaining to financial results of the Vaibhav Global Ltd. during the said period. Being an employee of the subsidiary, I had/have the information with regard to financials of that subsidiary only.*

2.52. Further, vide e-mail along with letter dated August 13, 2021, Pradeep Kumar Sharma, *inter alia*, stated the following:

"I am working for over 40 years in various fields including Finance & Accounts, commercial operations, procurement management and in the corporate Management sectors at national and international level. At present I am working as General Manager, heading STS Jewels Inc. operations based in Austin TX USA. I am associated with Vaibhav Group since 2005 for about 16 years."

- 2.53. Further, he also stated that he was neither in possession of UPSI nor involved in preparation, audit of the Company's standalone financial results nor a part of the Audit Committee of the Board or Board member of Vaibhav Global.
- 2.54. However, as communication between close relations such as wife & husband seldom takes place in written form, it is reasonably expected that Reeta Sharma (insider) had communicated the UPSI to her husband viz., Pradeep Kumar Sharma.
- 2.55. Hence, it is alleged that Pradeep Kumar Sharma being designated employee of Vaibhav was a connected person as per Regulation 2(c)(ii) of the PIT Regulations 1992. By virtue of being connected to the Company, he was reasonably expected to have access to UPSI in respect of securities of the Company. Further, it is reasonably expected that he received UPSI through his wife, Reeta Sharma (insider) and therefore, in possession of UPSI. Hence,

Pradeep Kumar Sharma was an Insider in terms of Regulation 2 (e)(i) and Regulation 2(e)(ii) of the PIT Regulations, 1992.

Trading by Noticee, Pradeep Kumar Sharma:

2.56. Trading of the Noticee was analysed based on information received from NSE and BSE. Based on the information received, it was observed that the Noticee has traded on 5 days during the UPSI Period. The trading of Noticee has been analysed based on pre- UPSI Period i.e. January 02, 2015 to April 01, 2015 (hereinafter referred to as “**Pre-UPSI Period**”), UPSI Period i.e. April 02, 2015 to May 21, 2015 (hereinafter referred to as “**UPSI Period**”), and Post-UPSI Period i.e. May 22, 2015 to August 21, 2015 (hereinafter referred to as “**Post-UPSI Period**”). Therefore, based on the facts, circumstances and trading details of the Noticee, the following observations are made against the Noticee:

2.57. The Noticee sold 7,488 shares of Vaibhav Global at an average price of Rs. 800.48 per share during the UPSI period. He did not make any buy/ sell transaction in the scrip in the pre-UPSI period and post-UPSI period.

2.58. The trading details of the Noticee in the scrip of Vaibhav Global and other scrips during UPSI period, pre-UPSI period and post-UPSI period were analysed and the same are tabulated as under:

Trading details of the Noticee based on value terms:

Trading details based on value terms								
Period	Other Scrips (Sell)					VAIBHAV(Sell)		
	BSE		NSE		Total Value (Rs.)	% activity to gross value across mkt	Total Value (Rs.)	% activity to gross value across mkt
	No. of Scrips	Value (Rs.)	No. of Scrips	Value (Rs.)				
Pre-UPSI Period	0	0	0	0	0	0%	0	0%
UPSI	0	0	0	0	0	0%	59,94,011	100%
Post-UPSI	0	0	0	0	0	0%	0	0%

Trading details of the Noticee based on quantity terms:

Trading details based on quantity terms		
Period	Other Scrips	VAIBHAV

	Gross Buy Qty.	% to total gross buy Qty. of all scrips	Gross Sell Qty.	% to total gross sell Qty. of all scrips	Gross Buy Qty.	% to total gross buy Qty. of all scrips	Gross Sell Qty.	% to total gross sell Qty. of all scrips
Pre-UPSI	0	0	0	0	0	0	0	0%
UPSI	0	0	0	0	0	0	7488	100%
Post-UPSI	0	0	0	0	0	0	0	0%

2.59. With regard to his trades in the scrip, the Noticee vide e-mail and letter dated August 21, 2018 *inter alia* submitted his rationale for the trading as under:

- a) *During the above said period I exercised 16,452 stock option granted by the Vaibhav Global Ltd. (Holding Company of the STS Jewels Inc USA) and Company allotted the shares and issued the physical share certificate.*
- b) *Further during the given period, I dematerialized 18,274 shares of Vaibhav Global Ltd from physical share certificates. It is pertinent to mention here that all the 19,694 shares were allotted to me through the ESOP scheme of the Holding Company.*
- c) *Out of said shares I had sold 2,000 shares on 28th April, 2015, 815 shares on 29th April, 2015, 1,643 shares on 30th April, 2015, 2,393 shares on 4th May, 2015, 637 shares on 5th May, 2015 and 4,750 shares on 19th October, 2015.*

2.60. However, the Noticee vide e-mail along with letter dated August 13, 2021, *inter alia*, stated that he was neither in possession of UPSI nor involved in preparation, audit of the Company's standalone financial results nor a part of the Audit Committee of the Board or Board member of Vaibhav Global.

2.61. He also stated that he never dealt in share(s) of any other company. Further, he also stated that he did not even purchase shares of Vaibhav Global from market. He also denied that he had traded in the scrip while in possession of and based on UPSI.

2.62. However, it is alleged that the Noticee was engaged in insider trading in the scrip of Vaibhav Global on the basis of UPSI and when in possession/access of UPSI due to the following reasons:

- a. The Noticee was an insider and husband of Reeta Sharma, who, as established during investigation, was in possession of UPSI.

- b. Since communication between husband and wife seldom takes place in written form, it is reasonably expected that Reeta Sharma (insider) had communicated the UPSI to her husband, Pradeep Kumar Sharma.
- c. There were no trades by noticee in any scrip during three months before UPSI or post UPSI period and there has been a sudden decision of selling of Vaibhav scrip during UPSI period.
- d. The noticee did not actively transact in the securities market and therefore the decision to sell Vaibhav scrip was deliberately and consciously made during the UPSI period while in possession of and on the basis of UPSI.

Computation of Unlawful loss avoided by the Noticee while trading in the scrip:

2.63. Unlawful loss avoided by the Noticee, by executing sell transactions in the scrip while in possession of and on the basis of UPSI, is as follows:

BSE/ NSE	No. of shares sold	Weighted average sale price per share (Rs.) (sale value /sale quantity rounded off to two digits)	Total Weighted sale value (Rs.) (iii) x (iv)	Closing price of the scrip as on 22.05.2015 (the following trading day of publishing UPSI)	Unlawful loss avoided (Rs.) {(No. of shares sold x weighted average sale price per share) - (no. of shares sold x closing price)} {(iii)x(iv)-(iii)xvi)}
(ii)	(iii)	(iv)	(v)	(vi)	(vii)
BSE	1,622	800.20	12,97,936	657.50	2,31,459
NSE	5,866	800.55	46,96,075	660.15	8,23,586
Unlawful loss avoided by Pradeep Kumar Sharma					10,55,045

Basis of computation of wrongful loss avoided:

2.64. The UPSI was made public after market hours on May 21, 2015. The closing price of the following trading day i.e. May 22, 2015 is, therefore, considered for calculating the wrongful loss avoided. The closing price of the scrip of Vaibhav Global on May 22, 2015 was Rs. 660.15 and Rs. 657.5 on NSE and BSE, respectively.

Unlawful loss avoided= {No. of shares sold while in possession of UPSI x weighted average sale price} **Less** {No. of shares sold while in possession of UPSI*Closing Price on the day of UPSI becoming public or the closing price on the following trading day, depending upon the timing of notification of UPSI to Stock Exchange}”.

The weighted average Sell Price is calculated as: Sell Value / Sell Quantity and sell price is rounded off to two digits.

- 2.65. In view of the aforesaid information, materials available on record, observations, trading details, unlawful loss avoided etc., the following is alleged against the Noticee:
- 2.66. The Noticee being an insider himself and having reasonably expected to have received UPSI from his wife Reeta Sharma, who was in possession of UPSI, has engaged in insider trading while in possession of UPSI in the scrip of Vaibhav Global during the UPSI period. Thus, it is alleged that the Noticee engaged in insider trading in the scrip of Vaibhav Global and violated the provision of Regulation 3(i) of PIT Regulations, 1992 read with Regulation 12 of PIT Regulations, 2015; and Section 12A (d) of SEBI Act, 1992. Further, it is also alleged that by dealing in securities of Vaibhav Global, while in possession of material non-public information, the Noticee has also violated the provision of Section 12A(e) of SEBI Act, 1992.
3. The aforesaid SCN was sent to the Noticee through speed post and vide email dated October 29, 2021. The Noticee vide email dated November 11, 2021 requested that SCN and its annexures may be resent to him. Accordingly, SCN and its annexures were sent again to the Noticee vide email dated November 12, 2021. The SCN sent through speed post was delivered to the Noticee on November 22, 2021. Thereafter, vide email dated November 23, 2021, the Noticee sought time till December 10, 2021 to submit his reply. The Noticee was given time till December 10, 2021 to file his reply. Vide email dated December 09, 2021, Noticee sought 8 week's more time to file reply and also informed that he is awaiting hard copy of the SCN and its annexures. The Noticee was given 8 week time to file reply. Noticee filed its reply dated February 01, 2022. Thereafter, file in the matter was placed before me on March 16, 2022 for a date of hearing in the matter. Hearing in the matter was scheduled on June 15, 2022. Noticee also filed additional reply dated June 08, 2022. On the date of hearing, authorised representative of the Noticee appeared for hearing and made submissions on the lines of reply dated February 01, 2022. The Noticee also

filed supplementary reply dated June 20, 2022 and second supplementary reply dated July 01, 2022.

4. In his reply dated February 01, 2022, additional reply dated June 08, 2022, supplementary reply dated June 20, 2022 and second supplementary reply dated July 01, 2022, Noticee has *inter alia* submitted as under:
- (i) Findings and allegations in SCN do not conclusively establish any breach by the Noticee of SEBI Act, 1992 and PIT Regulations, 1992.
 - (ii) The SCN has been issued after six and half years' inordinate and unconscionable delay. Initiation of proceedings by SEBI after such a long delay severely prejudices the ability of Noticee to adequately respond to the SCN. Noticee has relied upon Mohammad Kavi Mohammed Amin Vs. Fatmabai Ibrahim (1997) 6 SCC 71, Ramchand Vs. Union of India (1994) 1 SCC 44, SAT decisions in HB Stockholding Ltd. Vs. SEBI (27.08.2013), Sanjay Soni Vs. SEBI (14.11.2019), Libbord Finance Ltd. Vs. WTM, SEBI (03.03.2008)
 - (iii) Noticee has not been provided with the investigations report/Examination report carried out by SEBI which you are requested to provide.
 - (iv) Facts and circumstances of the case, as set out in the SCN do not constitute a fit case for the issue of directions by SEBI under Sections 11(1), 11(4), 11(4A), 11B(1), 11B(2) of the SEBI Act, 1992 for alleged insider trading of 7488 shares of Vaibhav Global.
 - (v) It has been held by Hon'ble SAT in number of cases that directions issued under Sections 11(1), 11(4), 11(4A), 11B(1), 11B(2) of the SEBI Act, 1992 should be remedial and/or preventive in nature. Noticee has relied upon the order of Hon'ble SAT in Sterlite Industries India Ltd. Vs. SEBI (order dated October 22, 2001) to contend that a direction which tantamounts to imposition on monetary penalty can not be issued under Section 11B.
 - (vi) Section 11(4A), 11B(1) and 11B(2) came into effect from March 08, 2019 whereas the alleged trades took place from April 28, 2015 to May 05, 2015, therefore, on wrong application of these Sections alone, the SCN deserves

to be quashed in view of judgment in Central Excise Bangalore and Ors. Vs. Brindavan Beverages (P) Ltd. (2007) 5 SCC 388.

- (vii) SEBI has failed to adduce even a single piece of evidence that Noticee had access to UPSI. Consequently, Noticee fails the test of being classified as an 'insider' in terms of Regulation 2(e) of the 1992 Regulations. Thus, Noticee cannot be alleged to have engaged in insider trading in the scrip of Vaibhav Global Limited (VGL).
- (viii) Noticee has undertaken trades in the scrip of VGL in the ordinary course of business. He has never dealt with share(s) of any other company except sale of shares sold by Noticee from 28 April, 2015 to 5 May, 2015 are one off transaction made by him, is the first time of Selling even though having Shares from 2007, in the normal course to pay his daughter's medical college expenses.
- (ix) Noticee denies that he was in possession of unpublished price sensitive information (UPSI) related to the company's standalone financial results for the quarter ended March 2015 as he was not involved in the audit of the financials nor a part of the Audit Committee of the Board or Board Member of VGL.
- (x) Noticee denies the allegation that he traded in the scrip while in possession of and based on Unpublished Price Sensitive Information (UPSI).
- (xi) Noticee relies upon the Hon'ble SAT Order in the matter of Mrs. Chandrakala vs SEBI (Order dated 31.01.2012 in Appeal No.209 of 2011) and Abhijit Rajan vs SEBI (Appeal 232 of 2016 decided on 08.11.2019).
- (xii) Thus, in the present matter, a benefit of double has to be given to the Noticee for its execution of the transactions in VGL during the UPSI period. Further, on the basis of circumstantial evidence of trading behaviour/pattern also, benefit of doubt has to be given to the Noticee w.r.t. his impugned trades in VGL.
- (xiii) Without prejudice and in any event, Noticee cannot be said to have access to UPSI and, therefore not an 'insider' especially due to decision of the Hon'ble SAT in the matter of Samir C. Arora v. SEBI ("Samir Arora").

- (xiv) The sale of shares only account for 19.58% of the total volume of shares trades in both the Exchange. This demonstrates that trading in VGL was in minuscule quantity. It is also important to point out that Noticee sold 7,488 shares of VGL for the first time after grant of ESOPs when the trading window was still open in the company to pay his daughters medical college expenses.
- (xv) The assumption drawn by SEBI that Mrs. Reeta Sharma would have shared the details of financial results for March 2015 with the Noticee is farfetched, a far cry and absurd. Adverse inference drawn by SEBI is, therefore, not warranted in on the facts and circumstances of this case.
- (xvi) Further, it is also brought on record that Wife of the Noticee - Mrs. Reeta Sharma has been let off in the present proceedings with an advice to be more careful in future and improve compliance standards in respect of sale of her 1,100 shares of VGL on 5 May 2015. Therefore, the equity demands that the benefit of doubt must flow to the Noticee which has been given to the main UPSI holder - Mrs. Reeta Sharma.
- (xvii) Noticee is not guilty of conduct which is contumacious or dishonest or acted in conscious disregard of law. Noticee has not acted in defiance of law.
- (xviii) Noticee has not taken regulatory proceedings in a casual manner.
- (xix) This is for the first time that any proceedings against Noticee have been initiated by SEBI.
- (xx) There is no loss or harm done to any other investors in the market due to the trades done by Noticee.
- (xxi) The Noticee also relies on latest Hon'ble Supreme Court Judgment in Civil Appeal No.7054 of 2021 - Balram Gang Versus SEBI with Civil Appeal No.7590 Of 2021 - Ms.Shivani Gupta & Ors. Versus SEBI decided on 19 April 2022.
- (xxii) Show Cause Notice dated 14 March 2022 issued to Mrs. Reeta Sharma for alleged offence of Insider Trading punishable under Section 15 G of SEBI Act, 1992, has been disposed off (without any penalty, restrain, warning) under SEBI Adjudicating Order dated 30 June, 2022 in the matter of Vaibhav Global Limited.

- (xxiii) Therefore, the principles of equity and justice demand that the benefit of doubt of above warning for Section 15 A (b) for non - disclosure and disposal off/ dropping the allegation of Insider Trading Charge proceedings under Section 15 G (without any penalty, restrain, warning) against main UPSI holder Mrs. Reeta Sharma, must flow to the Noticee - Pradeep Kumar Sharma in the above proceedings in SCN dated 28.10.2021.

Consideration and findings:

5. I note that SCN alleges that on May 21, 2015, Vaibhav Global, *inter- alia*, announced that the Company's Board of the Directors in the meeting held on May 21, 2015, *inter-alia*, approved and declared the audited financials results of the Company for the quarter and year ended March 31, 2015 and no final dividend was proposed in view of certain restrictions in the Companies Act, 2013. SCN alleges that in these financial results, Vaibhav Global, *inter alia*, informed 83.88% decline in standalone NPAT for the quarter ended March 2015 compared to previous quarter ended December 2014 and 91.93% decline compared to the corresponding quarter of the previous financial year i.e. March 2014. SCN alleges that the Company's standalone NPAT significantly declined from Rs. 1050.97 lakh for quarter ended December 2014 to Rs. 169.40 lakh for quarter ended March 2015. Further, Vaibhav Global's standalone sales were largely dependent on its USA based subsidiaries Shop LC Global and STS Jewels. Since, sales of these USA based subsidiaries had significant impact on Vaibhav Global's overall sales, the decline in the Company's standalone NPAT performance for the quarter ended March 2015 was mainly attributed to substantial reduction in sales to the USA based subsidiaries. The said information was disseminated on NSE at 17:07 hrs. and on BSE at 17:17 hrs. I note that due to announcement of audited financials results of the Company for the quarter and year ended March 31, 2015, on May 21, 2015, the price of scrip of Vaibhav Global experienced a fall of 14.87% on BSE and 14.65% on NSE, on May 22, 2015. Therefore, SCN alleges that the information pertaining to audited financials results of the Company for the quarter and year

ended March 31, 2015, before its dissemination to the stock exchanges on May 21, 2015 was UPSI.

6. SCN alleges that the Noticee herein was working as General Manager of STS Jewels Inc., a subsidiary of the Company, and was reporting to Mr. Sunil Agrawal, Managing Director of the Company. SCN also alleged that that he was responsible for supervision of buying gemstones related activities and used to interact on day to day basis with peer, subordinates and STS team for work related matter. SCN alleged that Noticee was designated employee in terms of the Model Code of Conduct for prevention of insider trading framed by the Company under the PIT Regulations, 1992. SCN alleged that the Noticee, was connected person in terms of Regulation 2 (c) (ii) of the PIT Regulations 1992. SCN alleged that Noticee herein, being husband of Ms. Reeta Sharma (a person who was alleged to be in possession of UPSI), living at the same residential address i.e. 10004, Loxley Lane, Austin Texas, USA as that of Ms. Reeta Sharma, Ms. Reeta Sharma and the Noticee herein have nominated each other in their respective KYC forms, and Noticee's e-mail id viz: pksharma117@yahoo.com was designated e-mail id in both of their KYC forms for receiving Electronic Contract Note (ECN), was related to Ms. Reeta Sharma.
7. I note that in the present case SCN alleges that Ms. Reeta Sharma who is the wife of the Noticee herein was in possession of UPSI, as being recipient of the emails containing the daily group report regarding the Vaibhav Global and its subsidiaries. Ms. Reeta has been alleged to have been in the possession of the UPSI pertaining to the quarterly financial results of the Vaibhav Global for the quarter ended March 31, 2015 prior to disclosure to the stock exchanges on May 21, 2015. It has been alleged in the SCN that Ms. Reeta is reasonably expected to have communicated the UPSI to her husband i.e. the Noticee herein who in turn has traded in the scrip of Vaibhav Global when in possession of UPSI. SCN alleges that as the UPSI was negative, Noticee by selling his shares in Vaibhav Global during the UPSI period avoided the loss of Rs. 10,55,045/-.

8. In this regard, I note that present proceedings have been initiated against Noticee under Section 11(1), 11(4A), 11B(1) and 11B(2) read with Section 15G of the SEBI Act, 1992 for the violation of Regulation 3(ii) Regulation 12 of the PIT Regulations, 2015 of PIT Regulations, 1992, for trading when in possession of UPSI. Also, for communication of UPSI to Noticee herein and for trading on the basis of UPSI, proceedings under Chapter VIA of SEBI Act, 1992 were initiated against Ms. Reeta Sharma for imposition of monetary penalty under Section 15G of SEBI Act, 1992 for violation of Regulation 3(i) and (ii) of PIT Regulations, 1992 read with Regulation 12 of PIT Regulations, 2015.
9. I note that show cause notice, for imposing of monetary penalty, containing *inter alia* the allegation of communication of UPSI by Ms. Reeta Sharma to the Noticee herein, as issued to Ms. Reeta Sharma in the adjudication proceedings, has been disposed of vide an order dated June 30, 2022 without any finding of guilt against Ms. Reeta on the allegation of communication of UPSI by Ms. Reeta to the Noticee herein. I note that no proceedings under Section 15I (3) of SEBI Act, 1992 has been initiated by SEBI in respect of adjudication order dated June 30, 2022. Thus, the adjudication order dated June 30, 2022 passed in respect Ms. Reeta with respect to allegation of communication of UPSI to Noticee herein has become final. The Noticee herein has contended that dropping off the allegations against main UPSI holder Ms. Reeta Sharma, must also flow to the Noticee, in these proceedings.
10. As mentioned above, I find that in the SCN, allegation against the Noticee is that he traded in the shares of Vaibhav Global when in possession of UPSI. It is further alleged that Noticee got this information from his wife i.e. Ms. Reeta Sharma. As discussed above, adjudication order dated June 30, 2022 does not hold Ms. Reeta guilty of communicating UPSI to Noticee herein. Thus, the allegation in the SCN that Noticee was in possession of UPSI by virtue of its communication to him by his wife i.e. Ms. Reeta Sharma, cannot be sustained. Consequently, the allegation in the SCN that Noticee traded in the shares of Vaibhav Global when in possession of UPSI, can also not be sustained.

11. As the main allegation against Noticee of trading in the shares of Vaibhav Global when in possession of UPSI, could not be made out, therefore, it is not necessary to go into the other contentions raised by the Noticees.

12. In view of the above, I, in exercise of the powers conferred upon me under Sections 11(1), 11(4), 11(4A), 11B(1) and 11B(2) of SEBI Act, 1992 read with Section 19 of the SEBI Act, 1992 and the Rules, hereby disposes of the SCN issued to the Noticee without any directions.

13. This order comes into force with immediate effect.

14. A copy of this Order shall be served on the Noticee.

Date: December 21, 2022
Place: Mumbai

Sd/-
ANANTA BARUA
WHOLE TIME MEMBER
SECURITIES AND EXCHANGE BOARD OF INDIA