BEFORE THE ADJUDICATING OFFICER

SECURITIES AND EXCHANGE BOARD OFINDIA

ADJUDICATION ORDER NO. Order/AA/NS/2022-23/18769-18772

1 UNDER SECTION15-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

Noticee No.	Name of Noticee	Noticee No.	Name of Noticee
1	**Ms.Saichithra Swaminathan** (PAN: ARWPS8560J)	**2**	**Mr. Sanjeev Misra** (PAN: ADXPM3586F)
3	**Matrimony.com Ltd.** (PAN: AADCM0845M)	**4**	**Mr. Vijyanand Sankar, Compliance Officer** (PAN: BBVPS2910L)

In the matter of Matrimony.com Limited

BACKGROUND

1. Securities and Exchange Board of India (*hereinafter referred to as 'SEBI'*) conducted an investigation into the trading by certain entities in the scrip "Matrimony.com Limited" (hereinafter referred to as '**Noticee 3/matrimony/Company/by Name'**) and observed violation of code of conduct, disclosure requirements and provisions of SEBI (Prohibition of Insider Trading), Regulation 2015 (hereinafter referred as PIT Regulations) by certain entities.

2. Based on the findings of the investigation, SEBI observed that Noticees 1 & 2 were designated persons of Noticee 3 during the investigation period. It was observed that Noticees 1 & 2 traded in the scrip of Matrimony.com during quiet/restricted period. It is also observed that Noticees 1 & 2 did not trade as per the trading plan submitted by them and thereby violated the provisions of Securities Law. Further, Noticee 4 was the Compliance Officer of the Noticee 3. SEBI observed that the Noticees 3 & 4 had failed to disclose the trades executed

by Noticees 1 & 2, within the stipulated time. It is also alleged that Noticee 4 failed to ensure the compliance of trading plan by Noticees 1 & 2.

i. It was alleged that Ms. Saichithra Swaminathan (Noticee 1) & Mr. Sanjeev Misra (Noticee 2) have violated Code of Conduct as prescribed under Regulation 9(1) read with Clause 6 of Schedule B of the of SEBI 'PIT Regulations. Regulation 5(2)(i) and (ii) and the Code of Conduct as prescribed under Regulation 9(1) read with Schedule B of the PIT Regulations. Regulation 5(4) of the PIT Regulations & Regulation 7(2)(a) of the PIT Regulations

ii. It was alleged that Matrimony.com Ltd (Noticee 3) has violated Regulation 7(2)(b) of PIT Regulations and

iii. Mr. Vijyanand Sankar (Noticee 4) has violated Regulation 5(3) read with 9(3) of PIT Regulations.

APPOINTMENT OF ADJUDICATING OFFICER

3. Pursuant to investigation, SEBI initiated Adjudication Proceedings against the Noticees and appointed the undersigned as the Adjudicating Officer vide Order dated February 17,2020 under Section 19 of Securities & Exchange Board of India Act, 1992(hereinafter referred as **SEBI Act**) read with subsection (1) of section 15-I of the SEBI Act, 1992 and Rule 3 of the SEBI (Procedure for Holding Inquiry and Imposing Penalties) Rules, 1995 (hereinafter referred to as *"***SEBI Adjudication Rules")** to inquire into and adjudicate for the alleged violation by Noticees no. 1-4, under Sections 15A(b) & 15HB of SEBI Act. Pursuant to transfer of undersigned, the present proceedings were transferred to Mr. Suresh Menon. Thereafter, upon superannuation of Mr Suresh Menon, the Competent Authority *vide* order dated June 06, 2022 transferred the adjudication proceedings in the instant matter to the undersigned.

SHOW CAUSE NOTICE, REPLY & PERSONAL HEARING

4. A show cause notice bearing reference no. SEBI/EAD/AA/MKG/3464/2020 dated August 18, 2020(hereinafter referred to as **"SCN"**) was issued to the

Noticees under rule 4 of the Adjudication Rules to show cause as to why an inquiry should not be held against them and why penalty should not be imposed on them. The allegations made against the Noticees in the SCN are summarised below:

4.1 The Company has informed SEBI that one of its employees i.e. the Noticee 1, had not complied with the PIT Regulations. SEBI observed that the Noticee 1 has been granted 1,91,697 Employee Stock Options (herein after referred to as 'ESOP') at a price of Rs.103/- convertible into equal number of equity shares over a period of three years vesting period prior to listing. She had subscribed 10,000 shares on April 21, 2017 and further subscribed 88,600 shares on March 01, 2018. The aforesaid 88,600 shares were allotted to the Noticee 1 on March 01, 2018 and credited to her demat account on March 16, 2018. The Noticee 1 created a pledge of 88,600 shares on March 16, 2018. The Noticee 1, being a designated person, was required to obtain preclearance from Compliance officer of the Company, before creating aforesaid pledge. However, it is alleged that the Noticee 1 has failed to obtain pre-clearance as required. Therefore, it is alleged that the Noticee 1 has violated Code of Conduct as prescribed under Regulation 9(1) read with clause 6 of Schedule B of PIT Regulations.

4.2 The Noticee 1 being a designated person was required to submit a trading plan, to the company and it submitted the same on March 29, 2018. The trading period is from September 29, 2018 to September 28, 2019. As per the trading plan, the Noticee 1 was required to sell 50,000 shares during the trading period. In terms of Regulation 5(2)(i) of PIT Regulations the Noticee 1 was prohibited from trading in the securities of Matrimony, earlier than six months from the public disclosure of the aforesaid trading plan (i.e before September 29, 2018).

4.3 Further, in terms of Regulation 5(2)(ii) of PIT Regulations, the Noticee 1 was prohibited from trading in the securities of Matrimony, between the twentieth trading day prior to the last day of any financial period for which *results are required to be announced by the issuer of the securities and the second trading day after the disclosure of such financial results. The results for the quarter ended on March 31, 2018, were announced on May 03, 2018. However, it is alleged that the Noticee 1 has pledged 10,000 shares, on April 02, 2018. Therefore, it is alleged that the Noticee 1 has violated 5(2)(i) & (ii) of PIT Regulations read with Code of Conduct as prescribed under Regulation 9(1) read with Clause 6 of Schedule B of PIT Regulation, by creating the aforesaid pledge. Details of the Pledge transactions of the Noticee 1 are as under:*

Table – 1

Date of Pledge Creation	***Name of Pledger***	***No. of shares***	***Value of transaction Rs.)***	***Name of pledgee***
March 16, 2018	*Ms. Saichithra Swami Nathan*	*88600*	*74366410/-*	*ECL Finance Ltd.*
April 02, 2018	*Ms. Saichithra Swami Nathan*	*10000*	*7728000/-*	*ECL Finance Ltd.*

4.4 As per the trading plan submitted by the Noticee 1, she was supposed to sell 50,000 shares during the trading period ***September 29, 2018*** *to* ***September 28, 2019****. However, it was observed from the Trade log that during the trading plan period, the Noticee 1 had sold 42,831 shares which is less than 50,000 shares. In view of the above, it is alleged that the Noticee 1 has violated the provisions of regulation 5(4) of the PIT Regulations for not complying with the trading plan.*

4.5 It is observed that the value of both the pledge transactions of the Noticee 1 as shown in Table 1, was more than Rs. 10,00,000/- and thus these transactions had triggered disclosure requirement in terms of Regulation 7(2)(a) of PIT Regulations on two (2) occasions. Further, for these pledge transactions, the Noticee 1 has made disclosures on September 19, 2018 which involves a delay of more than 150 days for both the transactions.

4.6 In view of the above facts and observations, it is alleged that the Noticee 1 has violated Regulation 7(2)(a) of PIT Regulations for making delayed *disclosures on two (2) occasions. The alleged violations of Regulation 7(2)(a) of PIT Regulations*

4.7 SEBI observed that the Noticee 2 has been granted 14,377 ESOPs at a price of Rs.103/- and he had converted them into 14,377 shares. The Noticee 2 created a pledge of 4313 shares on March 20, 2018. The Noticee 2 being a designated person was required to submit a trading plan, to the company and it submitted the same on September 26, 2017. The trading period is from March 26, 2018 to March 25, 2019. As per the trading plan, the Noticee 2 was supposed to sell 12,000 shares during the trading period. In terms of Regulation 5(2)(i) of PIT Regulations the Noticee 2 was prohibited from trading in the securities of Matrimony, earlier than six months (i.e before March 26, 2018) from the public disclosure of the aforesaid trading plan.

4.8 Further, in terms of Regulation 5(2)(ii) of PIT Regulations, the Noticee 2 was prohibited from trading in the securities of Matrimony, between the twentieth trading day prior to the last day of any financial period for which results are required to be announced by the issuer of the securities and the second trading day after the disclosure of such financial results. The results for the quarter ended on March 31, 2018, were announced on May 03, 2018. However, it is alleged that the Noticee 2 has pledged 4,313 shares, on March 20, 2018. Therefore, it is alleged that the Noticee 1 has violated 5(2)(i) & (ii) of PIT Regulations read with Code of Conduct as prescribed under Regulation 9(1) read with Schedule B of PIT Regulation by entailing into aforesaid pledge creation. Details of Pledge transactions of the Noticee 2 is as under

Table – 2

Date of Pledge Creation	***Name of Pledger***	***No. of shares***	***Value of transaction (in Rs.)***	***Name of pledgee***
March 20, 2018	*Mr. Sanjeev Misra*	*4313*	*1500000*	*Edelweiss Finvest Pvt Ltd.*

4.9 As per trading plan submitted by the Noticee 2, he was supposed to sell 12,000 shares during the trading period March 26, 2018 to March 25, 2019. However, It was observed from the Trade log that during the trading plan period, Noticee 2 had sold 8,071 shares which is less than 12,000 shares. In view of the above it is alleged that the Noticee 2 has violated the provisions of regulation 5(4) of the PIT Regulations for not complying with the trading plan.

4.10 It is observed that the value of the pledge transaction of the Noticee 2 as shown in Table 2, was more than Rs. 10,00,000/- and thus this transaction had triggered disclosure requirement in terms of Regulation 7(2)(a) of PIT Regulations on one occasion. Further, for the said pledge transaction, the Noticee 2 has made disclosures on September 26, 2018 which is after delay of 189 days.

4.11 In view of the above facts and observations, it is alleged that the Noticee 2 has violated Regulation 7(2)(a) of PIT Regulations for making delayed disclosures on one (1) occasion. The alleged violations of Regulation 7(2)(a) of PIT Regulations, if established, makes the Noticee liable for monetary penalty under Section 15A(b) of SEBI Act.

4.12 In terms of Regulation 7(2)(b) of PIT Regulations, the Noticee 3 has to file disclosures in respect of transactions mentioned at Regulation 7(2)(a) of PIT Regulation, within two trading days of receipt of the disclosure or from the date of becoming aware of such information.

4.13 It was observed that there were three instances of nondisclosures, by the Noticee 3, to the Exchanges as mentioned below:

Table 3

Date of Creation	Name of Pledger	No. of shares	Value of transaction (in Rs.)	Date on which company became aware of transaction
March 16, 2018	Ms. Saichithra Swami Nathan	88600	74366410	March 17, 2018
April 02, 2018	Ms. Saichithra Swami Nathan	10000	7728000	April 08, 2018
March 20, 2018	Mr. Sanjeev Misra	4313	1500000	March 24, 2018

4.14 It is observed that M/s Karvy Fintech Private Limited, the RTA to the Noticee 3, had vide email dated March 17, 2018, March 24, 2018 and April 08, 2018, *informed the Noticee 3, about the transactions of the Noticee 1 & 2, executed on March 16, 2018, March 20, 2018 and April 02, 2018, through its periodical "Benpos" report. Thus, the Noticee 3, was aware of the transactions of the Noticees 1 & 2, executed on March 16, 2018, March 20, 2018 and April 02, 2018, on March 17, 2018, March 24, 2018 and April 08, 2018, itself and was required to file disclosure in terms of Regulation 7(2)(b) of PIT Regulations within two days of getting notified. However, it has been observed that the Noticee 3 has failed two times to disclose the number of securities pledged by the Noticee 1 and also failed to disclose the number of securities pledged by the Noticee 2. It is noted that their respective trades/pledge valued more than Rupees Ten Lakh. Thus, it is alleged that the Noticee 3, even after becoming aware, failed to ensure the disclosure on 3 occasions as required in terms of Regulation 7(2)(b) of PIT Regulations.*

4.15 In terms of Regulation 5(3) of PIT Regulations, the Noticee 4, being a compliance officer is responsible for monitoring and implementation of the trading plan. In addition to that the Noticee 4, as a compliance officer is also responsible to administer the code of conduct, in terms of Regulation 9(3) of PIT Regulations. As alleged in the earlier paragraphs of this SCN, the Noticee 1 has violated the Code of Conduct and the Noticees 1 & 2, have failed to trade as per their trading plans. In view of the same, it is alleged that the Noticee 4 has failed as a compliance officer to administer the code of conduct and monitor the implementation of the trading plan submitted by the designated person. Therefore, it is alleged that the Noticee 4 has violated regulations 5(3) and 9(3) of the PIT Regulations

Replies by Noticees

5. The Noticee 1 *vide* her letter dated October 07,2020 submitted the following in her reply to the SCN.

a) The Company got listed on the stock exchange(s) on 21st September 2017. The Company got the pre-existing ESOP scheme ratified by the shareholder's post listing in the month of January 2018 and the Company applied for in-principle approval from the Stock Exchanges. As I had previously exercised only 10000 options, during the month of January 2018, I decided to subscribe part of the vested options that were pending.

b) As I did not have enough funds to subscribe, I availed the funding scheme announced by ECL Finance Ltd ("Funder"), an Edelweiss group company wherein the funds would be provided in advance for subscription of shares along with the perquisite tax. Accordingly, an agreement was entered into with the funder on 18th January 2018. In terms of the agreement, the shares once allotted would be used as security for the loan amount; a demat account was opened with Edelweiss Securities' and, my existing 10000 shares (converted on 21st April 2017) were also transferred to the new demat account held with Edelweiss securities.

c) There is a gap of nearly two months between the date of entering into the agreement with the Funder (18th January 2018) and the date of first pledge creation (16th March 2018). In these peculiar circumstances, I request the Board to note that as on date of entering into the agreement with the Funder, no shares had been allotted to me and the agreement was a loan transaction for the purpose of share subscription. Furthermore, as the Company had been listed and certain approvals were being sought by the Company, there was no clarity on the date on which the subscribed shares would actually be allotted to me. Accordingly, there is no ascertainable date on which pre-clearance ought to have been sought by me. It is also important to note that in terms of the agreement, the shares once allotted were bound to be treated as security for the loan amount. Thus, I had no control over the pledge creation and could not have sought pre-clearance for the same.

d) *Once I entered into the agreement with the funder, I lost the right to deal in the shares subscribed until repayment of loan amount under the agreement and the Funder had complete liberty to deal with the shares in case of margin shortfall. Furthermore, in terms of the agreement, the shares would have automatically been pledged with the Funder. In terms of Clause 9 of Schedule B of the Code of Conduct, pre-clearance of trades obtained is valid for a maximum period of 7 trading days, post which a fresh preclearance would have to be sought. As explained hereinabove, since I could not have predicted the date on which the shares would be allotted, I was in no position to obtain pre-clearance.*

e) *There was considerable fluctuation in the price of the scrip of the Company due to which the 10000 shares deposited as margin with the Funder were also automatically pledged. It is important to note that the creation of pledge (for 10000 shares on 02nd April 2018) was not because of any action on my part for raising of additional funds/ other such purpose but the result of an automatic action in terms of the agreement, to cover the margin shortfall on account of steep fall in price. I did not have any control on the creation of pledge to dictate that the pledge not be created during the prohibited period under Regulation 5(2) of the PIT Regulations.*

f) *The objective of the PIT regulations in including pledge as part of the definition "Trading" is essentially to prohibit designated persons from using the option of pledge to enrich themselves. As mentioned hereinabove, I have not made any profit/ avoided any loss due to the pledge which was an automatic transaction in terms of the agreement, and over which I did not have any control.*

g) *In terms of paragraph 4.4 of SCN, it has been alleged that I have sold only 42831 shares instead of 50000 shares as per the trading plan submitted to the Company, during the trading period from September 29, 2018 to September 28, 2019. In this regard I would like to clarify that I have sold 50000 shares as per the trading plan submitted to the Company.*

h) *I was holding 98600 shares as on the date of submitting the trading plan (29th March 2018). During the trading period, I have sold 42831 shares through National Stock Exchange of India Limited and 2 shares through BSE Ltd. Further, 7167 shares were confiscated by the Funder on account of margin shortfall which seems to be an offmarket transfer to their pool account which may not have reflected in the trade data provided by the stock exchanges. Furthermore, the 2 shares sold through BSE Ltd is not reflected in the SCN. Therefore, I have sold 50000 shares, including the confiscation of 7167 shares on account of pledge invocation. Post the aforesaid transactions, my holding got reduced from 98600 shares to 48600 shares. Accordingly, I have completed my obligation in terms of the trading plan on 26th November 2018 which is well ahead of the deadline of September 28, 2019.*

i) *In terms of paragraphs 4.6 and 4.7 of the SCN, it is alleged that there has been delay of more than 150 days in disclosure of creation of pledge on the two occasions (16th March 2018 and 02 April 2018). In this regard, I submit that there has been a delay in the disclosure of the pledge transactions on the said two occasions. As indicated earlier, I am not a regular trader of shares in the securities market. This was the first time when I have acquired shares of a listed Company and due to my inexperience I am not familiar with the process.*

6. The Noticee 2 *vide* his letter dated October 07,2020 submitted the following in her reply to the SCN.

   6.1 *Due to inadvertence and lack of understanding of the terminology "trade" which includes pledge, I created the pledge during the prohibited period on March 20, 2018. Consequently, I did not disclose the pledge transactions on time under Regulation 7(2)(a) of PIT Regulations. However, I request you to note that I have not derived any advantage by not disclosing the pledge. The amount raised by pledging my shares was to subscribe to the next tranche of ESOPs that are already vested. I would like to reiterate that the non-disclosure was purely due to inadvertence and was unintentional. I am not a day trader. I have long term investments in the stock market. I have traded in shares of the Company after giving a trading plan. The* *shares sold were acquired by subscribing to ESOPs and not from the open market. I strictly adhered to the trading plan restrictions and never traded when the window is not open. There is no intention to default on my part to violate or contravene the code of conduct and SEBI Regulations on insider trading. I have been subjected to a penalty of Rs. 50,000/- by the Company despite explaining this situation. This inadvertence has been due to lack of awareness that "trade" includes pledge and not just sale of shares. I understand that there has been a violation of the PIT Regulations due to inadvertence. However, I urge the Board to consider this violation with leniency and not to impose any monetary penalty. The present proceedings can be culminated by issuing a strong warning as a monetary penalty would be extremely prejudicial in the facts of the present case.*

6.2 I was holding shares in two different demat accounts held with Kotak Securities Ltd (DP ID IN300214 & Client ID: 14714677) and Edelweiss Securities Ltd (DP ID: 12032300 & Client ID: 02035519). The summary of the transactions is given below

Table 4

	BSE		***NSE***		***Off market transfer***
Date	***Shares Sold***	***Date***	***Shares sold***	***Date***	***Shares sold***
07-05-2018	*12*	*07-05-2018*	*660*	*23-08-2018*	*1000*
11-05-2018	*721*	*08-05-2018*	*270*	*05-11-2018*	*3313*
13-08-2018	*34*	*09-05-2018*	*100*	*Total*	***4313***
14-08-2018	*130*	*11-05-2018*	*25*		
20-08-2018	*125*	*24-05-2018*	*300*		
21-08-2018	*1*	*14-08-2018*	*304*		

24-08-2018	*100*	*20-08-2018*	*225*		
05-11-2018	*801*	*21-08-2018*	*183*		
06-11-2018	*35*	*24-08-2018*	*50*		
09-11-2018	*28*	*27-08-2018*	*125*		
12-11-2018	*5*	*05-11-2018*	*3585*		
Total	***1992***	*06-11-2018*	*1403*		
		07-11-2018	*459*		
		09-11-2018	*211*		
		12-11-2018	*107*		
		13-11-2018	*44*		
		14-11-2018	*20*		
		Total	***8071***		

As mentioned in the above paragraph I acquired 14377 shares of the Company through ESOP on various dates. I was holding 4313 equity shares in Edelweiss Securities Ltd (DP ID: 12032300 & Client ID: 02035519) and the balance 10064 shares in Kotak Securities Ltd (DP ID IN300214 & Client ID: 14714677). I started selling when the window was open since May 2018 and accordingly sold 1992 shares through BSE, 8071 shares through NSE. I have allowed the pledgee to take over 4313 shares through off market transfer towards settling the pledge obligation. I completed a sale of 14376 shares on 14th November 2018 which is well ahead of the deadline of March 25, 2019. The SCN has mentioned about the sale of 8071 shares done through NSE alone whereas it has not covered the sale of shares done through BSE Ltd and off market mode. It is also pertinent to note that I have resigned from the services of the Company on October 23, 2018 five months before the completion of the trading period. Despite resigning, I upheld my obligation of selling 12000 shares as per the trading plan. Hence, I submit that the charge of violation of Regulation 5(4) cannot be sustained against me.

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6.3 I would like to declare that I was neither a Promoter of the Company nor related to them, neither a Director nor a Key managerial personnel as per the provisions of Companies Act, 2013 and SEBI Regulations and not *related to any of them. I regret the pledge creation during the prohibited period under Regulation 5(2)(ii) of the PIT regulations and the delayed disclosure of pledge. Further, I have recently come across the SEBI Circular SEBI/HO/ISD/ISD/CIR/P/202 dated September 09, 2020 titled Automation of Continual Disclosures under Regulation 7(2) of SEBI (Prohibition of Insider Trading) Regulations, 2015 which will reduce the obligation on the part of the designated persons. I believe that this change has been brought about to ensure greater transparency in the market and to reduce the regulatory burden on people connected with the stock market, including designated persons such as myself, who are not active market participants.*

7. The Noticees 4 *vide* his letter dated October 19,2020 & November 17, 2021 submitted the following in his reply to the SCN.

7.1 *It is alleged that in terms of the trading plan submitted by Noticee No. 1, Noticee No. 1 was supposed to sell 50,000 shares of the Company during the Noticee No. 1 Trading Period. However, Noticee No. 1 sold only 42,831 shares. In this regard, as informed by Noticee No. 1, it is submitted that Noticee No. 1 has in fact sold 50,000 shares during the Noticee No. 1 Trading Period in compliance with the trading plan submitted to the Company. As per the Transaction History Report of Noticee No. 1, the following sale transactions were carried out by Noticee No. 1 during the trading period.*

Table 5

Sr. No.	***Details of transaction***	***No. of Shares***
i.	*Shares sold through National Stock Exchange of India Limited ("**NSE**")*	*42,831*
ii.	*Shares sold through BSE Ltd. ("**BSE**")*	*2*

iii.	*Shares confiscated on account of margin shortfall and transferred offmarket to the pool account of ECL Finance Ltd.*	*7167*
Total No. of Shares		***50,000***

7.2 In this regard, as informed by Noticee No. 2, it is submitted that Noticee No. 2 has in fact sold 12,000 shares during the Noticee No. 2 Trading Period in compliance with the trading plan submitted to the Company. As per the statement of accounts of Noticee No. 2 with Kotak Securities and Edelweiss Broking Limited the following sale transactions were carried out by Noticee No. 1 during the trading period:

Table 6

Sr. No.	***Details of transaction***	***No. of Shares***
i.	*Shares sold through NSE*	*8,071*
ii.	*Shares sold through BSE*	*1,992*
iii.	*Off-market transfer towards settling pledge obligation of Noticee No. 2*	*4,313*
Total No. of Shares		***14,376***

7.3 The SCN also alleges violation of Regulation 9(3) of the PIT Regulations on the basis that the Compliance Officer of the Company failed to administer the code of conduct of the company on the basis of the allegation that Noticee No. 1 had failed to obtain pre-clearance from the Company before pledging 88,600 shares on March 16, 2020 as required under the Code of Conduct as prescribed under the PIT Regulations.

7.4 In this regard it is submitted that Noticee No. 1 had admittedly not disclosed the aforesaid pledge transaction to the Company and had not sought pre-clearance for the said transaction, as categorically mentioned in her letter dated September 27, 2019 (Annexure III to the SCN) to SEBI.

7.5 It is submitted that the role of the compliance officer, in respect of pre-clearance of trades, can be carried out only pursuant to receipt of a request for pre-clearance from a designated employee. When the designated employee, in this case Noticee No. 1, has admittedly not disclosed the aforesaid pledge transaction and not sought pre-clearance for the same, the compliance officer cannot and ought not to be held responsible for contravention of the code of conduct.

7.6 It is also important to note that employees of the company who have undertaken to abide by the rules and norms of the company, including the code of conduct for prevention of insider trading, are equally responsible for adhering to the same, and the responsibility for their continual adherence cannot and ought not to be shifted upon the compliance officer. In terms of Clause 8 of the Code of Conduct of the Company, the onus to make an application and seek pre-clearance for trading from the Company has been put on the designated employee and not the compliance officer.

7.7 Furthermore, reference is also drawn to the Company's letter dated November 15, 2018 wherein it has been categorically stated that the compliance officer notified the Audit Committee which was responsible for monitoring the compliance of the code of conduct, upon receipt of communication from Noticee No. 1. Thus, it is apparent that I as the compliance officer have immediately raised issues/ concerns with respect to Noticee No. 1's trading and violation of code of conduct and PIT Regulations internally within the Company and have acted diligently in due compliance with the Code of Conduct of the Company. Accordingly, it cannot be alleged that I have failed to administer the code of conduct in violation of Regulation 9(3) of the PIT Regulations.

8. Vide email dated September 09,2020, the Noticees 3 & 4 made a request to grant inspection of all the records and documents in possession of SEBI which resulted in issuance of the present SCN issued against them. Vide letter dated September 11, 2020, the Noticees were informed to carry out inspection of documents. I note that the Noticees carried out inspection of documents on October 28,2021 through their Authorised Representatives. Noticee 3 vide email dated November 14, 2021 made the following submission:

8.1 *On a bare perusal of the Weekly Snapshot Emails, as received from the RTA, it is apparent that the aforesaid emails do not contain requisite information with respect to the pledge transactions entered into by Noticee Nos. 1 and Noticee No. 2. It appears that the aforesaid Benpos Reports being relied upon in the SCN have been obtained by SEBI vide email dated November 06, 2019from the RTA and not from the Weekly Snapshot Emails and thus, it cannot be alleged that the Company became aware of the pledge transactions on receipt of the Weekly Snapshot Emails i.e. on March 17, 2018, March 24, 2018 and April 08, 2018*

8.2 *Furthermore, the excel sheet titled 'MCL_23032018 BENPOS', (provided as part of Annexure XI to the SCN) presumably being relied upon by SEBI to allege that the Company was aware of the pledge transactions entered into by Noticee No. 1 and Noticee No. 2 upon receipt of the Weekly Snapshot Emails, is not available for download in the said email. The said excel sheet, and similar such excel sheets, are not provided to Company as part of the Benpos Report.*

8.2 *It is reiterated that the information/document being relied upon by SEBI and the information/document available with the Company vide the Weekly Snapshot Emails are not the same and thus, it cannot be alleged/ concluded that the Company became aware of the pledge transactions made by Noticee No. 1 and Noticee No. 2 upon receipt of the said emails* *and made delayed disclosures. It is submitted that the foundation of the charge against the Company i.e. that the Company became aware of the information with respect to the pledge transactions upon receipt of the Weekly Snapshot Emails and has thus violated Regulation 7(2)(b) of the PIT Regulations by not making timely disclosures, is in itself meritless.*

8.3 *The disclosure requirement under Regulations 7(2)(b) of the PIT Regulations requires a company to make disclosures within 2 days from receipt of disclosure under Regulation 7(2)(a) or from the date of becoming aware of the said transactions. As explained hereinabove, it is evident that the Company was informed/ became aware of the aforesaid pledge transactions only upon filing of requisite disclosures under Regulation 7(2)(a) by Noticee No. 1 and Noticee No. 2 on September 19, 2018 and September 26, 2018*

8.4 *Immediately upon receiving the said disclosures under Regulation 7(2)(a), the Company has on September 19, 2018 and September 28, 2018 informed the stock exchange(s) regarding the same, within two trading days of receipt thereof, as required under Regulation 7(2)(b). Thus, it cannot be alleged that the Company has not made timely disclosures in violation of Regulation 7(2)(b) of the PIT Regulations.*

8.5 *It is submitted that since the disclosures under Regulation 7(2)(b) were made on time i.e. within two trading days of receiving disclosures under Regulation 7(2)(a) from Noticee No. 1 and Noticee No. 2, the charge against the Company does not stand established and ought to be dropped. It is submitted that the transactions entered into by Noticee Nos. 1 and 2 was for a miniscule portion of the shareholding of the Company. It is also relevant to note that SEBI has since automated continual disclosures under Regulation 7(2) of the PIT Regulations w.e.f. October 01, 2020 and the requirement on a company to make such disclosures has been done away with.*

9. Vide email dated July 05, 2022, the Noticees were granted personal hearing on July 26,2022. On the scheduled date of hearing, the Authorized Representatives (hereinafter referred as AR) of the Noticees along with Noticees 1, 2 & 4

appeared before me separately through video conference and reiterated the written submissions made by the respective Noticees. The AR of Noticees 3 & 4 requested time to make further submission, which was acceded to. Subsequently, vide email dated August 01,2022 the Noticees 3 & 4 made additional submissions, which are also being considered.

CONSIDERATION OF ISSUES

10. I have taken into consideration the facts and material available on record. I observe that the allegations levelled against the Noticees 1 & 2 are that they traded during the prohibited period, Noticees 1 & 2 being designated persons did not disclose about the pledge created by them and it is also alleged that Noticees 1 & 2 have not traded as per the trading plan submitted by them to Noticee 3. The Noticees 3 & 4 did not disclose to the exchange about the trades executed by the Noticees 1 & 2, within the stipulated time. Further it is also alleged that the Noticee 4 failed to ensure the compliance of trading plan by the Noticees 1 & 2. After perusal of the material available on record, I have the following issues for consideration, viz.,

   a. *Whether the Noticees have violated the provisions of Securities Law mentioned above in paragraph 2(i), 2(ii) & 2(iii)?*
   b. *Does the violation, if any, attract monetary penalty under under Sections 15A(b) & 15HB of SEBI Act?*
   c. *If so, what would be the monetary penalty that can be imposed taking into consideration the factors mentioned in Section 15J of SEBI Act?*

11. Before moving forward, it is pertinent to refer to the relevant provisions of SEBI (PIT) Regulations:

Relevant provisions of PIT Regulations:

Trading Plans.

Regulation 5. (1) An insider shall be entitled to formulate a trading plan and present it to the compliance officer for approval and public disclosure pursuant to which trades may be carried out on his behalf in accordance with such plan.

<u>NOTE</u>: *This provision intends to give an option to persons who may be perpetually in possession of unpublished price sensitive information and enabling them to trade in securities in a compliant manner. This provision would enable the formulation of a trading plan by an insider to enable him to plan for trades to be executed in future. By doing so, <u>the possession of unpublished price sensitive information when a trade under a trading plan is actually executed would not prohibit the execution of such trades that he had pre-decided even before the unpublished price sensitive information came into being.</u>*

Regulation 5 (2) *Such trading plan shall:–*
<u>(i)</u> *<u>not entail commencement of trading on behalf of the insider earlier than six months from the public disclosure of the plan;</u>*

<u>(ii)</u> *<u>not entail trading for the period between the twentieth trading day prior to the last day of any financial period for which results are required to be announced by the issuer of the securities and the second trading day after the disclosure of such financial results</u>;*

Regulation 5 (3) *<u>The compliance officer</u> shall review the trading plan to assess whether the plan would have any potential for violation of these regulations and shall be entitled to seek such express undertakings as may be necessary to enable such assessment and to approve <u>and monitor the implementation of the plan.</u>*

Regulation 5 (4) *<u>The trading plan once approved shall be irrevocable and the insider shall mandatorily have to implement the plan, without being entitled to either deviate from it or to execute any trade in the securities outside the scope of the trading plan.</u>*

Provided that the implementation of the trading plan shall not be commenced if any unpublished price sensitive information in possession of the insider at the time of formulation of the plan has not become generally available at the time of the commencement of implementation and in such event the compliance officer shall confirm that the commencement ought to be deferred until such unpublished price sensitive information becomes generally available information so as to avoid a violation of sub-regulation (1) of regulation 4.

Disclosures by certain persons.

Regulation 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 …"*

(b). *Every company shall notify the particulars of such trading to the stock exchange on which the securities are listed within two trading days of receipt of the disclosure or from becoming aware of such information.*

Code of conduct violation:

Regulation 9. (1) *The board of directors of every listed company and market intermediary shall formulate a code of conduct to regulate, monitor and report trading by its employees and other connected persons towards achieving compliance with these regulations, adopting the minimum standards set out in Schedule B (in case of a listed company) to these regulations, without diluting the provisions of these regulations in any manner.*

Clause 6 *of the Code of Conduct specified under Regulation 9(1) of PIT Regulations.*

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

Regulation 9(3) *Every listed company, market intermediary and other persons formulating a code of conduct shall identify and designate a compliance officer to administer the code of conduct and other requirements under these regulations.*

***Code of Conduct of Matrimony**:*

Designated persons are permitted to execute trades subject to the conditions specified herein. The compliance officer will, in consultation with the Chairman/Managing Director & CEO, specify from time to time a period to be called "Quiet Period" during which the Trading Window shall be closed for trading in the *securities of the company. The trading window shall be closed when the Compliance Officer determines that designated person or class of designated persons can reasonably be expected to have possession of Unpublished Price Sensitive Information. During such Quiet Period and when the price sensitive information is unpublished, the trading in securities by insiders will be prohibited.*

Issue (a): Whether the Noticees have violated the provisions of Securities Law mentioned above in paragraph 2(i), 2(ii) & 2(iii)?

Noticees 1 & 2

12. The allegations against the Noticees 1 & 2 are
    a. Noticees 1 & 2 have violated Code of Conduct as prescribed under Regulation 9(1) read with Clause 6 of Schedule B of the of SEBI 'PIT Regulations
    b. Noticees 1 & 2 have violated regulation 5(2)(i) and (ii) and the Code of Conduct as prescribed under Regulation 9(1) read with Schedule B of the PIT Regulations
    c. Noticees 1 & 2 have violated regulation 5(4) of the PIT Regulations & Regulation 7(2)(a) of the PIT Regulations

13. With respect to the allegation about pledge creation and the absence of pre-clearance, Noticee 1 contended that *there is no ascertainable date on which pre-clearance ought to have been sought by me. It is also important to note that in terms of the agreement, the shares once allotted were bound to be treated as security for the loan amount. Thus, I had no control over the pledge creation and could not have sought pre-clearance for the same.* I note that as per clause 6 of Code of conduct under Regulation 9(1) of PIT Regulations when the trading window is open, trading by designated persons shall be subject to pre-clearance by the compliance officer, if the value of the proposed trades is above such thresholds as the board of directors may stipulate. I note that Noticee 1 subscribed to 98600 shares and was funded from M/s ECL Finance Limited (Hereinafter referred to as "ECL") (belonging to the Edelweiss Group). The shares were allotted on March 01, 2018 and credited to her demat account on

March 16, 2018. The pledge was created for 88,600 shares on March 16, 2018. The pledge was created within 20th trading day prior to the end of the quarter ending March, 2018.

14. I note that Noticee 2 had pledged 4,313 shares with ECL on March 20, 2018 for taking a loan of Rs. 15 lakhs. I note that the creation of pledge was during the period which was within the twentieth day of the end of the quarter March 2018. Noticee 2 also submitted that he sold the shares to meet the loan obligation.

15. The definition of trading as per “PIT Regulations” read as:

"*trading" means and includes subscribing, buying, selling, dealing, or agreeing to subscribe, buy, sell, deal in any securities, and "trade" shall be construed accordingly;*

NOTE: Under the parliamentary mandate, since the Section 12A (e) and Section 15G of the Act employs the term 'dealing in securities', it is intended to widely define the term “trading” to include dealing. Such a construction is intended to curb the activities based on unpublished price sensitive information which are strictly not buying, selling or subscribing, **such as pledging** etc when in possession of unpublished price sensitive information.

16. It is alleged that Noticees 1 & 2 have violated the provision of regulation 5(2)(ii) of PIT regulations which read as *trading plan shall not entail trading for the period between the twentieth trading prior to the last day of any financial period for which results are required to be announced by the issuer of the securities and the second trading after the disclosure of such financial results.* I note that Noticee 1 pledged 88600 shares on March 16, 2018 and Noticee 2 pledged 4313 shares on March 19 2018, The pledge was created within 20th trading day prior to the end of the quarter ending March, 2018.

17. I note that Noticee 1 by pledging 88600 shares on March 16 2018 & Noticee 2 by pledging 4313 shares on March 20,2018 have violated regulation 5(2)(ii) of

PIT regulations and the Code of Conduct as prescribed under Regulation 9(1) read with Schedule B of the PIT Regulations.

18. I note from the trade log of Noticee 1 that, ECL has invoked the pledge on September 12, 2018 by selling 5,100 shares. Further, ECL on September 24, 2018 sold 2,067 shares. Both these sales happened during the period which is within the twentieth trading day prior to the end of the quarter ending September 30, 2018 ("Prohibited Period"). In accordance with the Company's Code of conduct regulating Insider Dealing in the Company's shares, persons designated for that purpose ("Designated persons") are prohibited from dealing with the shares of the Company during the prohibited period. Further, it is alleged that Noticee 1 created pledge of 10000 shares entering a trading earlier than six months from the public disclosure of the trading plan (Trading plan was given on March 29,2018), thereby violated 5(2) (i) of PIT Regulations. In this regard, Noticee 1 submitted that the pledge of 10000 shares is on account of shortfall in margin, as per the loan agreement, the lender had the full right to deal with the shares in case of shortfall margin. Noticee 1 also argued that invocation of pledge was done by lender and she had no control on the invocation of pledge of shares by the lender. I am inclined to accept the contention of Noticee 1 and give benefit of doubt to her.

19. I note the following from the trade log of Noticee 1 & 2 : **Table 7**

Date of Creation	***Name of Pledger***	***No. of shares***	***Value of transaction (in Rs.)***	***Date of disclosure to the Company u/s 7(2) (a) of PIT Regulations, 2015***
March 16, 2018	*Ms. Saichithra Swami Nathan*	*88600*	*74366410*	*September 19, 2018 (delayed disclosure 183 days delay)*
April 02, 2018	*Ms. Saichithra Swami Nathan*	*10000*	*7728000*	*September 19, 2018 (delayed disclosure 168 days delay)*
March 20, 2018	*Mr. Sanjeev Misra*	*4313*	*1500000*	*September 26, 2018 (delayed disclosure 189 days delay)*

I note that as per ***Regulation 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 …"*

On analysing the table mentioned above, I note that Noticees 1 & 2 failed to disclose the transaction within two days, required as per the provisions of Regulation 7(2)(a) of PIT Regulations. It is also pertinent to note that Noticees 1 & 2 did not take pre clearance from the company as required under Code of Conduct as prescribed under Regulation 9(1) read with Clause 6 of Schedule B of the of SEBI 'PIT Regulations. Rather, Noticees 1 & 2 informed the Compliance Officer after delay of more than 100 days. Therefore, the Noticees 1 & 2 have violated the provisions of regulations 7(2)(a) of PIT Regulations

20. Further, it is alleged that Noticees 1 & 2 being designated persons were required to trade as per trading plans, however it was observed that the Noticees 1 & 2 failed to comply with the trading plans submitted by them. I note that as per the trading plan submitted by the Noticee 1, she was required to sell 50,000 shares during the trading period **September 29, 2018** to **September 28, 2019**. On an analysis of the trade log, the Noticee 1 was alleged to have sold less than 50,000 shares during the trading plan period. Further, as per the trading plan submitted by the Noticee 2, he was required to sell 12,000 shares during the trading period **March 26, 2018 to March 25, 2019**. However, it is alleged that during the trading plan period, Noticee 2 had sold less than 12,000 shares.

21. I note that Noticees 1 & 2 submitted the details of shares sold by them during the trading period, which is mentioned in Table no. 4, 5 & 6 above. As per the table 5, 7167 Shares of Noticee 1 were confiscated by the Lender (ECL Finance Ltd) on account of margin shortfall from the account of Noticee 1. In this regard, Noticee 1 requested to consider share confiscated by lender as sale of shares.

22. Noticee 2 submitted trading plan for sale of 12000 shares. However, it is noted that Noticee 2 *vide* off market transaction sold 4313 shares to the lender to settle

the loan obligation. Noticee 2 submitted that he allowed the pledgee to take over 4313 shares through off market transfer towards settling the pledge obligation.

23. Noticee 1 requested to consider confiscation of shares by lender as sale of shares. I note that the trading plan is submitted to inform the public about the future disposal/acquisition of shares by the designated persons. I note from the trade log of Noticee 1 that in the month of September 2018, 7167 shares of Noticee 1 were confiscated. Subsequently, Noticee 1 sold remaining shares i.e 42833 shares. I am of the view that it could be a genuine mistake on part of Noticee 1 that she considered confiscation of the shares by the lender as sale of the shares. Therefore, I give benefit of doubt to Noticee 1 in this regard and accept the submission made by Noticee 1.

24. Noticee 2 has submitted the trading plan for sale of 12000 shares. In his reply, Noticee 2 submitted table 4, mentioned above. On analysing the table, I find that Noticee 2 has sold shares through off market transaction to the lender as repayment of loan. I find the following from the table;

Shares sold at BSE-1992
Shares sold at NSE- 8071
Off market transfer- 4313
Total shares sold- 14376
As per the trading plan, Noticee 2 was allowed to sell only 12000 shares. I note Noticee 2 sold 2376 more shares, therefore the Noticee 2 has failed to comply with the trading plan submitted by him.

25. Noticee 2 submitted that he has resigned from the company. I note that though Noticee 2 had resigned from the company on October 23, 2018, the trading plan once approved shall be irrevocable and it has to be mandatorily implemented without being entitled to either deviate from it or to execute any trade in the securities outside the scope of the trading plan. According to regulation 5(4) of PIT regulations *The trading plan once approved shall be irrevocable and the insider shall mandatorily have to implement the plan, without being entitled to*

either deviate from it or to execute any trade in the securities outside the scope of the trading plan. Therefore, the contention of Noticee 2 does not hold merit and cannot be accepted.

26. In view of the above paragraphs, I note that Noticee 1 has violated the 5(2)(ii) of PIT regulations and the Code of Conduct as prescribed under Regulation 9(1) read with clause 6 of Schedule B of the PIT Regulations & Regulation 7(2)(a) of the PIT Regulations.

27. In view of the above paragraphs, I note that Noticee 2 has violated the 5(2)(ii) of PIT regulations and the Code of Conduct as prescribed under Regulation 9(1) read read with clause 6 of Schedule B of the PIT Regulations, Regulation 5(4) of the PIT Regulations & Regulation 7(2)(a) of the PIT Regulations.

Noticees 3 & 4

28. The allegations against the Noticees 3 & 4 are:
    a. Noticee 3 has violated Regulation 7(2)(b) of PIT Regulations.
    b. Noticee 4 has violated Regulation 5(3) read with 9(3) of PIT Regulations.

29. It is alleged that Noticee 3 did not make the timely disclosure about the dealings of Noticees 1 & 2 and thereby violated the Regulation 7(2)(b) of PIT Regulations. I note that Noticee 3 has contended that it did not receive the excel file which contained the detail of shares pledged by the Noticees 1 & 2. In this regard I note that the RTA of Noticee 3 (“Karvy” hereinafter referred as RTA) had sent weekly snapshot to the company which had the data of all the shareholders under the download link. Further the RTA of the company vide email dated November 11,2019 confirmed to SEBI that they have shared the statements of BENPOS to the Noticee 3 for the months of March.

30. In terms of regulation 7(2)(b) of PIT Regulations, every listed company is required to notify the particulars of trading, for which a disclosure is required to be

submitted under regulation 7(2)(a) of PIT Regulations, to the stock exchanges on which the securities are listed, within two trading days of receipt of the disclosure or from becoming aware of such information. Regulation 7(2)(a) of the PIT Regulations, as it existed at the time the Noticees committed the alleged violation, provided that any person, who is a promoter, employee or director of a company, is required to disclose to the company the number of securities acquired or disposed of within two trading days of the transaction, if the value of the securities traded in a calendar quarter exceeds Rs 10 lakhs. According to regulation 7(2)(b), a company is obligated to notify the stock exchanges within two trading days on either of the following two events happening

a. Receipt of disclosure under regulation 7(2)(a) of the PIT Regulations; or
b. Becoming aware of the information for which disclosure is required to be made under regulation 7(2)(a) of the PIT Regulations

.

31. I note from the material available on record that both Noticees 1 & 2 traded in shares in excess of Rs 10 lakhs in the calendar quarter ending December, 2018, on two and one occasions, respectively, which triggered the disclosure requirement under regulation 7(2)(a) of the PIT Regulations. The transaction details and the disclosure requirements based on the BENPOS Data is tabulated below*:*

Table 8

Date of Creation	Name of Pledger	No. of shares	Value of transaction (in Rs.)	Date on which company became aware of transaction through BENPOS
March 16, 2018	Ms. Saichithra Swami Nathan	88600	74366410	March 17, 2018
April 02, 2018	Ms. Saichithra Swami Nathan	10000	7728000	April 08, 2018
March 20, 2018	Mr. Sanjeev Misra	4313	1500000	March 24, 2018

32. As tabulated above, I note that the aforesaid persons disclosed the concerned transactions to Noticee 3 on September 17,2018 & September 26,2018 and Noticee 3 notified the stock exchanges on September 19,2018 & September 26,2018. It is alleged that Noticee 3, being the Company, became aware of the

aforesaid trades from the weekly BENPOS Data shared by the RTA in March 2018 & April 2018, however, the Company notified the stock exchanges only after it received the disclosures from the said designated persons under regulation 7(2)(a) resulting in delay of more than 100 days from the time stipulated under regulation7(2)(b) of the PIT Regulations.

33. I note that for attracting the obligation under regulation 7(2)(b) of the PIT Regulations, either the Company should have received the disclosure under regulation 7(2)(a) from the concerned entity or it should have become aware of such information. From the material available on record, it is clear that the Noticees 1 & 2 submitted the disclosures to the Company on September 17,2018 & September 26,2018 and the Company notified the stock exchanges on September 19,2018 & September 26,2018 respectively i.e., within the timeline stipulated under regulation 7(2)(b), Thus no fault can be attributed to the Company with respect to this condition. However, the second condition under regulation 7(2)(b) demands that the Company is required to notify the stock exchanges on "becoming aware of such information", it is alleged in the SCN that the Company became aware of such information on receipt of the weekly BENPOS Data shared by the RTA, however, notified the stock exchanges only on receiving the disclosures under regulation 7(2)(a) resulting in a delay.

34. I find that the BENPOS Data on which the entire allegation against the Noticee 3 is based is a list that provides details of all shareholders on a particular date and the position taken by a shareholder as on the said date, as per his/her demat statement. I find it is important to bring out certain limitations of the BENPOS Data which is relevant in the present matter:

    (i) As per the format provided for disclosure under regulation 7(2) of the PIT Regulations vide circular bearing reference no. CIR/ISD/02/2015 dated September 16, 2015, the Company is inter alia required to submit the following information to the stock exchanges:

(a) Name, PAN, CIN/DIN, address with contact numbers.

(b) Category of person (promoters/KMP/directors/immediate relative to /others etc.).

(c) Securities held prior to acquisition/disposal.

- Type of security (for eg: shares, warrants, convertible debentures etc.)
- No. of securities.
- Value.
- Transaction type (buy/sale/pledge/revoke/invoke).

(d) Securities held post acquisition/disposal.

- Type of security (for eg: shares, warrants, convertible debentures etc.)
- No. and percentage of shareholding.

(e) Date of allotment advice/ acquisition of shares/ sale of shares specify from and to.

(f) Date of intimation to company.

(g) Mode of acquisition/disposal (on market /public /rights /preferential offer /off market /inter-se transfer, ESOPs etc.)

(ii) As brought out before, the BENPOS Data only shows the number of shares held by a particular shareholder in his/her demat account as on the date of BENPOS Data. Therefore, the BENPOS Data does not capture the information which is required to be notified to the stock exchanges under regulation 7(2)(b) of the PIT Regulations.

(iii) The BENPOS Data reflects the net position of the shareholder as on a particular date whereas the requirement under regulation 7(2)(a) of the PIT Regulations is to disclose when the value of the securities "traded" exceeds Rs. 10 lakhs. For instance, a person may have done intraday trading in his account to the extent of every transaction crossing the limit of Rs. 10 lakhs but if such person has net zero position by the end of the week, the BENPOS Data will not show any change in his shareholding. Therefore, the

BENPOS Data only provides the net position of a shareholder, it does not reflect the value of the securities traded by a person which is required to be disclosed under regulation 7(2)(a) and under 7(2)(b) of the PIT Regulations.

35. In light of the above, I am of the view that, at best, only an inference can be drawn regarding trading of a person from comparison of BENPOS Data on two dates. However, the BENPOS Data fails to provide crucial details required for notifying the stock exchanges under regulation 7(2)(b) of PIT Regulations. Thus, I find it difficult to accept that only based on the BENPOS Data, the Noticee 3 "became aware" to notify the stock exchanges regarding the details required under regulation 7(2)(b).

36. I would like to place my reliance on the order of Hon'ble SAT in the matter of ***Avenue Supermarts Limited vs. Securities and Exchange Board of India Appeal No. 298 of 2020 decided on January 17, 2022*** wherein Hon'ble SAT in paragraph 11 stated that… *In the first instance, the data provided in the Benpos report has a limited information and is for a different purpose under the Depositories Act and cannot be treated as a source for disclosure requirement under the PIT Regulations. Further, the Benpos report does not disclose Permanent Account Number (PAN) of the employee and only discloses the depository participant identity (DP ID) and through the DP ID it is not possible to collate or locate the transaction made by the employee. Further, the Benpos report being too bulky, it is not possible for the Company to search for such transactions on a weekly basis of shares which are liquid and where huge transactions are made on a daily basis. Therefore, in our opinion, it is not practical for the Company to scan the Benpos report for the purpose of making a possible disclosure under Regulation 7(2)(b) of the PIT Regulations. Therefore, in our view, reliance on Benpos report is patently erroneous. It has been brought to our notice that in a similar matter in the case of ITC Ltd. the AO found that the Benpos report cannot be relied upon for the purpose of making a disclosure by the Company under Regulation 7(2)(b) of the PIT Regulations.*

37. In view of the aforesaid paragraphs, I conclude that merely being in possession of BENPOS Data does not tantamount to “becoming aware of such information” under regulation 7(2)(b) of the PIT Regulations. Thus, I find that violation of regulation 7(2)(b) is not made out against Noticee 3 in the present case.

38. Further, regulation 9(3) of the PIT Regulations imposes an obligation on the listed company to designate a compliance officer for administering the code of conduct and other requirements under the PIT Regulations. In the instant case, Noticee 4 was appointed as Compliance Officer of Noticee 3, I note that Noticee 4 had the statutory obligation to administer the code of conduct under PIT Regulation. In this regard, no violation is found on the part of the Company to notify the stock exchanges in the absence of the designated persons not submitting the requisite disclosures under regulation 7(2)(a), which has already been established in the preceding paragraphs. Therefore, the company itself is found to be not liable for disclosure of an information which it was not aware of and consequently, Noticee 4 also cannot be held liable for the aforesaid alleged violation under regulation 9(3) of the PIT Regulations. To conclude, I find that the Noticee 4 being the compliance officer of the Company, has not defaulted in his duties under regulation 9(3) of the PIT Regulations

39. It is alleged that Noticee 4 has failed to comply with provisions of regulation 5(3) of PIT Regulation which read as ***Regulation 5 (3)*** *(<u>The compliance officer</u> shall review the trading plan to assess whether the plan would have any potential for violation of these regulations and shall be entitled to seek such express undertakings as may be necessary to enable such assessment and to approve <u>and monitor the implementation of the plan.)</u>* I note that as per the trading plan submitted by the Noticee 1, she was required to sell 50,000 shares during the trading period **September 29, 2018** to **September 28, 2019**. However, it is alleged that during the trading plan period, the Noticee 1 had sold less than 50,000 shares. Further as per the trading plan submitted by the Noticee 2, he was required to sell 12,000 shares during the trading period **March 26, 2018 to March 25, 2019**. However, it is alleged that during the trading plan period, Noticee 2 had sold less than 12,000 shares.

40. I note that Noticee 4 vide letter dated November 17, 2021 submitted the details of shares sold by Noticee 1 & 2 during the trading period, which is mentioned in Table no. 4 & 5 above. As per the table, 7167 Shares of Noticee 1 were confiscated by the Lender (ECL Finance Ltd) on account of margin shortfall from the account of Noticee 1. In this regard, Noticee 4 in his reply submitted that as shares debited from the account of the Noticee 1, they considered it as a sale as they were not aware of the nature of transactions. Noticee 2 submitted trading plan for sale of 12000 shares. However, it is noted that Noticee 2 sold 4313 shares through off market transaction to the lender to settle the loan obligation.

41. I accept the contention raised by Noticee 4 that he considered debit of shares from the account of Noticee 1 as a sale of share and, I give benefit of doubt to Noticee 4 in this regard.

42. I note that Noticee 2 failed to comply with trading plan submitted by him as already explained in paragraphs 24 & 25 above. Therefore, Noticee 4 being a compliance officer failed to ensure the compliance of trading plan in the case of Noticee 2 and thereby violated the regulation 5(3) of PIT regulations. Further, as per Regulation 5(3), it is the obligation of compliance officer to monitor the implementation of plan. I note that Noticee 4 failed to monitor the implementation of trading plan and relied on whatever information shared by the Noticee 2.

43. Noticee 4 argued that Noticee 2 had resigned during the trading period and therefore Noticee 4 could not be held liable for the act of Noticee 2. In this regard, I am of the view that Noticee 2 being a designated person is bound by the code of conduct prescribed under PIT Regulations and resignation of designated person could not be a reason for noncompliance of the code of conduct. The whole idea behind the code of conduct is to make sure that the insider does not get undue advantage in the securities market. Further, the provision of Regulation 5(4) of PIT regulation read as *The trading plan once approved shall be*

irrevocable and the insider shall mandatorily have to implement the plan, without being entitled to either deviate from it or to execute any trade in the securities outside the scope of the trading plan. Therefore, the contention of Noticee in this regard cannot be accepted.

44. I find that regulation 5(3) of the PIT Regulations imposes three obligations on the compliance officer: (i) review the trading plan to assess any potential violation of PIT Regulations, for which he is entitled to seek undertakings as may be necessary; (ii) approve the trading plan; and (iii) monitor the implementation of the trading plan.

45. The code of conduct of Matrimony read as, *Designated persons are permitted to execute trades subject to the conditions specified therein. The compliance officer (Noticee 4 in this case) will, in consultation with the Chairman/Managing Director & CEO, specify from time to time a period to be called "Quiet Period" during which the Trading Window shall be closed for trading in the securities of the company. The trading window shall be closed when the Compliance Officer determines that designated person or class of designated persons can reasonably be expected to have possession of Unpublished Price Sensitive Information. During such Quiet Period and when the price sensitive information is unpublished, the trading in securities by insiders will be prohibited.*

46. I note from the material available on record that the trading plan as submitted by the Noticee 2 is as follows:

Sl No	**Name of the designated persons**	**Type of action and no. of shares**	**From date**	**To date**	**Date of intimation to the stock exchange**
1.	Mr. Sanjeev Misra	12000/Sale	March 26, 2018	March 25, 2019	September 26, 2017

47. I note that Noticee 2, has submitted the trading plan to the company on September 26, 2017 for sale of 12,000 shares. The trading period is from March 26, 2018 to March 25, 2019. However, the shares sold by the Noticee 2 is not in compliance with the trading plan submitted by the Noticee 2.

48. I note that though Noticee 2 had resigned from the company on October 23, 2018. However, the trading plan once approved shall be irrevocable and has to be mandatorily implemented without being entitled to either deviate from it or to execute any trade in the securities outside the scope of the trading plan. The Noticee 2 had not complied with the trading plan for sale of 12,000 shares during the trading period in accordance with regulation 5(4) of PIT Regulations.

49. Noticee 4 has contended that he was not aware of the trades executed under the Trading Plan, as the designated person, did not intimate him about the same. In this context, let me refer to the definition of compliance officer under regulation 2(1)(c) as a person who is a “senior officer”, who is “capable of appreciating requirements for legal and regulatory compliance under these regulations” and is responsible for “monitoring of trades and the implementation of the codes specified in these regulations”. Further, I find that regulation 5(3) of the PIT Regulations requires a compliance officer to “monitor the implementation of the plan”. Thus, I find that notwithstanding the obligation imposed under regulation 5(3) of the PIT Regulations on the compliance officer with respect to monitoring the implementation of the plan, the definition of “compliance officer” itself also states that he/she is inter alia responsible for monitoring trades. I find that in his capacity as the compliance officer, Noticee 4 was entitled to seek the necessary data from the persons who had submitted the Trading Plan to monitor trades under the Trading Plan.

50. I am of the view that the role of compliance officer is crucial to the company and he acts as a vital link between a company, its board of directors, its shareholders, and the government. The PIT Regulations require such compliance officer to be a “senior officer” of the company. The compliance officers cannot adopt a casual

approach towards the compliance of PIT Regulations, and the same would defeat the very purpose for which they have been designated. Considering the above, I find that Noticee 4 has violated regulation 5(3) of the PIT Regulations.

51. In view of the above paragraphs, I note that:

1. In view of the above paragraphs, I note that Noticee 1 has violated the 5(2)(ii) of PIT regulations and the Code of Conduct as prescribed under Regulation 9(1) read with clause 6 of Schedule B of the PIT Regulations & Regulation 7(2)(a) of the PIT Regulations.

2. In view of the above paragraphs, I note that Noticee 2 has violated the 5(2)(ii) of PIT regulations and the Code of Conduct as prescribed under Regulation 9(1) read read with clause 6 of Schedule B of the PIT Regulations, Regulation 5(4) of the PIT Regulations & Regulation 7(2)(a) of the PIT Regulations.

3. Noticee 4 has violated Regulation 5(3) of PIT Regulations.

Issue (b): Does the violation, if any, attract monetary penalty under under Sections 15A(b) & 15HB of SEBI Act?

52. It has been established in the foregoing paragraphs that Noticees have violated the provisions of PIT Regulations, and therefore, the aforesaid violations committed by the Noticees attract monetary penalty under section 15A(b) & 15HB of SEBI Act.

53. *In this regard, reliance is placed upon the order of the* ***Hon'ble Supreme Court of India in the matter of Chairman, SEBI Vs Shriram Mutual Fund { [2006]5 SCC 361 } –*** *wherein the Hon'ble Supreme Court of India held that "In our considered opinion, penalty is attracted as soon as the contravention of the statutory obligation as contemplated by the Act and the Regulations is*

established and hence the intention of the parties committing such violation becomes wholly irrelevant…………...”

54. In view of the above, I conclude that the Noticees are liable for monetary penalty under the provision of section 15A(b) & 15HB of SEBI Act, which reads as under during the relevant period:

15A. *If any person, who is required under this Act or any rules or regulations made there under,—*

(a) ....
(b) to file any return or furnish any information, books or other documents within the time specified therefore in the regulations, fails to file return or furnish the same within the time specified therefore in the regulations, he shall be liable to a penalty which shall not be less than one lakh rupees but which may extend to one lakh rupees for each day during which such failure continues subject to a maximum of one crore rupees;

Penalty for contravention where no separate penalty has been provided.-

15HB.*Whoever fails to comply with any provision of this Act, the rules or the regulations made or directions issued by the Board thereunder for which no separate penalty has been provided, shall be liable to a penalty which may extend to one crore rupees.]*

Issue (c): If so, what would be the monetary penalty that can be imposed upon the Noticees taking into consideration the factors mentioned in section 15J of SEBI Act, 1992?

55. While determining the quantum of penalty under section 15HA of the SEBI Act, 1992, it is important to consider the factors relevantly as stipulated in section 15J of the SEBI Act, 1992 which reads as under:-

Factors to be taken into account by the adjudicating officer.

15J. *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.*

56. In the instant case, it is not possible from the material on record to quantify the amount of disproportionate gain or unfair advantage resulting from the default of the Noticees or the consequent loss caused to investors as a result of the aforesaid default. With respect to the repetitive nature of the default, I find that there is nothing on record to indicate any past violations committed by the Noticees.

ORDER

57. After taking into consideration the facts and circumstances of the case, material/facts on record, case laws submitted by the Noticees and also the factors mentioned in the preceding paragraphs, I, in exercise of the powers conferred upon me under section 15-I of the SEBI Act, 1992 r/w rule 5 of the Adjudication Rules, 1995, hereby impose the following penalty on the Noticees under section 15A(b) & 15HB of SEBI Act, for the failure on their part to comply with the provisions of PIT Regulations. I am of the view that the said penalty is commensurate with the lapse/omission on the part of the Noticees.

S.no	**Name of the Noticee**	**Penalty Section**	**Penalty Amount (Rs.)**
1	Ms. Saichithra Swaminathan	Section 15A(b) & 15HB of SEBI Act, 1992	Rs 2,00,000/- each
2	Mr. Sanjeev Misra	Section 15A(b) & 15HB of SEBI Act, 1992	

S.no	Name of the Noticee	Penalty Section	Penalty Amount (Rs.)
3	Mr. Vijyanand Sankar	15HB of SEBI Act, 1992	Rs 1,00,000/-

58. The Noticees shall remit / pay the said amount of penalty within 45 days of receipt of this order through Demand Draft in favour of "SEBI -Penalties Remittable to Government of India", payable at Mumbai, or 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, the Noticees may contact the support at portalhelp@sebi.gov.in.

59. The Noticees shall forward said Demand Draft or the details/confirmation of penalty so paid to the Division Chief, Enforcement Department-I, DRA-I, SEBI. The Noticees shall provide the following details while forwarding DD/payment information:

    a) Name and PAN of the entity (Noticee)
    b) Name of the case / matter
    c) Purpose of Payment –Payment of penalty under AO proceedings
    d) Bank Name and Account Number
    e) Transaction Number

60. In terms of the provision of rule 6 of the Adjudication Rules, 1995, a copies of this order are being sent to the Noticees and also to SEBI.

Place : Mumbai
Date: August 30, 2022

Dr. Anitha Anoop
Adjudicating Officer