BEFORE THE ADJUDICATING OFFICER

SECURITIES AND EXCHANGE BOARD OF INDIA

[ADJUDICATION ORDER NO. Order/SM/HG/2022-23/19797]

UNDER SECTION 15-I OF SECURITIES AND EXCHANGE BOARD OF INDIA ACT, 1992, READ WITH RULE 5 OF SEBI (PROCEDURE FOR HOLDING INQUIRY AND IMPOSING PENALTIES) RULES, 1995

In respect of

Mr. Govind Narayan Gupta

[PAN: AFLPN1696M]

In the matter of Titan Company Limited

FACTS OF THE CASE IN BRIEF

1. Securities and Exchange Board of India (hereinafter referred to as '**SEBI**') received a letter from Titan Company Limited (hereinafter referred to as '**Company/Titan/TCL**') wherein the company intimated SEBI about contravention of SEBI (Prohibition of Insider Trading) Regulations, 2015 (hereinafter referred to as '**PIT Regulations**') and Company's Code of Conduct for Prevention of Insider Trading by some of its designated persons/employees. The securities of Titan are listed on Bombay Stock Exchange Limited (**BSE**) and the National Stock Exchange of India Ltd (**NSE**) (both collectively called 'exchanges').

2. Thereafter, SEBI conducted an investigation in the scrip of Titan and observed several non-compliances of PIT Regulations during the period April 01, 2018 to March 31, 2019 (hereinafter referred to as '**Investigation Period/IP'**) by employees / designated persons of TCL including Mr. Govind Narayan Gupta (hereinafter referred to as '**Noticee/by name'**). Pursuant to investigation, SEBI initiated adjudication proceedings against Noticee under the provisions of Section 15A(b) of Securities and Exchange Board of India Act, 1992 (hereinafter referred

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

APPOINTMENT OF ADJUDICATING OFFICER

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

SHOW CAUSE NOTICE, REPLY AND PERSONAL HEARING

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

5. The allegations levelled against Noticee in the SCN are as under:

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

Name of Noticee	**Total Traded Value (BSE+NSE) (in Rs.)**	**No. of occasions on which traded value exceeded Rs. 10 lakh**
	April – June 2018	
Mr. Govind Narayan Gupta	2,93,32,547	17

   b) It was observed from the table above that in the calendar quarter ending on June 2018, the total traded value of the securities traded by Noticee in the scrip of Titan was Rs 2,93,32,547/-. It was also observed that on 17 occasions in the aforesaid calendar quarter, Noticee's traded value of securities exceeded rupees ten lakhs. Therefore, for the aforesaid transactions, which were in excess of the limit specified in Regulation 7(2)(a) of PIT Regulations, Noticee was required to make disclosure in terms of the aforesaid regulation. In this regard, in reply to a query by SEBI, TCL vide email dated October 28, 2020, confirmed that it had not received any disclosures from Noticee.

c) In view of the above observations, it was alleged that Noticee has violated Regulation 7(2)(a) of PIT Regulations, on 17 occasions by not making disclosures as required in terms of aforesaid regulation.

6. The SCN was sent to Noticee through Speed Post Acknowledgement due (herein after referred to as '**SPAD**') on August 09, 2021, and digitally signed email dated August 12, 2021 and was duly served on Noticee. Noticee was given fourteen (14) days' time to make his submissions in respect of the allegations made in the SCN. Vide email dated August 21,2021, Noticee submitted his reply to the SCN.

7. Thereafter, in the interest of natural justice, vide hearing notice dated September 12, 2022, Noticee was granted an opportunity of personal hearing before the undersigned on September 27, 2022. The aforesaid hearing notice was sent to Noticee through SPAD and also through digitally signed email and was duly served upon him. Noticee appeared for hearing on the scheduled date and reiterated the submissions by him vide his earlier email. Due to difficulties in view of the Covid-19 pandemic, hearing was conducted through video conferencing.

8. The submissions by Noticee are summarized hereunder:-
    a. He was an executive of stone sourcing at Tanishq, Jaipur.
    b. He was not aware of insider trading norms.
    c. He has done trading without knowing that the company people should not trade in company stock and he was not having any price sensitive information while trading.
    d. He has accepted his mistake.

<u>CONSIDERATION OF ISSUES, EVIDENCE AND FINDINGS</u>

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

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

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

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

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

<u>Relevant provisions of PIT Regulations:</u>

Disclosures by certain persons.

7(2) continual disclosure.

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

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

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

Date	Segment	Buy Qty	Buy Value/Sum of Notional Day Buy Value (Rs.)	Sell Qty	Sell Value/Sum of Notional Day Sell Value (Rs.)	Gross Value/Gross Notional Value (Notional Day Buy Value + Notional Day Sell Value) (Rs.)	Cumulative Value (Rs.)
02-04-18	OPTSTK	1,500	14,72,400	1,500	14,75,475	29,47,875	29,47,875
03-04-18	OPTSTK	1,500	14,97,000	-	-	14,97,000	44,44,875
05-04-18	OPTSTK	1,500	14,39,100	1,500	14,43,000	28,82,100	73,26,975
06-04-18	OPTSTK	-	-	1,500	14,82,075	14,82,075	88,09,050
09-04-18	Cash	20	19,210	20	19,340	38,550	88,47,600
11-04-18	Cash	-	-	25	24,500	24,500	88,72,100
18-04-18	Cash	10	9,800	-	-	9,800	88,81,900
19-04-18	Cash	20	19,034	-	-	19,034	89,00,934
04-05-18	FUTSTK	750	7,22,400	-	-	7,22,400	96,23,334
07-05-18	FUTSTK	-	-	750	7,37,250	7,37,250	1,03,60,584
10-05-18	FUTSTK	750	7,32,300	750	7,36,500	14,68,800	1,18,29,384
11-05-18	FUTSTK	750	7,36,500	-	-	7,36,500	1,25,65,884
16-05-18	FUTSTK	750	6,97,650	750	7,04,775	14,02,425	1,39,68,309
17-05-18	FUTSTK	750	7,08,225	750	7,08,975	14,17,200	1,53,85,509
30-05-18	FUTSTK	750	6,81,750	750	6,89,025	13,70,775	1,67,56,284
31-05-18	FUTSTK	-	-	750	6,89,738	6,89,738	1,74,46,022
04-06-18	FUTSTK	750	6,75,525	750	6,67,613	13,43,138	1,87,89,159
05-06-18	FUTSTK	750	6,60,075	-	-	6,60,075	1,94,49,234
06-06-18	FUTSTK	-	-	750	6,70,500	6,70,500	2,01,19,734
08-06-18	FUTSTK	750	6,63,825	750	6,72,075	13,35,900	2,14,55,634
13-06-18	FUTSTK	750	6,87,450	750	6,90,263	13,77,713	2,28,33,347
19-06-18	FUTSTK	750	6,67,275	-	-	6,67,275	2,35,00,622
21-06-18	FUTSTK	-	-	750	6,51,000	6,51,000	2,41,51,622
22-06-18	FUTSTK	750	6,51,000	750	6,60,188	13,11,188	2,54,62,809
25-06-18	FUTSTK	750	6,55,875	-	-	6,55,875	2,61,18,684
26-06-18	FUTSTK	-	-	750	6,51,038	6,51,038	2,67,69,722
28-06-18	FUTSTK	1,500	12,75,000	750	6,39,825	19,14,825	2,86,84,547
29-06-18	FUTSTK	-	-	750	6,48,000	6,48,000	2,93,32,547

Date	Segment	Buy Qty	Buy Value/Sum of Notional Day Buy Value (Rs.)	Sell Qty	Sell Value/Sum of Notional Day Sell Value (Rs.)	Gross Value/Gross Notional Value (Notional Day Buy Value + Notional Day Sell Value) (Rs.)	Cumulative Value (Rs.)
Total		15,800	1,46,71,394	15,795	1,46,61,153	2,93,32,547	

12. From the above table, I note that during the quarter ended June 2018, the value of trades by Noticee in the securities of Titan on April 02, 2018, April 03, 2018, April 05, 2018 and April 06, 2018 amounted to Rs. 29,47,875/-, Rs. 14,97,000/-, Rs. 28,82,100/- and Rs. 14,82,075/- respectively. On perusal of trades of Noticee, I further note that from April 09, 2018 to May 07, 2018, on a cumulative basis, Noticee traded in the securities of Titan for a value of Rs.15,51,534/- on May 07, 2018. I also note that the value of trades by Noticee in the securities of Titan on May 10, 2018, May 16, 2018, May 17, 2018, May 30, 2018 and June 04, 2019 amounted to Rs. 14,68,800/-, Rs. 14,02,425/-, Rs. 14,17,200/-, Rs. 13,70,775/- and Rs. 13,43,138/- respectively. I note that from June 05, 2018 to June 06, 2018, on a cumulative basis, Noticee traded in the securities of Titan for a value of Rs.13,30,575/- on June 06, 2018. I note that the value of trades by Noticee in the securities of Titan on June 08, 2018 and June 13, 2018 amounted to Rs. 13,35,900/- and Rs. 13,77,713/- respectively. I note that from June 19, 2018 to June 21, 2018, on a cumulative basis, Noticee traded in the securities of Titan for a value of Rs.13,18,275/- on June 21, 2018. I note that the value of trades by Noticee in the securities of Titan on June 22, 2018 amounted to Rs. 13,11,188/-. I note that from June 25, 2018 to June 26, 2018, on a cumulative basis, Noticee traded in the securities of Titan for a value of Rs.13,06,913/- on June 26, 2018. I note that the value of trades by Noticee in the securities of Titan on June 28, 2018 amounted to Rs. 19,14,825/-.

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

14. In terms of the Regulation 7(2)(a) of PIT Regulations, Noticee, being an employee of the company, was required to make disclosures to Titan, for each of the aforesaid transactions within two (2) working days. However, there is no evidence available on record to show that Noticee had made any disclosures in terms of the aforesaid regulation for the above transactions. Further, from the available records, I note that Titan vide email dated October 28, 2020, has confirmed that it had not received any disclosures from Noticee.

15. In his submissions, Noticee has contended that he was not aware of insider trading norms. The statement that Noticee was ignorant of the regulatory provisions is not justified. As postulated by legal maxim "*ignorantia juris non excusat*", ignorance of law is no excuse and everyone is presumed to know the law of the land. A person cannot defend his illegal actions by stating that he was not aware his actions were illegal, even if he honestly believed that they were not breaking the law. Therefore, I do not find any merit in this contention of Noticee.

16. In his reply, Noticee has also contended that he has done trading without knowing that the company people should not trade in company stock and he was not having any price sensitive information while trading. I find that these submissions by Noticee are not relevant to the allegations of his failure to make requisite disclosures in terms of Regulation 7(2)(a) of PIT Regulations. In this regard, I note that in terms of Regulation 7(2)(a) of PIT Regulations, requisite disclosures are to be made based on every event of either acquisition or disposal of securities in excess of the limits specified therein in terms of number/value/percentage. In the instant matter, disclosure requirements in terms of Regulation 7(2)(a) of PIT Regulations were triggered because the total traded value of Noticee's transactions in the securities of Titan exceeded ten lakh rupees on the aforesaid seventeen occasions. Therefore, I am not inclined to consider this contention of Noticee**.** I also note from his submissions that he has accepted the default on his part.

17. In view of the above, I conclude that the allegation that Noticee has violated Regulation 7(2)(a) of PIT Regulations on seventeen (17) occasions, stands established.

<u>Issue No. 2- Does the violation attract monetary penalty under Section 15A (b) of SEBI Act?</u>

18. In this regard, I place reliance on the order of the Hon'ble SAT in the matter of Virendrakumar Jayantilal Patel vs. SEBI (Appeal No. 299 of 2014 order dated October 14, 2014), wherein Hon'ble SAT held that *"………. obligation to make disclosures within the stipulated time is a mandatory obligation and penalty is imposed for not complying with the mandatory obligation."*

19. I note that the Hon'ble Supreme Court of India in the matter of SEBI v/s Shri Ram Mutual Fund [2006] 68 SCL 216(SC) held that "*In our considered opinion, penalty is attracted as soon as the contravention of the statutory obligation as contemplated by the Act and the Regulations is established..….".*

20. Therefore, in view of the above judgments and considering that Noticee violated Regulation 7(2)(a) of PIT Regulations, as established in the foregoing paragraphs, I find that Noticee would be liable for monetary penalty under Section 15A (b) of the SEBI Act. The text of Section 15A(b) of the SEBI Act is reproduced below:

    <u>SEBI Act</u>

    Penalty for failure to furnish information, return, etc.

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

<u>Issue No.3 - What should be the quantum of monetary penalty</u>?

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

SEBI Act

Factors to be taken into account by the adjudicating officer.

Section 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.

Explanation*- For the removal of doubts, it is clarified that the power of an adjudicating officer to adjudge the quantum of penalty under sections 15A to 15E, clauses (b) and (c) of section 15F, 15G, 15H and 15HA shall be and shall always be deemed to have been exercised under the provisions of this section.*

22. In view of the charges established and the facts and circumstances of the case, the quantum of penalty would depend on the factors referred in Section 15-J of the SEBI Act, stated as above. 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 Noticee in making disclosures or the consequent loss caused to investors as a result of the default.

23. However, with respect to the disclosure violations by Noticee, I note that the purpose of these disclosures is to bring about transparency in the transactions of Directors/ Promoters/Acquirers/ employees and assist the Regulator to effectively monitor the transactions in the market. Hon'ble SAT in the case of **M/s. Coimbatore Flavors & Fragrances Ltd. & Ors vs SEBI (Appeal No. 209 of 2014 order dated August 11, 2014)**, has held that *"Undoubtedly, the purpose of these disclosures is to bring about more transparency in the affairs of the*

companies. True and timely disclosures by a company or its promoters are very essential from two angles. Firstly; investors can take a more informed decision to invest or not to invest in a particular scrip secondly; the Regulator can properly monitor the transactions in the capital market to effectively regulate the same." Hon'ble SAT, in the aforesaid order, has articulated the importance of true and timely disclosures. Further, I find that Noticee has violated the provisions of Regulation 7(2)(a) of PIT Regulations on seventeen (17) occasions and such repetitive nature of violation deserve a penalty which are commensurate with the gravity of violation.

ORDER

24. Having considered all the facts and circumstances of the case, the material available on record, the submissions made by Noticee and also the factors mentioned in Section 15J of the SEBI Act, as enumerated above, I, in exercise of the powers conferred upon me under Section 15-I of the SEBI Act read with Rule 5 of the Adjudication Rules, hereby impose a penalty of Rs. 1,25,000/-(Rupees One Lakh Twenty Five Thousand only) on Noticee i.e. Mr. Govind Narayan Gupta, under the provisions of Section 15A(b) of SEBI Act. I am of the view that the said penalty is commensurate with the lapse/omission on the part of Noticee.

25. Noticee shall remit / pay the said amount of penalty within 45 days of receipt of this order through online payment facility available on the website of SEBI, i.e., www.sebi.gov.in on the following path, by clicking on the payment link: ENFORCEMENT -> Orders -> Orders of AO -> PAY NOW. In case of any difficulties in payment of penalties, Noticee may contact the support at portalhelp@sebi.gov.in.

26. The said confirmation of e-payment made in the format as given in table below should be sent to "The Division Chief, EFD – DRA - I, Securities and Exchange Board of India, SEBI Bhavan, Plot no. C- 7, "G" Block, Bandra Kurla Complex, Bandra (E), Mumbai - 400 051" and also to e-mail id:- tad@sebi.gov.in

1. Case Name:	
2. Name of payee:	

3. Date of payment:	
4. Amount paid:	
5. Transaction no.:	
6. Bank details in which payment is made:	
7. Payment is made for: (like penalties/ disgorgement/ recovery/ settlement amount and legal charges along	

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

28. In terms of the provisions of Rule 6 of the Adjudication Rules, a copy of this order is being sent to Noticee viz. Mr. Govind Narayan Gupta and also to SEBI.

Place: Mumbai **SOMA MAJUMDER**

Date: September 29, 2022 **ADJUDICATING OFFICER**