BEFORE THE ADJUDICATING OFFICER
SECURITIES AND EXCHANGE BOARD OF INDIA

[ADJUDICATION ORDER/VV/AS/2021-22/13627]

UNDER SECTION 15-I OF THE SECURITIES AND EXCHANGE BOARD OF INDIA ACT, 1992.

In respect of:
Ms. Hayati Dharmesh Vala
(**PAN: AAEPP3771D**)
201/ 202, Acme Legacy,
Dadabhai Cross Road 3, Vile Parle West,
Mumbai – 400 056 (Maharashtra).

In the matter of Sabero Organics Gujarat Limited.

BACKGROUND

1. Sabero Organics Gujarat Limited (for convenience **"Sabero"** or **"Company"**) is a company listed on National Stock Exchange of India Ltd ("**NSE**") and Bombay Stock Exchange ("**BSE**"). On May 15, 2011, the representatives of the Company and Coromandel International Limited (hereinafter referred to as "**Coromandel**" or "**Acquirer**") including its Chairman, Mr. A. Vellayan ("**Vellayan**") attended a meeting, in order to discuss and negotiate the acquisition of the Company shares from its promoters, by Coromandel. On May 31, 2011, Coromandel informed NSE and BSE about the aforesaid acquisition of the Company shares from its promoters representing 42.22% of Sabero's equity at a price of Rs. 160 per share. Securities and Exchange Board of India ("**SEBI**") received certain complaints alleging that unpublished price sensitive information (hereinafter referred to as "**UPSI**") pertaining to the aforesaid acquisition of the shares of the Company by Coromandel was leaked to certain persons, who were allegedly acting in concert with the management of the Company and Coromandel to make unfair gains. Accordingly, SEBI conducted an investigation into the suspected insider trading in the scrip of the Company for the period May 15, 2011 to June 15, 2011 (hereinafter referred to as **"investigation period"**), wherever deemed necessary, reference has been made to outside this period.

2. Following was observed by the SEBI during the investigation period:

   a. The aforesaid information relating to the acquisition of the Company by Coromandel was deemed price sensitive information (hereinafter referred to as **"PSI"**) in terms of Regulation 2(ha)(v) of the SEBI (Prohibition of Insider Trading) Regulations, 1992 (hereinafter referred to as "**PIT Regulations**"). The PSI had come into existence on May 15, 2011. It is also observed that May 15, 2011 was a Sunday and a trading holiday. PSI was disseminated on National Stock Exchange of India Ltd (hereinafter referred to as "NSE") and Bombay Stock Exchange (hereinafter referred to as "BSE") on May 31, 2011 before the market trading hours. The period during which PSI coming into existence till it is made public is considered as **UPSI period** (*i.e. from May 15, 2011 to May 30, 2011*) and the subsequent period from UPSI becoming public till the end of Investigation Period is considered as the **post–UPSI period** (*i.e. May 31, 2011 to June 15, 2011*).

   b. The Price volume analysis of Sabero at NSE during the relevant period is as under:

Table 1

Period	**Dates**		**Opening price & volume on first day of the period**	**Closing price & volume on last day of the period**	**Low price & volume during the period**	**High price & volume during the period**	**Daily average no. of shares traded during the period**
Pre-investigation (3 months)	February 15, 2011 to May 14, 2011	**Price**	42.10	57.80	35.20	63.10	97071
		Volume	67329	40568	7822	1089591	
During Investigation - UPSI	May 15, 2011 to May 30, 2011	**Price**	58.50	89.40	55.25	93.25	2175620
		Volume	1284236	1209838	457910	5664699	
During Investigation - On the day of announcement	May 31, 2011	**Price**	90.80	98.35	90.35	98.35	700201
		Volume	700201	700201	700201	700201	
During Investigation - Post UPSI	June 01, 2011 to June 15, 2011	**Price**	108.20	126.45	108.20	130.90	586066
		Volume	28126	169029	28126	3268491	
Post-investigation (3 months)	June 16, 2011 to September 15, 2011	**Price**	126.00	121.50	115.20	133.95	83043
		Volume	40106	8089	1952	3209734	

c. Regarding the price and volume of the Company following was observed during the investigation period:

i. The price of Sabero scrip increased from Rs 58.50 to Rs 126.45 (i.e. an increase of 116%) on NSE, whereas, at same time NIFTY decreased from 5499 points to 5447 points (i.e. decrease of 0.03%.)

ii. The price and volume of Sabero scrip at NSE rise by 145% and 1,323%, respectively, on the first day of UPSI period (i.e. May 16, 2011) compared to its daily average closing price and daily average trading volume in a period three months prior to the UPSI period. Similar trends were also observed in price and volume of Sabero scrip at BSE.

d. From the Financial results of the Company, it was observed that its profit has decreased from Rs. 38.66 Crores in 2009-10 to Rs. 10.58 Crores in 2010-11 i.e. a decrease of 72.63%. The results of the Company for the financial year 2010-11 and 2009-10 are as under:

Table 2

Particulars	**FY 2010-2011**	**FY 2009-10**
Total Income (Rs. in Crores)	419.51	434.08
Net profit (Rs. in Crores)	10.58	38.66
Basic Earnings Per Share (in Rs.)	3.14	13.16

e. The quarterly results for the quarter ending December 31, 2010 was announced on February 14, 2011 which showed that Sabero's profit has fallen from Rs. 10.97 Crores in Dec 2009 quarter to Rs. 1.02 Crores in December 2010 quarter i.e. by 90.70%. Details are as under:

Table 3

Particulars	**Quarter ending**		**Nine Months ending**	
	Dec 31, 2010	**Dec 31, 2009**	**Dec 31, 2010**	**Dec 31, 2009**
Total Income (Rs. in Crores)	93.91	109.73	326.39	336.34
Net profit (Rs. in Crores)	1.02	10.97	18.05	30.94
Basic Earnings Per Share (in Rs.)	0.30	3.76	5.51	10.60

f. It was observed from the Know Your Client ("KYC") and Ministry of Corporate Affairs ("MCA") details that Mr. Nayan M Vala is the director of Valsons Securities Ltd (hereinafter referred to as "Valsons") and Ms. Hayati Dharmesh Vala (hereinafter referred to as “**Noticee**”) is his daughter-in-law and Valsons and the Noticee, both have traded in the scrip of the Company during relevant period.

3. It was observed during the investigation that the Noticee had traded in the scrip of Sabero during the relevant period. Accordingly, an analysis of the trading activities of the Noticee in the scrip of Sabero had been carried out and following was observed:

    a. The details of trading by the Noticee in the scrip of Sabero is as follows:

Table 4

Period	Date	Purchase Quantity	Sell Quantity	Purchase Value	Sell Value	Average Purchase Price	Average Sell Price
UPSI	19-May-11	12000	0	958469	0	79.87	-
	20-May-11	3000	0	244578	0	81.53	-
	23-May-11	6000	0	499620	0	83.27	-
	24-May-11	3000	3000	273258	259535	91.09	86.51
	30-May-11	12300	3300	938097	288262	76.27	87.35
UPSI Total		**36300**	**6300**	**2914021**	**547797**	**80.28**	**86.95**
Post-UPSI period till March 31, 2012 Total	03-Jun-11	**0**	**30000**	**0**	**3747000**	**-**	**124.90**
Grand Total		**36300**	**36300**	**2914021**	**4294797**	**80.28**	**118.31**

Table 5 (Amount Rs in Lakhs)

Period	Purchase value			Sell Value			Gross Traded Value		
	Total	Sabero	%	Total	Sabero	%	Total	Sabero	%
Pre-UPSI from April 01, 2009	117	-	0%	124	-	0%	241	-	0%
During UPSI	29	29	100%	5	5	100%	35	35	100%
Post-UPSI Period till March 31, 2012	140	-	0%	152	37	25%	291	37	13%
Total	**285**	**29**	**10%**	**281**	**43**	**15%**	**567**	**72**	**13%**

    b. From the above table 4, it was observed that the Noticee had not traded in the scrip of the Company during pre-UPSI period from April 01, 2009. It was alleged that, during UPSI period the Noticee had bought and sold the shares of the Company worth Rs 35 Lakh and had not traded in any other scrip during the UPSI period across the market. Thus, during the UPSI period the Noticee’s buy concentration was 100% in the scrip of the Company. Later on, during post UPSI period i.e. on June 03, 2011, the Noticee sold balance 30,000 shares of the Company worth Rs 30 Lakh.

c. It was observed that the Noticee has started trading in scrip of Sabero on May 30, 2011. Further, the Noticee has bought and sold the shares of Sabero within a short period of time i.e. between May 19, 2011 to June 03, 2011 and made following profit while trading in the scrip of Sabero during the UPSI period:

Table 6 (All price in Rs)

Start date of trading in Sabero during UPSI period	**During UPSI period (May 15 to May 30, 2011)**				**Post UPSI period till March 31, 2012**				**Profit (in Rs. Crores)**
	Buy Quantity	**Sell Quantity**	**Avg Buy Price**	**Avg Sell Price**	**Buy Quantity**	**Sell Quantity**	**Avg Buy Price**	**Avg Sell Price**	
	A	**B**	**C**	**D**	**E**	**F**	**G**	**H**	
19-May-11	36,300.00	6,300.00	80.28	86.95	-	30,000.00	-	124.90	0.13

d. The profit has been calculated by the following method:

i. **<u>When the Buy Quantity during UPSI period is less than or equal to sell quantity post UPSI period, then the profit made is</u>**

{Average Sell Price post UPSI period (H) - Average Buy Price during UPSI period (C)} * Buy Quantity during UPSI period (A).

> i.e. When A <= F; Profit I = (H - C) * A
>
> I – Profit; F - sell quantity post UPSI period.

ii. **<u>When Buy Quantity during UPSI period is greater than the sell quantity post UPSI period, then the profit made is</u>**

[{(Average Sell Price post UPSI period (H) - Average Buy Price during UPSI period (C)) * Sell Quantity post UPSI period till March 31, 2012 (F)}

plus

{(Closing Price on the last day of Investigation Period - Average Buy Price during UPSI(C)) * Unsold Quantity}]

> i.e. When A > F; Profit I =[{ (H - C) * F } + {(126.45 - C)* (A – (B + F) }]
> *Unsold Quantity = Buy Quantity during UPSI period (A) - (Sell Quantity during UPSI period (B) and post UPSI period till March 31, 2012 (F))*

iii. It was observed that closing price on the last day of investigation period at NSE was Rs. 126.45.

e. Statement of the Noticee was recorded on November 24, 2016 by the investigation department, wherein, she stated that her husband Mr. Dharmesh Vala had executed all the trades in her account. Further, Mr. Dharmesh Vala statement was recorded and during statement recording of Mr. Vala on November 22, 2016, he stated that '*he is a Chartered Accountant and director of the Nayan M Vala Securities Pvt Ltd. He knows Mr. VIkram Jain and Mr. Samir Shah, who were privy to UPSI (Insiders), since both are clients of Nanyan M Vala Securities and he did not know any other person*'. Since Mr. Vala knew Mr. Vikram Jain and Mr. Samir Shah, statements of Mr. Jain and Mr. Shah were recorded on December 02, 2016. Mr. Shah stated that '*he was not part of the acquisition deal, however, he was aware of the transaction, as it was being done through the firm he was employed with i.e. SSPA & Company. Further, he has neither passed on or revealed about UPSI to any entity, nor transferred funds to anyone to trade in the scrip of the Company*'. Mr. Jain stated that '*he was part of the acquisition deal and involved in valuation from the side of Coromandel. He knows Hayati, since Dharmesh Vala is his broker, however, he had neither shared any details about acquisition with anyone, nor transferred funds to anyone to trade in the scrip of the Company*'.

4. In view of above and after considering the timing and trading pattern of the Noticee and adjoining events, it was alleged that the Noticee was having access to UPSI and thus, she was an "insider" in terms of Regulation 2(e) of the PIT Regulations. It was further alleged that her trading in the scrip of Sabero was done while in possession of UPSI and therefore, her act is allegedly "insider trading" and thus, the Noticee has violated provisions of Sections 12A (d) and (e) of the SEBI Act read with Regulations 3(i) & 4 of the PIT Regulations.

5. In view of above and on being *prima facie* satisfied that there are sufficient grounds to inquire and adjudicate aforesaid alleged violations of the provisions of the SEBI Act read with PIT Regulations by the Noticee, SEBI vide a *communication - order* dated October 23, 2017, appointed Shri Sahil Malik ('**erstwhile AO**'), under section 15I of the SEBI Act as adjudicating officer under Rule 3 of the SEBI (Procedure for Holding Inquiry and Imposing

Penalties by Adjudicating Officer) Rules, 1995 (hereinafter referred to as 'Adjudication Rules'), to inquire and adjudge the Noticee, under Section 15G of the SEBI Act.

6. Accordingly, in terms of Rule 4(1) of the SEBI Adjudication Rules read with section 15I of the SEBI Act, the notice to show cause no. SEBI/EAD-9/SM/EE/30796/2018 dated November 06, 2018 (hereinafter referred as 'SCN') was issued to the Noticee by the erstwhile AO, calling upon it to show cause as to why an inquiry should not be held against it in terms of Rule 4 of the Adjudication Rules and penalty be not imposed under Section 15G of the SEBI Act for the aforesaid alleged violations of the provisions the SEBI Act read with PIT Regulations by the Noticee.

7. The SCN was duly served upon the Noticee *via* Speed Post on November 12, 2018. Vide letter dated November 27, 2018, the Noticee requested for extension of 15 days. Thereafter, vide letter dated December 11, 2018, the Noticee requested for opportunity of personal hearing to it. Subsequently, vide undated letter received on December 31, 2018, the Noticee had appointed Mr. Babasaheb Ghorpade, Advocate as its legal authorised representative ("AR") to act, appear, represent and plead on behalf of the Noticee and sought the inspection of the documents, files, noting's, inspection reports, statements, etc. Accordingly, vide e-mail dated January 18, 2021, the AR was requested to specify in detail the requisite documents desired by the Noticee for inspection. However, no response was received from the AR or the Noticee w.r.t. aforesaid e-mail dated January 18, 2021.

8. Accordingly, in terms of Rule 4(3) of the Adjudication Rules and the principle of natural justice, the erstwhile AO granted hearing to the Noticee on July 15, 2019, however, the scheduled hearing was postponed for further date. Subsequently, pursuant to the transfer of erstwhile AO, the undersigned has been appointed as Adjudicating Officer vide communication order dated August 13, 2019 and this case has been transferred to the undersigned.

9. Considering that no reply has been received from the Noticee on record, the Noticee was granted opportunity to file its reply, if any, in the matter. After seeking extensions, vide letter dated August 19, 2021, the Noticee stated that, she denies the allegations/ accusations made in the SCN regarding insider trading by it. She further stated that, she had made detailed

submissions before Ld. Whole Time Member ("WTM") of SEBI, vide letter dated May 31, 2019 during parallel 11B proceedings on identical facts and subject matter. Ld. WTM had passed an order dated April 19, 2021 and dropped all the charges against the Noticee. Accordingly, the Noticee pleaded that, in light of the above facts and circumstances, the violations alleged against the Noticee in the SCN may be dropped and no adverse actions be taken against her in the instant proceedings.

10. I am of a view that, before dealing with the issues involved in the matter, it would be appropriate to refer to the provisions of laws which have been alleged to have been violated by the Noticees and the relevant extracts of the same are reproduced below:

SEBI Act, 1992

Prohibition Of Manipulative And Deceptive Devices, Insider Trading And Substantial Acquisition Of Securities Or Control Prohibition Of Manipulative And Deceptive Devices, Insider Trading And Substantial Acquisition Of Securities Or Control.

12A. *No person shall directly or indirectly—*

(d) engage in insider trading;

(e) deal in securities while in possession of material or non-public information or communicate such material or non-public information to any other person, in a manner which is in contravention of the provisions of this Act or the rules or the regulations made thereunder;

PIT Regulations, 1992

Prohibition on dealing, communicating or counselling on matters relating to insider trading.

3*. No insider shall—*
(i) either on his own behalf or on behalf of any other person, deal in securities of a company listed on any stock exchange when in possession of any unpublished price sensitive information

Violation of provisions relating to insider trading.
4. *Any insider who deals in securities in contravention of the provisions of regulation shall be guilty of insider trading.*

11. I have considered the allegation levelled in the terms of reference, the relevant material brought on record and reply/ submissions of the Noticees made before Ld. WTM. I have further taken note of the parallel 11B proceedings before Ld. WTM of SEBI on identical issues and subject matter and Ld. WTM order dated April 19, 2021 on the same. From the available records, I note that an investigation ("**First Investigation**") was conducted by SEBI in the scrip of Sabero and 4 suspected entities *viz.* Mr. Vellayan, Mr. Murugappan, Mr. Gopalakrishnan C and V. Karuppiah–HUF were noticed to have allegedly acted in contravention of the provisions of the SEBI Act read with the PIT Regulations, 1992. Accordingly, *vide* Interim Order dated May 21, 2015 (hereinafter referred to as "**Interim Order**"), SEBI issued directions against the aforesaid 4 entities to impound the unlawful gains earned by them. Thereafter, the aforementioned entities filed their responses and submissions in their defense. Subsequently, SEBI *vide* order dated May 12, 2016 (hereinafter referred to as "**2016 Order**") set aside the directions issued *vide* the Interim Order and ordered for a re-investigation into the matter relating to trading in the scrip of Sabero during the relevant period. The relevant extract of the operating portion of the *2016 Order*, whereby re-investigation was directed by the Competent Authority are reproduced hereunder: -

> *"10.9.3 I am therefore of the considered view that unless the investigation dwells deeper and brings out the truth in respect of all the entities, many of the perpetrators of the insider trading in this case may remain undetected forever. It is in the interests of investors that all the perpetrators of insider trading in this case are brought to book and sternly dealt with. As more material facts need to be unearthed to arrive at a clear finding in the matter, I am of the view that this is the fit case of re- investigation and SEBI should employ all the investigative powers entrusted to it to unearth the entire truth and to find out the role of each of the suspected entities vis a vis the persons/entities privy to the UPSI including the Noticees herein. Some contentions have been raised by the Noticees-it is necessary that these questions are addressed. The Investigating Authority shall be at liberty to look into all aspects of the impugned transactions including as to whether any of the other 'insiders' have supplied the UPSI to the entities who traded in the scrip of Sabero on the basis of such information."*

12. Subsequent to aforesaid 2016 order, SEBI conducted re-investigation in the matter to ascertain whether certain entities had traded in the scrip of Sabero during the period May 15, 2011 to June 15, 2011 on the basis of UPSI, which could be in contravention of the provisions of the SEBI Act, 1992 read with the PIT Regulations, 1992.

13. I note that, primarily it has been alleged that the Noticee was in possession of UPSI and it dealt in scrip of Sabero when in possession of said UPSI and thus, violated the provisions of Sections 12A(d) and (e) of the SEBI Act, 1992 read with Regulations 3(i) and 4 of the PIT Regulations, 1992. Considering the aforesaid charges against the Noticee, in my opinion following are the issues need to be determined to press upon the said charges against the Noticee in the instant proceedings:

   A. Whether there was price sensitive information in the scrip of Sabero in terms of Regulation 2(ha)(v) of PIT Regulations which was unpublished?

   B. If answer to (A) is yes, whether, the Noticee had traded in the scrip of Sabero during UPSI period?

   C. If answer to (B) is yes, whether the Noticee had traded in the shares of Sabero while in possession of unpublished price sensitive information so as to be in violation of provisions of the PIT Regulations?

   D. If answer to (C) is yes, whether the Noticee had made any wrongful gains while trading in the shares of Sabero?

A. Whether there was price sensitive information in the scrip of Sabero in in terms of Regulation 2(ha)(v) of SEBI PIT Regulations, 1992 which was unpublished?

14. The first question that arises is whether there was a PSI in the scrip of Sabero during the Investigation Period, as envisaged in Regulation 2(ha) of the PIT Regulations, which was likely to materially affect the price of the scrip of Sabero. The definition of the term '*price sensitive information*' is reproduced herein below:

    "*(ha) "price sensitive information" means any information which relates directly or indirectly to a company and which if published is likely to materially affect the price of securities of company.*
    Explanation. —The following shall be deemed to be price sensitive information: —
    (i) periodical financial results of the company;
    (ii) intended declaration of dividends (both interim and final);
    (iii) issue of securities or buy-back of securities;
    (iv) any major expansion plans or execution of new projects.

(v) *amalgamation, mergers or takeovers;* (**Emphasis supplied**)

(vi) *disposal of the whole or substantial part of the undertaking;*

(vii) *and significant changes in policies, plans or operations of the company;*"

15. In terms of aforementioned definition, I note that Regulation 2(ha) of the PIT Regulations defines as to what constitutes a PSI. In terms of the said regulation, PSI means any information, which relates directly or indirectly to a company and which, if published is likely to materially affect the price of the securities of a company. The definition also provides an explanation incorporating therein various instances which shall be deemed to be PSI which include *inter alia*, "*amalgamations, mergers or takeovers*" of a company as one of such instances of PSI. Therefore, in terms of the aforementioned clause (v) of the explanation to regulation 2(ha) of the PIT Regulations, the information pertaining to acquisition of shares owned by the promoters of a company connected with takeover of the said company shall be deemed to be PSI. In this regard, I note from the records that the representatives of Coromandel and Sabero had a meeting on May 15, 2011, to discuss and negotiate the acquisition of promoters' stake in Sabero by Coromandel and pursuant to the said meeting, on that day itself, the Acquirer i.e. Coromandel had appointed legal as well as financial advisers to explore and work out the modalities for the proposed acquisition of promoters' shares in Sabero. As noted above, as per the PIT Regulations, any information / news about the mergers and acquisitions or takeovers of a company is deemed to be a price sensitive information. Considering the aforesaid facts and circumstances and definition provided above, I am of the opinion that the aforesaid information relating the acquisition of shares of Sabero by Coromandel was a price sensitive information.

B. If answer to (A) is yes, whether the Noticee had traded in the shares of Sabero during UPSI period?

16. As found that the information pertaining to the proposed acquisition of shares of promoters of Sabero by Coromandel was indeed a 'price sensitive information' in terms of regulation 2(ha) of the PIT Regulations, it is to be ascertain as to whether the Noticee had traded in the scrip of Sabero during the UPSI period. The PSI regarding the acquisition of shares of Sabero by Coromandel effectively came into existence on May 15, 2011, when the representatives of

Coromandel and Sabero attended the aforesaid meeting, wherein a decision to appoint legal and financial advisers was also taken, and these undisputed facts provide adequate indication with respect to the of commencement of the said PSI with effect from May 15, 2011. The said PSI remained unpublished till it was announced to the public through the Stock Exchanges before opening of market hours on May 31, 2011. The pre-announcement period (UPSI period) i.e. the period from May 15, 2011 to May 30, 2011, therefore becomes the period when the PSI was not in the public domain. In this regard, I note from above Table No. 4 and 5 that the Noticee had traded in the scrip of Sabero during the said UPSI period. Further, it is a matter of record that the Noticee has not disputed its trades in the shares of Sabero during the Investigation Period, which includes the UPSI Period, as alleged in the SCN. Therefore, it is an admitted fact that the Noticee had traded in the scrip of Sabero during the UPSI period.

C. If answer to (B) is yes, whether the Noticee was an insider or had traded in the shares of Sabero while in possession or on the basis of unpublished price sensitive information in violation of provisions of the PIT Regulations?

17. In view of above, it has been established that there was a PSI during May 15, 2011 to May 31, 2011 and during the said period it remained unpublished and the Noticee have traded in the scrip of Sabero during the said UPSI period. Now the issue before me is to determine whether the Noticee was an insider and, whether it had traded in the scrip of Sabero, while in possession of or on the basis of said UPSI. In this regard, I note from the records available before me that Sabero had made certain corporate announcements prior to the Investigation Period i.e. from September 01, 2010 to May 14, 2011. Those announcements along with the price data for the scrip of the Company prior to and after the aforementioned announcements, along with the date and time of dissemination of the same by NSE on its website, are presented in the following table:

Table - 7: Details of Corporate Announcements by Sabero

Date & Time of Publishing the announcement on NSE	Corporate Announcement	Impact of the announcement Price & Volume (on NSE)			
		Date	**Open Price (₹)**	**Close Price (₹)**	**Traded Quantity**
September 13, 2010 @14:59	Sabero has informed BSE regarding a Press Release dated September 13, 2010 titled "Sabero Organics receives registration for Glyphosate in France and Mancozeb in Brazil"	08-Sep-10	74.50	72.60	86350
		09-Sep-10	73.40	73.60	184042
		13-Sep-10	**75.45**	**74.60**	**196381**
		14-Sep-10	75.95	73.70	241546
		15-Sep-10	74.00	74.15	109412
		From the table, it can be observed that the price on day of announcement has fallen from ₹75.45 to 74.60.			
		Date	**Open Price (₹)**	**Close Price (₹)**	**Traded Quantity**
September 28, 2010 @14:13	Sabero has informed BSE that the shareholders at the 19th Annual General Meeting (AGM) of the Company held on September 28, 2010, inter alia, have approved the resolutions for adoption of audited accounts for the financial year ended March 31, 2010, declaration of 12% dividend along with other appointment and reappointment of directors.	24-Sep-10	69.00	70.90	45661
		27-Sep-10	72.30	70.50	41939
		28-Sep-10	**70.75**	**72.55**	**141395**
		29-Sep-10	73.80	69.95	122633
		30-Sep-10	69.90	69.95	29199
		From the table, it can be observed that the price on the day of announcement has increased from ₹70.75 to 72.55. However, the same has been fallen down to 69.65 on next day of the announcement.			
		Date	**Open Price (₹)**	**Close Price (₹)**	**Traded Quantity**
November 19, 2010 @15:55	Sabero has informed BSE that the auditors have conducted the limited review of the unaudited financial results for the quarter ended September 30, 2010.	16-Nov-10	66.00	64.40	47317
		18-Nov-10	64.25	63.15	50577
		19-Nov-10	**64.00**	**60.95**	**56869**
		22-Nov-10	61.00	60.95	56448
		23-Nov-10	61.90	59.75	63461

<table>
<tr><td></td><td></td><td>From the table, it can be observed that the price on t day of announcement has fallen from ₹64.00 to 60.95</td></tr>
<tr><td>February 14, 2011 @16:13</td><td>Sabero has informed BSE about the Financial</td><td><table><tr><th>Date</th><th>Open Price (₹)</th><th>Close Price (₹)</th><th>Traded Quantity</th></tr></table></td></tr>
<tr><th>Date & Time of Publishing the announcement on NSE</th><th>Corporate Announcement</th><th>Impact of the announcement Price & Volume (on NSE)</th></tr>
<tr><td></td><td>Results for the Quarter ended December 31, 2010.</td><td><table>
<tr><td>10-Feb-11</td><td>41.50</td><td>40.25</td><td>44358</td></tr>
<tr><td>11-Feb-11</td><td>41.00</td><td>42.05</td><td>18685</td></tr>
<tr><td>14-Feb-11</td><td>44.70</td><td>45.50</td><td>37414</td></tr>
<tr><td>15-Feb-11</td><td>42.10</td><td>41.90</td><td>67329</td></tr>
<tr><td>16-Feb-11</td><td>42.10</td><td>42.45</td><td>25615</td></tr>
</table>
From the table, it can be observed that the price on the day of announcement has increased from ₹44.70 to 45.50. However, the same has been fallen down to 41 on next day of the announcement.</td></tr>
<tr><td>February 24, 2011 @18:46</td><td>Sabero has informed BSE that the auditors have conducted the limited review of the unaudited financial results for the quarter ended December 31, 2010.</td><td><table>
<tr><th>Date</th><th>Open Price (₹)</th><th>Close Price (₹)</th><th>Traded Quantity</th></tr>
<tr><td>22-Feb-11</td><td>41.45</td><td>40.10</td><td>25820</td></tr>
<tr><td>23-Feb-11</td><td>40.35</td><td>38.80</td><td>46943</td></tr>
<tr><td>24-Feb-11</td><td>39.10</td><td>38.50</td><td>53119</td></tr>
<tr><td>25-Feb-11</td><td>38.55</td><td>39.85</td><td>25348</td></tr>
<tr><td>28-Feb-11</td><td>40.60</td><td>39.75</td><td>25837</td></tr>
</table>
From the table, it can be observed that the price on the day of announcement has fallen from ₹39.10 to 38.50.</td></tr>
<tr><td>April 29, 2011 @11:12</td><td>Sabero has informed BSE that the Company proposes to publish Audited Financial Results for the year ended March 31, 2011 within 60 days from</td><td><table>
<tr><th>Date</th><th>Open Price (₹)</th><th>Close Price (₹)</th><th>Total Traded Quantity</th></tr>
<tr><td>27-Apr-11</td><td>57.50</td><td>55.85</td><td>27095</td></tr>
<tr><td>28-Apr-11</td><td>56.00</td><td>55.95</td><td>24649</td></tr>
<tr><td>29-Apr-11</td><td>56.75</td><td>56.10</td><td>22910</td></tr>
</table></td></tr>
</table>

<table>
<tr>
<td></td>
<td>the Financial Year ended March 31, 2011 i.e. on or before May 30, 2011.</td>
<td>
<table>
<tr><td>02-May-11</td><td>56.45</td><td>56.00</td><td>28955</td></tr>
<tr><td>03-May-11</td><td>56.10</td><td>55.95</td><td>39155</td></tr>
</table>
From the table, it can be observed that the price on the day of announcement has fallen from ₹56.75 to ₹56.10.
</td>
</tr>
</table>

18. In view of above Table 7, I note that there was not substantial movement in the price or volume of the scrip of Sabero on account of any of the aforesaid corporate announcements made during the aforesaid period, which can be claimed to have induced the Noticee to trade in Sabero during the UPSI period. Further, the Noticee had not produced any document including its trade details to substantiate its claim of having traded under positive influence of the above listed corporate announcements. It is further observed that out of the 6 corporate announcements made during September 01, 2010 to May 14, 2011, only one announcement made on September 13, 2010 pertained to the expansion of the Company. Therefore, the Noticee has failed to produce any evidence to demonstrate and substantiate the claim to had traded after being induced by these corporate announcements.

19. I note that, in terms of Regulation 2 (e) of the PIT Regulations, an "*insider*" is a person, who (i) is or was connected with the company or is deemed to have been connected with the company and is reasonably expected to have access to *unpublished price sensitive information* in respect of securities of a company, or (ii) has received or has had access to such *unpublished price sensitive information*. Further, in terms of Regulation 2 (c) of the PIT Regulations, a person is termed as "*connected person*", if he/ she (i) is a director, as defined in clause (13) of section 2 of the Companies Act, 1956 (1 of 1956), of a company, or is deemed to be a director of that company by virtue of sub-clause (10) of section 307 of that Act; or (ii) occupies the position as an officer or an employee of the company or holds a position involving a professional or business relationship between himself and the company [*whether temporary or permanent*] and who may reasonably be expected to have an access to *unpublished price sensitive information* in relation to that company. In view of same, I note that Regulation 2(c) defines a "*connected person*", *inter alia,* to mean any person who occupies the position as an officer or an employee of the company or holds a position involving a professional or business relationship between himself and the company, whether temporary or permanent, and who may reasonably be expected to have an access to UPSI in relation to that company. Further, Regulation 2(e) of

the PIT Regulations, defines "*insider*" as any person who is or was connected with the company or is deemed to have been connected with the company, and who is reasonably expected to have access to UPSI in respect of securities of a company, or who has received or has had access to such unpublished price sensitive information.

20. I note that, in the instant proceedings, the SCN which was served upon the Noticee, pursuant to the completion of the investigation, do not contain any evidence, which can even remotely indicate that the Noticee was holding the position of Director or employee / officer either with the Sabero or Coromandel or were enjoying any connection in any form whatsoever with any of the above noted companies or with Directors/ Officers of the aforesaid two companies. I have also taken note of the fact that the Noticee has not been alleged to have any association or connection with or having any professional or business relationship either with the Sabero or with the Coromandel, nor any documents have been brought to my notice which can suggest that the relevant PSI was communicated to the Noticee during the UPSI period or it received or got to possess the PSI by any means whatsoever. In view of the aforesaid and from the materials available on record, I am bound to opine that the Noticee was not having any connection/relation/association either with the Sabero or with the Coromandel. Therefore, considering the aforesaid facts and circumstances and the materials on record, I am of the opinion that the Noticee cannot be held to be a connected person within the ambit of Regulation 2 (1) (c) of the PIT Regulations.

21. In continuation of above, I further note that the present proceedings are civil in nature and the charges are required to be proved on the principle of preponderance of probability. So, in the facts of the present case, even in the absence of any evidence of direct or actual receipt of the UPSI by the Noticee, it has to be examined as to whether the attending facts and circumstantial evidences are so strong so as to guide a person of ordinary prudence, following a logical process of reasoning from the totality of the circumstances, to an irresistible inference that the trades of the Noticee were nothing but *based on or while in possessions of UPSI*. Such an inference has to also stand the scrutiny of a proceedings against an entity, who may not enjoy any connection with the company nor there is any documentary/oral evidence to substantiate actual receipt of or access to UPSI by such entity, but the circumstantial evidences against such entity would have to so strong so as to suggest conclusively that its trades were

influenced by the access to or receipt or possession of UPSI. Hon'ble Supreme Court in *SEBI vs. Kanhaiyalal Patel* has rightly held that an inferential conclusion from proved and admitted facts would be permissible and legally justified so long as the same is reasonable. In support of the above view, I also rely on the observations made by the Hon'ble SAT in the case of *Rajiv B. Gandhi, vs. SEBI* (Appeal Number 50 of 2007): "…. *Insider is a person who is or was connected with the company and who is reasonably expected to have access by virtue of such connection to unpublished price sensitive information in respect of securities of the company. A person who has received such information or has had access to such information is also an insider."*

22. In furtherance the aforesaid argument, I note that the SCN issued in the instant matter has proceeded on the premise that the Noticee had traded in the scrip of Sabero during the UPSI period and was further seen to have sold shares after the disclosure of the said PSI. Thus, *prima facie*, the unusual coincidences of certain acts, *viz*. buying of Sabero shares during the *UPSI* period and selling the shares after the said PSI was disseminated through the stock exchanges were viewed as the prime reasons to presume that the Noticee despite being not connected with the two companies (Sabero and Coromandel) in any manner, have traded in the scrip of Sabero and those occasional trading indicated to be influenced by the possession of UPSI. At the same time, admittedly, it is not in dispute that the SCN do not make any allegations against the Noticee being connected person or have acted in concert to trade in the shares of Sabero while in possession of UPSI. Thus, it is fact on record that the Noticee was neither having any connection with the two companies involved in the creation of the said UPSI nor was sharing any *inter se* connection and its trading in the scrip of Sabero was an independent trading activity. The Noticee is rather charged being insider solely on the premise of its purportedly unusual trading behaviour in the scrip of Sabero during the UPSI period and after the disclosure of the PSI.

23. I further note that there are certain undisputed facts in this matter which have to be confronted for the purpose of adjudication of the question as to whether or not, the Noticee had indulged in insider trading in the instant proceedings. As already specified above, from a perusal of the factual narrations made in the SCN issued to the Noticee, it is clear that the SCN nowhere narrate or allege about any *inter-connectedness*. The absence of any evidence to suggest any *inter connectedness* or any connection between the Noticee and Sabero or

Coromandel or with any other entity. In view of aforesaid facts and attendant circumstances, I find that the circumstantial evidence adduced in the SCN may not be strong enough to establish that the Noticee was indeed in possession of or had access to the UPSI of the Company when it was engaged in trading in the scrip of Sabero.

24. I further note that, vide *Interim order*, proceedings were initiated only against certain limited number of entities and the Noticee in the instant proceedings were not part of the action initiated by SEBI vide the above noted *Interim order*. There is also no denial to the fact that the findings recorded in the *Interim Order* against certain entities were recalled on the ground that evidences available on record were not sufficient to establish the charge of insider trading against them and therefore, vide its order dated May 12, 2016, while ordering re-investigation, it was directed to bring more evidence so that the charge of insider could be sustained. I also note that, while ordering for a re-investigation, it has been categorically observed in the 2016 Order that proceeding merely on the basis of available but inadequate evidence on record, without support of any collateral material to arrive at conclusive finding, may not be just and reasonable to state that there was a communication of UPSI from Gopalakrishnan to Karuppiah. Therefore, in the said *2016 Order*, it was specifically ordered by the Competent Authority that a deeper examination is warranted so as to come to a better finding supported by sufficient evidence, so that the charge of insider trading could sustain. I further note that the said order of May 12, 2016 goes on to record that *"I am of the view that this is the fit case of re-investigation and SEBI should employ all the investigative powers entrusted to it to unearth the entire truth and to find out the role of each of the suspected entities vis-a-vis the persons/entities privy to the UPSI including the Noticees herein."*

25. In view of the above, one can observe that the material and evidence available on record at that point of time were not seen as sufficient enough to establish the charge of communication of UPSI upon the *Noticees* and trading based on such alleged communication. Accordingly, it was ordered to have a detailed and deeper investigation to unearth the actual truth pertaining to communication of UPSI and trading done by such unscrupulous entities, who gained undue advantage by having access to or receipt of the UPSI. I have taken note that no proceedings were initiated against the Noticee based on the materials and outcome of the *First Investigation*. I have also recorded above that the SCN in the matter have made no allegations that the

Noticee were ever connected to any of the two companies. The SCN further make no assertion about the communication of the UPSI to the Noticee herein and rather the present proceedings have proceeded on the premise of the Noticee having followed an unusual trading pattern so far as the scrip of Sabero is concerned.

26. Further, one cannot lose sight of the fact that it has already been held in the *2016 Order* that the materials collected during the course of *First Investigation* were not adequate enough to lead to a reasonable conclusion that the suspected entities were connected to the persons who were privy to the UPSI. Therefore, the Competent Authority had consciously directed for a detailed re-investigation into the case. However, the Noticee has pointed out to the fact that the SCN which were served on it pursuant to completion of the said reinvestigation (*Investigation*), is silent with respect to the communication of UPSI (which was alleged in the *Interim Order)* and do not even identify the persons who had or who could have communicated the UPSI to the Noticee nor the SCN have attempted to even establish that the trades of the Noticee were executed pursuant to the receipt of the UPSI. In the absence of any evidence suggesting actual access to or receipt of the UPSI, it may not be justified to hold the Noticee who was admittedly not connected to the Company, guilty of any charges of insider trading, more particularly when the same set of evidences which were already available at the time of passing of *2016 Order*, were found to be inadequate to be proceeded with against the Noticee, due to which the Competent Authority had ordered for re-investigation in the matter.

27. In view of the foregoing discussions and factual analysis, I found that the Noticee was neither a connected person in terms of Regulation 2(c) nor an *insider* in terms of Regulation 2(e) under the PIT Regulations. Thus, it remains an undisputed fact that the Noticee was not connected to the *Company (Sabero)* as well as to *Acquirer (Coromandel*). I further found that, neither the *First investigation* nor the *re-investigation* (Investigation) that was conducted pursuant to the directions of the Competent Authority vide *2016 Order,* has been able to bring any factual evidence, which can indicate that the Noticee had any access to UPSI of the Company. Since the Noticee was neither an insider nor a connected person, the Investigation Report ought to have embodied strong evidence to establish that the Noticee was indeed in possession of or had access to UPSI when it traded in the scrip of the Company during the UPSI period. As noted in the preceding paragraphs, it has been observed that the allegations levelled against

the Noticee in the SCN for trading in the scrip of Sabero have primarily proceeded on the basis of certain circumstantial factors such as the timings of trades, past trading pattern, inadequate reasoning etc., which are only circumstantial factors and do not carry enough strength of an irrefutable evidence that can be *prima facie* considered adequate enough for reaching a conclusion that the Noticee had indeed executed its trades based on the actual possession of UPSI.

28. I note from the records available before me that, Investigation Report and the SCN issued pursuant to the re-investigation (Investigation) have not been able to muster any cogent piece of evidence which can strongly pin-point to the existence of any communication whatsoever so as to constrain me to at least infer receipt of UPSI by the Noticee. In this case, the primary onus of substantiating the charge of receipt or possession of or having an access to UPSI by the Noticee has apparently not been discharged. Therefore, a serious charge like insider trading against persons who are not connected with the Company becomes nebulous and unsustainable. Moreover, there is no perceptible factual difference between the *First Investigation Report* and the Investigation Report that has been prepared pursuant to the re-investigation exercise and apparently no substantial additional information or collateral material has been brought into the reinvestigation report (Investigation Report) which can be held to be carrying any evidence in support of possession of or access to UPSI by the Noticee. Since the evidences which were already found to be inadequate to sustain the charge of insider trading in the *2016 Order*, have not been further strengthened or added up by collecting any additional evidences during the re-investigation exercise, it may not be appropriate now to ascribe any stronger evidentiary value to such inadequate evidences for bringing in a serious charge of insider trading against the Noticee.

29. I have also perused the order of Ld. WTM of SEBI dated April 19, 2021 in parallel 11B proceedings against the Noticee on identical subject matter, wherein, Ld. WTM has disposed of the proceeding *qua* Noticee due to lack of sufficient material on record to withstand legal scrutiny required in the matter pertaining to serious charges of violation of the PIT Regulations.

30. In view of aforesaid facts and circumstances and considering the material on record, I am of the view that in the instant case the evidence is not sufficient enough to pass the muster of the principle of preponderance of probabilities and to lead to a conclusion that the Noticee*,* while trading in the scrip of the Company was actually in possession of or having access to the UPSI of the Company. Further, the same factual details and evidences were found to be inadequate by the Competent Authority while directing for re-investigation into the matter vide *2016 Order*. It is trite of law to state that the desideratum of clarity represents one of the most essential ingredients of legality. Therefore, I am of the view that the materials on record are not sufficient enough to establish the charges made against the Noticee in the SCN with clarity and conviction, and accordingly the SCN is disposed of *qua* the Noticee.

31. In terms of Rule 6 of the Adjudication Rules, copies of this order are sent to the Noticee and also to SEBI.

DATE: September 30, 2021	**Vijayant Kumar Verma**
PLACE: Mumbai	**Adjudicating Officer**