

BEFORE THE ADJUDICATING OFFICER
SECURITIES AND EXCHANGE BOARD OF INDIA

[ADJUDICATION ORDER NO. Order/SR/PP/2019-20/6605-6608/153-156]

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

In respect of

Name	PAN
Himanshu Parikh	AADPP3194K
Parvez Umrigar	AAAPU5744M
C. C. Dayal	AABPD0594P
Sanjay Sachdev	AGTPS2198A

In the matter of Gammon Infrastructure Projects Ltd.

FACTS OF THE CASE IN BRIEF

1. A department (in short **OD**) of Securities and Exchange Board of India (in short **SEBI**) undertook an investigation in the scrip of Gammon Infrastructure Projects Limited for the period from July 01, 2013 to September 30, 2013 (in short **Investigation period / IP**) pursuant to receipt of an input from the National Stock Exchange of India Limited (in short **NSE**) concerning the possibility of certain entities having traded in the said scrip on the basis of unpublished price sensitive information (in short **UPSI**).

2. OD observed certain non-compliances with regard to Securities and Exchange Board of India (Prohibition of Insider Trading) Regulations, 1992 (in short **PIT Regulations, 1992**) thus initiated adjudication proceedings against Himanshu Parikh (Noticee 1), Parvez Umrigar (Noticee 2), C. C. Dayal (Noticee 3) and Sanjay Sachdev (Noticee 4) (hereinafter Noticee 1 to 4 are collectively referred to as **the Noticees**), to inquire into and adjudge under section 15HB of Securities and Exchange Board of India Act, 1992 (in short **SEBI Act**), the alleged violations of provisions of clause 1.2 and 3.2.1 of the model code of conduct for prevention of insider trading read with (r/w) regulation 12(1) of the PIT Regulations, 1992 and regulation 12(2) of the Securities and Exchange Board of India (Prohibition of Insider Trading) Regulations, 2015 (in short **PIT Regulations, 2015**) by the Noticees.

APPOINTMENT OF ADJUDICATING OFFICER

3. SEBI appointed Shri Nagendraa Parakh as the Adjudicating Officer (**AO**) and his appointment was communicated vide communique June 15, 2016. Subsequently, matter was transferred and Ms. Sangeeta Rathod (undersigned) was appointed AO in this matter. The appointment of undersigned as AO was communicated vide communique dated July 10, 2017 under section 15-I of the SEBI Act r/w rule 3 of the Securities and Exchange Board of India (Procedure for Holding Inquiry and Imposing Penalties by Adjudicating Officer) Rules, 1995 (in short **AO Rules, 1995**) to inquire into and adjudge under section 15HB of SEBI Act, the alleged violations of provisions of clause 1.2 and 3.2.1 of the model code of conduct for prevention of insider trading r/w regulation 12(1) of the PIT Regulations, 1992 and regulation 12(2) of the PIT Regulations, 2015 by the Noticees.

SHOW CAUSE NOTICE, REPLY AND PERSONAL HEARING

4. Show cause notice no. EAD/NP/AS/GIL/OW/ 5944, 5947, 5950 & 5953 / 2017 dated March 17, 2017 (hereinafter referred to as **SCN**) was issued by the previous AO to the Noticees under rule 4 of the AO Rules, 1995 to show cause as to why an inquiry should not be held against the Noticees and why penalty under section 15HB of SEBI Act be not imposed on them for the violations alleged and specified in the said SCN.
5. Details of the violations alleged in the SCN are given as follows:
- a. *On September 3, 2013, a corporate announcement was made by GIPL stating termination of shareholders agreement with Simplex. As per the details submitted by GIPL vide letter dated September 18, 2014 and e-mail dated August 4, 2015, a chronology of events related to corporate announcement "Termination of Shareholders Agreement with Simplex Infrastructures Limited" is given below:*

Date	Event	Participants
2nd Week of July, 2013	Telephonic discussion; Termination of the tie-up between Simplex and GIPL	Mr. K.K. Mohanty, MD (GIPL) and Mr. Rajiv Mundhra, MD, Simplex
29/07/2013 to 28/08/2013	E-mails exchanged between GIPL and Simplex culminating in the finalization of the termination terms and a decision to execute the termination agreement on 30/08/2013.	Mr. K.K. Mohanty (M.D., GIPL), Mr. Atulesh Sharma (Technical Head, GIPL), Pravin Satpute (Project Coordinator, GIPL), Neeraj Vijay (Head-Roads, GIPL), Mr. Prakash Naik, Head Legal, GIPL), Mr. Rajeev Mundra (MD, Simplex), Mr. Salil Chakraborty, (Director (Maa Durga), Mr. Kunj Rajgaria (Manager- Finance, Simplex), Mr. Atindra Basu (Director, Maa Durga)

07/08/2013	Circulation of Agenda for Board meeting to be held on 09/08/2013. Agenda included item "Disassociation with Simplex Infrastructure in Vijayawada Gundugolanu Project and Maa Durga Project"	Agenda circulated to Board of Directors of GIPL.
09/08/2013	Meeting of Board of Directors; Approval taken to terminate the two shareholders agreement with Simplex for the two projects.	The directors of GIPL
30/08/2013	Execution of Termination. Two agreements signed	Mr. Salil Chakravarty (Director, Maa Durga), Mr. Neeraj Vijay (Head-Roads, GIPL)
03/09/2013	Intimation to Stock Exchange	Mr. Sathis Chandran (Company Secretary, GIPL). Information was made public on BSE website at 13:05 hrs and on NSE website at 14:40 hrs.

Further, GIPL in its submission dated September 18, 2014 in response to a query seeking major corporate developments during the investigation period has stated that termination of the tie-up between GIPL and Simplex Infrastructures Limited (Simplex) was the only major corporate development. Based on GIPL's submissions that termination of tie with Simplex was a major corporate development, and the definition of price sensitive information as given in Insider Trading Regulations and as given in GIPL's own code of conduct, it is observed that the corporate announcement dated September 3, 2013 pertaining to termination of tie-up with Simplex was a price sensitive information.

- b. It is noted from investigation that the trading window of GIPL was not closed during the period the PSI pertaining to termination of shareholders' agreement between GIPL and Simplex was unpublished as mandated in the model code of conduct for prevention of insider trading.

- c. *Clause 1.2 of the model code of conduct for prevention of insider trading states that the Compliance Officer shall be responsible for implementation of the code of conduct under the overall supervision of the Board of the Company.*
- d. *The code of conduct for prevention of Insider Trading as provided by GIPL states that "Prohibited Period" means the period commencing from 5th day prior to holding of the Board meet at which any "Price Sensitive Information" is on agenda and ending 24 hours after the "Price Sensitive Information" is made public. However, it may be noted that clause 3.2.1 of the model code of conduct as prescribed under Insider Trading Regulations state that trading window shall be closed during the time information referred to in 3.2.3 of the model code remains unpublished.*
- e. *As per the findings of the Investigation Report, the code of conduct for prevention of insider trading by GIPL is not near thereto the model code of conduct as there may be any price sensitive information that may exist before 5 days of the board meeting. The absence of wordings pertaining to closure of trading window during the time the information is unpublished coupled with restricting closure of trading window only 5 days prior to the board meeting provides a scope for not closing trading window during the existence of price sensitive information. This is also seen in the instant case pertaining to PSI of termination of shareholders agreement between GIPL and Simplex. The information was in existence since July 8, 2013 however, if GIPL had followed its code even then the trading window would have been closed only 5 days prior to the board meeting wherein the termination was discussed i.e from August 4, 2013. However, as per the model code of conduct the trading window should have been closed from July 8, 2013.*

- f. *Regulation 12(1) of the Insider Trading Regulations state that companies shall frame code of conduct for prevention of insider trading as near thereto to the model code. However it is observed that the code of conduct of GIPL is not near thereto to the model code of conduct.*
- g. *The code of conduct of GIPL was adopted in its board meeting held on 07.01.2008. Vide e- mail dated 27.01.2016 GIPL has provided list of directors during the period January 7, 2008 along with list of directors who attended the board meeting of GIPL. From the details it is observed that Abhijit Rajan, Himashu Parikh (Noticee 1), Parvez Umrigar (Noticee 2), C.C.Dayal (Noticee 3), Sanjay Sachdev (Noticee 4) were directors who attended the meeting on January 7, 2008.*
- h. *In view of the above it is alleged that you being director of GIPL during the relevant period have attended the board meeting on 07.01.2008 wherein the code of conduct was adopted and it is observed that the code of conduct of GIPL is not near thereto the model code of conduct prescribed under SEBI (Prohibition of Insider Trading) Regulations, 2015 and thus alleged to have violated clause 1.2 and clause 3.2.1 of the model code of conduct read with Regulation 12(1) of the SEBI (Insider Trading Regulations), 1992 and Regulation 12(2) of the SEBI (Prohibition of Insider Trading) Regulations, 2015.*
6. The aforementioned SCN were sent to the Noticees through the speed post acknowledgment due. Proof of service of the SCN upon the Noticee 1 to 3 is available on record. SCN sent to Noticee 4 returned undelivered with the comment "left". Another attempt to serve the SCN upon the Noticee 4 was made through affixture in terms of Rule 4(c) of Adjudication Rules and the affixture report is on

record. Noticee 1 and 3 vide letter dated April 12, 2017 *interalia* sought inspection of documents and records. An opportunity of inspection was granted vide letter dated May 02, 2017.

7. Subsequent to the appointment of undersigned in the matter, vide letter dated September 01, 2017, sent through SPAD, Noticees 1 to 3 were advised to file their reply to the SCN by September 08, 2017 and an opportunity of hearing was granted on September 15, 2017. Proof of delivery is on record. Noticee 1 to 3 vide their respective letters dated September 09, 2017 and September 13, 2017 requested for three weeks' time for filing response to the SCN. Vide letter dated September 15, 2017, Noticees 1 to 3 were advised to file their reply to the SCN by October 03, 2017 and an opportunity of hearing was granted on October 09, 2017. GIPL Vide email dated October 08, 2017 and further, vide letter dated October 12, 2017, submitted the signed copy of the reply stating "*the contents of present letter are identical to the unsigned letter dated October 08, 2017 with some minor edits*", given in brief as under-

- a. *The termination of the SHAs with Simplex was not price sensitive information. The same was in the normal and ordinary course of GIPL's business as an infrastructure development company and not a "change" let alone a "significant" one in operations of GIPL and in fact these developments are in the ordinary and normal course of GIPL's business as an infrastructure development company.*
- b. *In any case, as ruled by the Hon'ble SAT and other Adjudicating Officers of SEBI, in the context of companies in the infrastructure sector, award of such contracts is not a reason for a listed company to shut the trading window.*
- c. *There is no cause for the Code of Conduct of GIPL to be assailed in light of the fact that the model code provides a listed company with the discretion to effect the timing of the shutting of the trading window under Clause 3.2.3A which provides that " ...The time for commencement of closing of trading window shall be decided by the company....". In the instant case, as there*

was no requirement to shut the trading window of GIPL, there cannot be any allegation of wrong-doing in this regard.

- d. In any case, in compliance with Clause 3.2.3A of the Model Code, the Code of Conduct adopted by GIPL does set out, at Clause 13 thereof, that "... "Prohibited Period" means: (ii) such other period as may be specified by the Compliance Officer from time to time after consultation with the Managing Director ...". It is apparent therefore that there was discretion available for closing of the trading window in the event that it became necessary. The allegation against GIPL and its Directors about not adopting the correct Model Code is therefore misplaced.*
 - e. It is submitted that none of the provisions of Clause 36 of the listing agreement assume importance in the present case. The development with Simplex was a minor development not requiring any disclosure under the Code of Conduct or under the Code of Corporate Disclosures.*
 - f. On August 9, 2013, the Board of GIPL had authorized the termination of the SHAs, subject to negotiations with Simplex and subject to agreements being entered into with Simplex. The termination was not a unilateral act or even an adversarial act of GIPL. The termination was to be effected mutually subject to negotiations with Simplex and with the terms of the termination, being reduced to writing. Therefore, any disclosures prior to September 3, 2013 i.e. until binding termination agreements were concluded after negotiations, would have been premature and led to a charge of wrongful disclosure against GIPL and its personnel. It is submitted that GIPL was correct in making the disclosure only after the termination fructified since the termination was not a unilateral act of GIPL but one that was to be done with the consent and co- operation of Simplex and with terms being reduced to writing.*
 - g. Assuming whilst denying that there is any violation, although none has been demonstrated, the same does not call for any monetary penalty in as much as: (i) there is no gain or benefit to GIPL or its directors as a result of the same, (ii) no loss has been occasioned to any investor; and ii) the same is not repetitive in nature.*
 - h. For these reasons, we respectfully submit that the Show Cause Notice therefore ought to be dropped without any monetary penalty or adverse observation, remark or direction against GIPL and its Directors*
8. The Authorized Representatives (**ARs**) of the Noticee appeared for the personal hearing on October 09, 2017 and reiterated the submissions made in their reply dated October 08, 2017. Hearing Minutes are on record. Further, vide identical

letters dated October 12, 2017, Noticee 1 to 3 *interalia* submitted that-

- a) *The allegation in the SCN is also the subject matter of the proceedings pursuant to a SCN dated March 22, 2017 issued to GIPL. GIPL has by its letter dated October 12, 2017 responded to the charges in this regard and had demonstrated as to why monetary penalty ought not to be imposed on this count.*
- b) *I adopt and reiterate whatever is stated by GIPL response to the Show Cause Notice. I submit that in light of the submissions by GIPL, there is no cause for imposition of any monetary penalty upon me.*

Further as regards Noticee 4, vide letter dated September 04, 2017 sent through affixture, Noticee 4 was advised to file his reply by September 12, 2017 and an opportunity of hearing was granted on September 20, 2017. Affixture report is on record. Noticee 4 did not revert back and neither responded to the SCN nor availed the hearing.

9. Noticee 1 to 3 were granted time till December 18, 2019 for filing additional submissions, if any and an opportunity of hearing is granted on December 19, 2019, vide letter dated December 04, 2019. Noticee reiterated the submissions made vide their replies dated October 12, 2017 and further submitted that-

- a. *We would like to place on record order dated November 08, 2019 passed by the Hon'ble Securities Appellate Tribunal ("**Tribunal**") vide which the Hon'ble Tribunal: has allowed Appeal No. 232 of 2016 filed by Mr. Abhijit Rajan; has set aside the order dated July 13, 2016 passed by the Ld. Whole Time Member, in the matter of GIPL; and, has categorically held that the cancellation of two shareholders agreement of GIPL was not price sensitive information:*

"

Reasons

1. In our view the information itself was not a price sensitive information. *The record would show that GIPL had invested only Rs.4.9 crores in the Simplex project in the said financial year. It represented only 0.05% of the GIPL's order book value at the end of August, 13 and only 0.7% of its turnover for the said financial year. Further due to the termination of the agreement a large project worth Rs.1648 returned back to GIPL while the smaller*

project of Rs.940 crore remained with Simplex. In a way it could have been a positive information to the shareholders. The Adjudicating Officer however has calculated the change in the order book value without assessing whether the change was positive or negative. Considering the minor proportion of the transaction to the turnover of GIPL, in our view the information cannot be termed as price sensitive information. The Simplex had not even disclosed the said information to the stock exchanges.”
(Emphasis supplied)

- b. *The allegations in the SCN have been dealt with, considered and finally decided by the Hon’ble Tribunal. It is thus apparent that there is nothing in the SCN that survives adjudication given that the same issues/allegations have already been pleaded before the Hon’ble Tribunal and have been struck down conclusively.*
- c. *The findings and observations in the SCN are a repetition of those recorded in the order dated July 13, 2016 passed by the Ld. WTM, which has now been set aside. In light of the fact that there is no further/ additional evidence that has been brought against the Noticee, the charges against the Noticee ought to be similarly dropped.*
- d. *Considering that the Hon’ble Tribunal has categorically held vide the SAT Order that there is no violation of PIT Regulations, and considering that no harm or loss has been caused to any individual/ investor, in the facts and circumstances of the instant proceedings, we humbly submit that it would be commensurate to take a lenient view and not pass any adverse directions against the company, at this stage.*
- e. *The SCN has also sought to allege that I as a director of GIPL was responsible for implementing Model Code of Conduct. In this regard, I must point that there is no observation/ finding in the SCN as to how I, as a director, was responsible to ensure implementation of the Model Code of Conduct when Clause 1.2 of the Model Code of Conduct categorically states that the responsibility for the same would fall on the Compliance Officer.*
- f. *Upon a perusal of the GIPL’s Code of Conduct, it is apparent that the term ‘compliance officer’ refers the Company Secretary, or any other senior level employee nominated by the Board, from time to time, as the compliance officer. The minutes of the meeting of the Board of Directors held on January 07, 2019 during the course of which the GIPL Code of Conduct was adopted by the company, the Company Secretary of the company was designated as the ‘Compliance Officer’ for ensuring compliance with the GIPL Code of Conduct.*
- g. *In light of the same, when a specific officer has been designated as the compliance officer for the purpose of ensuring compliance with GIPL Code of Conduct, the charge of violation of Clause 1.2 of the Model Code of Conduct cannot be sustained qua me.*

- h. *Furthermore, as also pointed out earlier (submissions made in my reply dated October 12, 2017), it is pertinent to note that the five-day period is merely a reference point and cannot and does not mean that in all cases the trading window would remain shut for only five trading days, despite UPSI being available for a longer period. The Model Code is a set of principles and standards which a listed company is required to adhere to ensure compliance with the 1992 PIT Regulations. The 1992 PIT Regulations does not require a listed company to replicate the language of the Model Code of Conduct in its Code of Conduct as long as the essential principles and standards are adopted which GIPL, admittedly, has. Semantic differences between the Mode Code and GIPL's Code of Conduct cannot be grounds to impose a penalty.*
10. The ARs of the Noticee 1 to 3 appeared for the personal hearing on December 19, 2019 and reiterated the submissions made in replies dated October 12, 2017 and December 16, 2019. During the course of hearing, ARs have submitted judgments delivered by Hon'ble SAT on September 04, 2019 in the matter of AstraZeneca Pharma India Limited and November 08, 2019 in the matter of Abhijit Rajan vs. SEBI. Further during the course of hearing, Mr. Kaushal Jaykumar Shah (Compliance Officer, Gammon Infrastructure Projects Ltd) submitted the email id of Mr. Sanjay Sachdev as sanjaysachdev1@gmail.com (Noticee 4 in the instant proceedings as the SCN sent to him has returned undelivered from the address on record). Thus, SCN and hearing notice were served upon Noticee 4 through electronic mail on December 31, 2019 on the said email id. Noticee 4 was advised to revert by January 06, 2020. Noticee 4 vide his email dated January 03, 2020, *interalia* submitted that-
- a. *The allegations raised against me in the SCN also form subject matter of show cause notice dated March 22, 2017 issued to GIPL. GIPL has vide its letter dated October 12, 2017 ("GIPL Reply") responded to the charges in this regard. I adopt and reiterate the contents of the GIPL Reply and submit that there is no cause for imposition of any monetary penalty on me. Additionally, I would like to place on record order dated November 08, 2019 ("SAT Order") passed by the Hon'ble Securities Appellate Tribunal ("Tribunal") vide which the Hon'ble Tribunal: has allowed Appeal No. 232 of*

2016 filed by Mr. Abhijit Rajan; has set aside the order dated July 13, 2016 ("WTM Order") passed by the Ld. Whole Time Member ("WTM"), in the matter of GIPL; and, has categorically held that the cancellation of two shareholders agreement of GIPL was not price sensitive information.

- b. *The allegations in the SCN have been dealt with, considered and finally decided by the Hon'ble Tribunal. It is thus apparent that there is nothing in the SCN that survives adjudication given that the same issues/allegations have already been pleaded before the Hon'ble Tribunal and have been struck down conclusively. Considering that the Hon'ble Tribunal has decided these issues on merits, and further considering that no new evidence has been brought on record in the instant proceedings, the SAT Order stands to be the final determination of the findings and allegations raised in the instant proceedings.*

11. After taking into account, the allegations levelled in the SCN, replies received and other material available on record, I hereby proceed to decide the case on merit.

CONSIDERATION OF ISSUES, EVIDENCES AND FINDINGS

12. I have carefully perused the charges levelled against the Noticees in the SCN and the materials available on record. In the instant matter, the following issues arise for consideration and determination:-

- a. *Whether the Noticees have violated the provisions of Clause 1.2 and 3.2.1 of the model code of conduct for prevention of insider trading read with regulation 12(1) of the PIT Regulations, 1992 and regulation 12(2) of the PIT Regulations, 2015?***
- b. *Do the violations, if any, on the part of the Noticees attract monetary penalty under section 15HB of SEBI by the Noticees?***

c. If yes, then what would be the monetary penalty that can be imposed upon the Noticees, taking into consideration the factors mentioned in section 15J of the SEBI Act r/w rule 5(2) of the AO Rules, 1995?

13. Before proceeding further, I would like to refer to the relevant provisions:-

PIT REGULATIONS, 1992

2(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:-

1. Periodical financial results of the company;
2. Intended declaration of dividends (both interim and final);
3. Issue of securities or buy-back of securities;
4. Any major expansion plans or execution of new projects;
5. Amalgamation, mergers or takeovers;
6. Disposal of the whole or substantial part of the undertaking; and
7. Significant changes in policies, plans or operations of the company.

Code of internal procedures and conduct for listed companies and other entities.

12. (1) All listed companies and organisations associated with securities markets including :

- (a) the intermediaries as mentioned in section 12 of the Act, asset management company and trustees of mutual funds ;
- (b) the self regulatory organisations recognised or authorised by the Board;
- (c) the recognised stock exchanges and dealing house or corporations;
- (d) the public financial institutions as defined in section 4A of the Companies Act, 1956; and
- (e) the professional firms such as auditors, accountancy firms, law firms, analysts, consultants, etc., assisting or advising listed companies,

shall frame a code of internal procedures and conduct as near thereto the Model Code specified in Schedule 1 of these Regulations 4 without diluting it in any manner and ensure compliance of the same.

SCHEDULE I [Under regulation 12(1)] PART A MODEL CODE OF CONDUCT FOR PREVENTION OF INSIDER TRADING FOR LISTED COMPANIES

1.2 The compliance officer shall be responsible for setting forth policies, procedures, monitoring adherence to the rules for the preservation of Price Sensitive Information", pre-clearing; of designated employees' and their dependents' trades (directly or through respective department heads as decided

by the company), monitoring of trades and the implementation of the code of conduct under the overall supervision of the Board of the listed company.

Explanation : For the purpose of this Schedule, the term 'designated employee' shall include :— (i) officers comprising the top three tiers of the company management; (ii) the employees designated by the company to whom these trading restrictions shall be applicable, keeping in mind the objectives of this code of conduct.

3.2 Trading Window

3.2.1 The company shall specify a trading period, to be called "trading window", for trading in the company's securities. The trading window shall be closed during the time the information referred to in para 3.2.3 is unpublished.

PIT REGULATIONS, 2015

Repeal and Savings

12. (2) Notwithstanding such repeal,— (a) the previous operation of the repealed regulations or anything duly done or suffered thereunder, any right, privilege, obligation or liability acquired, accrued or incurred under the repealed regulations, any penalty, forfeiture or punishment incurred in respect of any offence committed against the repealed regulations, or any investigation, legal proceeding or remedy in respect of any such right, privilege, obligation, liability, penalty, forfeiture or punishment as aforesaid, shall remain unaffected as if the repealed regulations had never been repealed; and (b) anything done or any action taken or purported to have been done or taken including any adjudication, enquiry or investigation commenced or show-cause notice issued under the repealed regulations prior to such repeal, shall be deemed to have been done or taken under the corresponding provisions of these regulations; (3) After the repeal of Securities and Exchange Board of India (Prohibition of Insider Trading) Regulations, 1992, any reference thereto in any other regulations made, guidelines or circulars issued thereunder by the Board shall be deemed to be a reference to the corresponding provisions of these regulations.

14. **Issue a: Whether the Noticees have violated the provisions of Clause 1.2 and 3.2.1 of the model code of conduct for prevention of insider trading read with regulation 12(1) of the PIT Regulations, 1992 and regulation 12(2) of the PIT Regulations, 2015?**

a. I find that the allegations against the Noticees are-

- (i) The trading window of GIPL was not closed during the period the PSI pertaining to termination of shareholders' agreement between GIPL

and Simplex was unpublished as mandated in the model code of conduct (in short **MCC**) for prevention of insider trading as prescribed under PIT Regulations, 1992 under clause 3.2.1 of the MCC for prevention of insider trading r/w regulation 12(1) of PIT Regulations, 1992 and regulation 12(2) of the PIT Regulations, 2015.

- (ii) The UPSI was in existence since July 8, 2013 however, if GIPL had followed its code even then the trading window would have been closed only 5 days prior to the board meeting wherein the termination was discussed i.e from August 4, 2013. However, as per the model code of conduct the trading window should have been closed from July 8, 2013.
- (iii) Noticee being directors of GIPL during the relevant period have attended the board meeting on January 07, 2008 wherein the code of conduct was adopted and it is observed that the code of conduct of GIPL is not near thereto the model code of conduct prescribed under SEBI (Prohibition of Insider Trading) Regulations, 2015 and thus alleged to have violated clause 1.2 and clause 3.2.1 of the model code of conduct read with Regulation 12(1) of the SEBI (Insider Trading Regulations), 1992 and Regulation 12(2) of the SEBI (Prohibition of Insider Trading) Regulations, 2015.

- b. The questions before me are whether the information was an UPSI and when did it came into existence and whether the code of conduct followed by the Noticee is near thereto the MCC.

c. From the material available on record, I observe that GIPL is an infrastructure project development company and during the IP, a corporate announcement was made by GIPL stating termination of agreement with Simplex on September 3, 2013. I accept Noticees's contention that GIPL's investment in the Simplex project in the said financial year represented only 0.05% of the GIPL's order book value at the end of August, 2013, which cannot be construed as price sensitive given the fact that the Noticee is in the business of infrastructure development, and such agreement would be one of many. Further, there is no evidence on record to show otherwise. Thus, it cannot be concluded that the said information is UPSI and that the disclosure of the same to the exchange on a particular date was relevant at that juncture. With regards to the code of conduct followed by the GIPL, I do not observe any deviation of MCC from the insider trading code of the GIPL as available on record.

d. Also, Noticees made a reference to the order dated November 08, 2019 passed by Hon'ble SAT which has set aside order dated July 13, 2016 passed by WTM, SEBI, in the matter of GIPL; and has categorically held that the cancellation of two shareholders agreements of GIPL was not price sensitive information.

15. In view of all of the above, the allegations levelled in the said SCN against the Noticees i.e Himanshu Parikh, Parvez Umrigar, C. C. Dayal and Sanjay Sachdev do not stand established. Thus, issue (b) and (c) do not need consideration.

ORDER

16. In view of the above paragraphs, I hereby dispose of the Adjudication Proceedings initiated against the Noticees vide SCN dated March 17, 2017 without imposing any monetary penalty.
17. Copies of this Adjudication Order are being sent to the Noticees and also to SEBI in terms of rule 6 of the AO Rules, 1995.

Date: January 28, 2020

Place: Mumbai

SANGEETA RATHOD

ADJUDICATING OFFICER