

**BEFORE THE ADJUDICATING OFFICER
SECURITIES AND EXCHANGE BOARD OF INDIA
[ADJUDICATION ORDER NO. EAD-12/ AO/SM/250-251/2018]**

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

In respect of:

Names of the Entities	PAN No.
Dhilin Mehta	AFWPM0506N
Dahlia Traders Private Ltd	AABCD3091N

In the matter of M/s. Shree Ashtavinayak Cine Vision Ltd

Facts of the case:

1. Securities and Exchange Board of India ("SEBI") pursuant to examination in the scrip of M/s. Shree Ashtavinayak Cine Vision Ltd ("SACV"/Company") had observed that
 - a. Dhilin Mehta ("Dhilin") Promoter, Chairman and Managing Director of SACV had violated provisions of Regulations 13(3), 13(4) and Schedule I read with Regulation 12(1) of SEBI (Prohibition of Insider Trading) Regulations, 1992 ("PIT Regulations, 1992") read with Regulation 12(2) of the SEBI (Prohibition of Insider Trading) Regulations, 2015 ("PIT Regulations, 2015") and Regulations 8A(2) and 8A(3) of SEBI (Substantial Acquisition of Shares and Takeovers) Regulations, 1997 ("SAST Regulations, 1997") read with Regulation 35 of SEBI (Substantial Acquisition of Shares and Takeovers) Regulations, 2011 ("SAST Regulations, 2011").
 - b. Dahlia Traders Private Limited, promoter of SACV ("Dahlia Traders") had violated provisions of Regulation 13(3) of PIT Regulations, 1992 read with Regulation 12(2) PIT Regulations, 2015 and Regulations 8A(2) and 8A(3) SAST Regulations, 1997 read with Regulation 35 of SAST Regulations, 2011.
2. Securities and Exchange Board of India (hereinafter referred to as the SEBI) had conducted investigation in the scrip of SACV during August 3, 2009 to June 28, 2011 (hereinafter referred to as 'period of investigation' or 'investigation period').
3. During investigation the following was observed:

Dhilin

4. The shareholding of Dhilin during the investigation period was verified from the demat statements and on verification following disclosure related violations under SAST Regulations, 1997 and PIT Regulations 1992 were observed and hence it was alleged that Dhilin had not made disclosure to the Company and Stock Exchange about change in his shareholding for the following instances :

Disclosure violations under Regulations 13(3) of PIT Regulations, 1992

Date	No of shares held - pre Acquisition/disposal	% of shareholding held - pre Acquisition/disposal	No of shares Acquired/ (disposed of)	Change in Shareholding (%)	No of shares held - post Acquisition/disposal	% of shareholding held - post Acquisition/disposal	Mode
29/09/2009	16,158,000	15.42	2,400,000	2.29	13,758,000	13.13	off market
03/10/2009	13,758,000	13.13	2,400,000	2.29	16,158,000	15.42	off market
24/12/2009	16,158,000	15.42	-	-	16,158,000	10.22	*
07/06/2010	68,538,000	8.60	-4,500,000	-0.83	64,038,000	7.77	On market
19/01/2011	49,485,000	6.00	-30,000,000	-3.64	19,485,000	2.36	Pledge invoked

*the change in percentage is due increase of share capital due to issue of GDRs.

Disclosure violations under Regulations 13(4) of PIT Regulations, 1992

Date	Buy Volume	Sell volume
02/09/2009	-	5,00,000
10/09/2009	-	3,00,000
06/10/2009	-	5,23,000
12/10/2009	4,00,000	-
27/10/2009	1,00,000	-
13/01/2010	1,12,000	-
27/01/2010	28,725	28,725
16/02/2010	-	1,12,000
02/03/2010	-	2,00,000
07/04/2010	-	6,38,175
02/06/2010	-	17,00,000
03/06/2010	-	16,65,500
07/06/2010	-	29,34,500
08/06/2010	-	19,70,000
10/06/2010	-	21,52,000
11/06/2010	-	17,78,000
16/07/2010	5,50,000	-
27/07/2010	2,60,000	-
06/08/2010	-	3,40,000
25/08/2010	1,80,000	-
29/09/2010	3,00,000	-

Disclosure violation under Regulation 8A (2) of SAST Regulation, 1997

5. It was alleged that Dhilin has not made disclosure for the following instances as per Regulation 8A (2) of the SAST Regulation 1997.

- As per NSDL Demat Statement.

Date	Debit/Credit	Quantity
07-Feb-2011	Credit	2000000
08-Feb-2011	Debit	2000000
08-Feb-2011	Credit	2000000

- As per CDSL Demat statement

Date	Debit/Credit	Quantity
12/03/2010	Credit	6500000
17/03/2010	Credit	2400000
31/03/2010	Debit	1500000
06/04/2010	Credit	1500000
03/05/2010	Credit	9000000
12/08/2010	Credit	7500000
16/08/2010	Credit	1175000
17/08/2010	Credit	2500000
20/08/2010	Debit	250000
20/08/2010	Debit	1000000
15/12/2010	Credit	580000
16/12/2010	Credit	4500000
16/12/2010	Credit	710000
16/12/2010	Credit	300000
21/12/2010	Credit	1410000
22/12/2010	Credit	620000
27/12/2010	Credit	120000
28/12/2010	Debit	620000
28/12/2010	Debit	620000
29/12/2010	Debit	710000
29/12/2010	Debit	710000
29/12/2010	Debit	2163000
29/12/2010	Debit	2163000
30/12/2010	Debit	580000
30/12/2010	Debit	580000
30/12/2010	Debit	1500000
30/12/2010	Debit	1500000
03/01/2011	Debit	7200000
03/01/2011	Debit	7200000
03/01/2011	Credit	1000000
03/01/2011	Debit	1410000
03/01/2011	Debit	1410000
04/01/2011	Debit	120000
04/01/2011	Debit	120000
06/01/2011	Credit	2500000

Disclosure violation under Regulation 8A (3) of SAST Regulation, 1997

6. It was alleged that for the following instances, Dhilin had made wrong disclosures under Regulation 8A (3) of SAST 1997.

Receipt Date	Transaction Date	No. of Shares Pledge/Invoked
20-Oct-10	18-Oct-10	-6250000
03-Feb-11	02-Feb-11	-26740
08-Apr-11	15-Feb-11	-100000

Code of Conduct for Prevention of Insider Trading adopted by SACV as per PIT Regulations:

7. The company had disclosed in its annual report for 2009-2010 that it had adopted the Code of Conduct for Prevention of Insider Trading and the same was posted on the website of the company. Upon checking the website of the company (www.ashtavinayakindia.com) as mentioned in the annual report, the same could not be found. In the absence of a copy of the Code, it is presumed that the company had adopted the Code of Conduct as near thereto the Model Code as required under Reg. 12 (1) of the PIT Regulations.
8. From the trade data, it was observed that Dhilin had purchased and sold shares of SACV during the period of investigation within a period of 6 months as shown in the table below:

Date	Buy Volume	Sell Volume	Date	Buy Volume	Sell Volume
02/09/2009	-	5,00,000	02/06/2010	-	17,00,000
10/09/2009	-	3,00,000	03/06/2010	-	16,65,500
06/10/2009	3,000	5,23,000	07/06/2010	-	29,34,500
12/10/2009	4,00,000	-	08/06/2010	-	19,70,000
27/10/2009	1,00,000	-	10/06/2010	-	21,52,000
13/01/2010	1,12,000	-	11/06/2010	-	17,78,000
27/01/2010	28,725	28,725	16/07/2010	5,50,000	-
16/02/2010	-	1,12,000	27/07/2010	2,60,000	-
02/03/2010	-	2,00,000	06/08/2010	-	3,40,000
07/04/2010	-	6,38,175	25/08/2010	1,80,000	-
09/04/2010	-	11,825	29/09/2010	3,00,000	-

9. In view of the above, it was alleged that Dhilin, being a Director of the company had violated Clause 4.2 of Model Code of Conduct for Prevention of Insider Trading for Listed Companies specified in Part A of Schedule I read with Regulation 12 (1) of PIT Regulations, 1992(to be read with Regulation 12 of SEBI (Prohibition of Insider Trading) Regulations, 2015

Dahlia Traders:

10. The shareholding of Dahlia, promoter of SACV during the investigation period was verified from the demat statements and on verification following disclosure related violations under

SAST Regulations, 1997 and PIT Regulations 1992 were observed and hence it was alleged that Dahlia had not made required disclosures to the company and Stock Exchange for the following instances.

Disclosure violation under Regulation 13(3) of PIT Regulations, 1992

Date	No of shares held - pre Acquisition/disposal	% of shareholding held - pre Acquisition/disposal	No of shares Acquired/ (disposed of)	Change in Shareholding (%)	No of shares held - post Acquisition/disposal	% of shareholding held - post Acquisition/disposal	Mode(*)
24/12/2009	32,173,790	30.71	-		32,173,790	20.35	*
03/01/2011	152,459,530	18.49	-7,200,000	-0.87	145,259,530	17.61	pledge invoked
10/01/2011	145,241,013	17.61	-30,126,013	-3.65	115,115,000	13.96	off market
12/01/2011	115,115,000	13.96	-29,628,000	-3.59	85,487,000	10.37	pledge invoked
13/01/2011	85,487,000	10.37	-22,000,000	-2.67	63,487,000	7.70	pledge invoked
19/01/2011	53,287,000	6.46	-27,500,000	-3.33	25,787,000	3.13	pledge invoked

**Due to GDR issue

Disclosure violation under Regulation 8A (2) of SAST Regulation, 1997

11. It was alleged that Dahlia has not made disclosure for the following instances as per Regulation 8A (2) of the SAST Regulation 1997.

- As per NSDL Demat Statement:

Date	Debit/Credit	Quantity
23-Feb-2010	Credit	560000
05-Mar-2010	Credit	1100000
29-Apr-2010	Debit	170000
14-May-2010	Debit	680000
06-Dec-2010	Debit	1000000
08-Dec-2010	Debit	150000
08-Dec-2010	Debit	1100000
08-Dec-2010	Debit	1550000
08-Dec-2010	Debit	1000000
08-Dec-2010	Debit	560000
08-Dec-2010	Debit	4000000
08-Dec-2010	Debit	1000000
08-Dec-2010	Debit	700000
09-Dec-2010	Debit	500000
08-Feb-2011	Debit	4000000
10-Feb-2011	Credit	500000

- As per CDSL Statement

Date	C-Credit/D-Debit	Qty
22/09/2009	C	1580000
23/09/2009	C	1600000
30/09/2009	D	1600000
01/10/2009	D	1580000
26/02/2010	D	81200
11/03/2010	C	300000
17/03/2010	C	2500000
31/03/2010	D	1500000
31/03/2010	D	1500000
31/03/2010	D	6000000
31/03/2010	D	6000000
07/04/2010	C	15000000
18/10/2010	D	5000000
29/12/2010	D	174000
29/12/2010	D	174000
29/12/2010	D	243000
29/12/2010	D	243000
29/12/2010	D	243000
29/12/2010	D	243000
03/01/2011	D	7200000
03/01/2011	D	7200000
12/01/2011	D	29628000
12/01/2011	D	29628000
13/01/2011	D	22000000
13/01/2011	D	22000000
14/01/2011	D	4700000
14/01/2011	D	4700000
18/01/2011	D	1400000
18/01/2011	D	1400000
18/01/2011	D	1100000
18/01/2011	D	1100000
18/01/2011	D	2400000
18/01/2011	D	2400000
18/01/2011	D	600000
18/01/2011	D	600000
18/01/2011	C	2000000
19/01/2011	D	1000000
19/01/2011	D	1000000
19/01/2011	D	500000
19/01/2011	D	500000
19/01/2011	D	24000000
19/01/2011	D	24000000
19/01/2011	D	2000000
19/01/2011	D	2000000
20/01/2011	D	2000000
20/01/2011	D	2000000

Disclosure violation under Regulation 8A (3) of SAST Regulation, 1997

12. It was alleged that for the following instances, Dahlia had made wrong disclosures under Regulation 8A (3) of SAST 1997.

Receipt Date	Transaction Date	No. of Shares Pledge/Invoked
20-Oct-10	18-Oct-10	-5500000
20-Dec-10	16-Dec-10	660000

13. In this order wherever PIT Regulations, 1992 is mentioned it should be referred to as PIT Regulations, 1992 read with Regulation 12 of SEBI (Prohibition of Insider Trading) Regulations, 2015.
14. In this order wherever SAST Regulations, 1997 is mentioned it should be referred to as SAST Regulations, 1997 read with Regulation 35 of SEBI (Acquisition of Shares and Takeovers) Regulations, 2011.

Appointment of Adjudicating Officer

15. SEBI had initiated adjudication proceedings against the Noticees and appointed Shri S V Krishna Mohan as Adjudicating Officer vide order dated February 7, 2017 under Section 15 I of the Act read with Rule 3 of the SEBI (Procedure for Holding Inquiry and Imposing Penalties by Adjudicating Officer) Rules, 1995 (hereinafter referred to as 'Rules') to inquire into and adjudge Dhilin and Dahlia Traders under Section 15A(b) of the Act for the alleged violation of the provisions of law by the entities. Pursuant to the transfer of the case, I have been appointed as Adjudicating Officer (AO), vide order dated May 18, 2017.

Show Cause Notice, Reply and Personal Hearing

16. Show Cause Notice ("SCN") dated July 13, 2017 was issued against Dhilin and SCN dated July 18, 2017 was issued against Dahlia Traders under the provisions of Rule 4 (1) of the Rules to show cause as to why an inquiry should not be initiated against the Entities and penalty should not be imposed under Sections 15A (b) of the Act for the alleged violations as stated above.

Reply of Dhilin

17. The SCN sent was returned undelivered. Since the affixture in terms of Rule 7(c) of AO Rules could not be made, in terms of Rule 7(d) publishing the details of the notice was done in Mumbai editions of Times of India and Loksatta on August 9, 2017. I am convinced with the efforts taken by SEBI in serving the notice.

18. Pursuant to paper publication, Dhilin sent the reply to SCN vide his letter dated August 9, 2017 stating that he could not reply to SCN since he is in jail and SACV is liquidated and the records are with the liquidator. Further he also requested to grant time till his release from jail.

Reply of Dahlia Traders

19. The SCN sent was returned undelivered. Since the affixture in terms of Rule 7(c) of AO Rules could not be made, in terms of Rule 7(d) publishing the details of the notice was done in Mumbai editions of Times of India and Lok satta on September 05, 2017. I am convinced with the efforts taken by SEBI in serving the notice.
20. Pursuant to paper publication, Dhilin, in his capacity as Director of Dhalia Traders, sent the reply to SCN vide his letter dated September 6, 2017 stating that he could not reply to SCN since he is in jail and SACV is liquidated and the records are with the liquidator. Further he also requested to grant time till his release from jail.

Hearing

21. In order to conduct inquiry, I granted an opportunity of personal hearing in the matter , as detailed below in terms of Rule 4(3) of AO Rules :
22. First hearing was granted to the entities on September 06, 2017. Another opportunity provided on December 12, 2017. Final opportunity granted on February 22, 2018. Notice of hearing was served through Jail Authorities where Dhilin is currently reportedly housed. Having satisfied with the efforts taken by SEBI in serving the notices, I proceed with material available on record to adjudge the violations levelled against Dahlia Traders.
23. The notice for hearing scheduled on December 12, 2017 was acknowledged by the Advocate of Dhilin vide her letter dated December 4, 2017. Vide the said letter the following submissions were made:
- Dhilin is in jail for more than 2 ½ years and had not committed any breach of Act, Rules, and Regulations of SEBI Act.
 - SACV went into liquidation for last more than 3 years and entire records of all company have been taken charge by liquidator.
 - At the outset he is denying all the allegation averments statement and submission of SCN.
 - AO proceedings may be kept in abeyance till Dhilin is release from custody.
24. No one appeared before me on the hearing dates and hence considering the uncertainty in Dhilin appearance before me, I would like to proceed further with the evidence/ material available on record for the allegations levelled against Dhilin and Dahlia.

Consideration issues, Evidences and Findings

25. I have carefully perused the charges levelled against the entities in the SCN and written submissions made in response to SCN and all the documents available on record. In the instant matter, the following issues arise for consideration and determination:

- I. **Whether Dhilin has violated Regulations 13(3) and 13(4) and Schedule I read with Regulation 12(1) of PIT Regulations, 1992?**
- II. **Whether Dahlia Traders has violated Regulations 13(3) PIT Regulations, 1992?**
- III. **Whether Dhilin and Dahlia have violated Regulations 8A (2) and 8A(3) of SAST Regulations, 1997?**
- IV. **Does the violation, if any, on the part of the entities attract monetary penalty under Section 15A (b) of the Act?**
- V. **If so, what would be the quantum of monetary penalty that can be imposed on the entities taking into consideration the factors mentioned in Section 15J of the Act?**

26. Before proceeding further, I would like to refer to the relevant provisions of PIT Regulations 1992, PIT Regulations 2015, SAST Regulations 1997 and SAST Regulations 2011 which read as under:

Relevant provisions of SAST Regulations, 1997:

Disclosure of Pledged Shares.

8A(2) *A promoter or every person forming part of the promoter group of any company shall, within 7 working days from the date of creation of pledge on shares of that company held by him, inform the details of such pledge of shares to that company.*

(3) A promoter or every person forming part of the promoter group of any company shall, within 7 working days from the date of invocation of pledge on shares of that company pledged by him, inform the details of invocation of such pledge to that company.

Relevant provisions of SAST Regulations, 2011:

Repeal and Savings.

35.(1) *The Securities and Exchange Board of India (Substantial Acquisition of Shares and Takeovers) Regulations, 1997, stand repealed from the date on which these regulations come into force.*

(2) Notwithstanding such repeal,—

(a) anything done or any action taken or purported to have been done or taken including comments on any letter of offer, exemption granted by the Board, fees collected, 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;

(b) 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 has never been repealed;

(c) any open offer for which a public announcement has been made under the repealed regulations shall be required to be continued and completed under the repealed regulations.

(3) After the repeal of Securities and Exchange Board of India (Substantial Acquisition of Shares and Takeovers) Regulations, 1997, 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.

Relevant provisions of PIT Regulations, 1992:

Continual disclosure.

13 (3) Any person who holds more than 5% shares for voting rights in any listed company shall disclose to the company in Form C the number of shares or voting rights held and change in shareholding or voting rights, even if such change results in shareholding falling below 5%, if there has been change in such holdings from the last disclosure made under sub-regulation (1) or under this sub-regulation; and such change exceeds 2% of total shareholding or voting rights in the company.

13(4) Any person who is a director or officer of a listed company, shall disclose to the company and the stock exchange where the securities are listed in Form D, the total number of shares or voting rights held and change in shareholding or voting rights, if there has been a change in such holdings of such person and his dependents (as defined by the company) from the last disclosure made under sub-regulation (2) or under this sub regulation, and the change exceeds Rs. 5 lakh in value or 25,000 shares or 1% of total shareholding or voting rights, whichever is lower.

13(5) The disclosure mentioned in sub-regulations (3) and (4) shall be made within two working days of :

(a) the receipts of intimation of allotment of shares, or

(b) the acquisition or sale of shares or voting rights, as the case may be.

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 clearing 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 I of these Regulations 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

4.0 Other restrictions

4.2 All directors / officers/ designated employees who buy or sell any number of shares of the company shall not enter into an opposite transaction, i.e., sell or buy any number of shares during the next six months following the prior transaction. All directors / officers/ designated employees shall also not take positions in derivative transactions in the shares of the company at any time.

PIT Regulations, 2015

Repeal and Savings.

12. (1) The Securities and Exchange Board of India (Prohibition of Insider Trading) Regulations, 1992 are hereby repealed.

(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

FINDINGS

27. From the records available, I am satisfied with the efforts taken by SEBI in serving the notices to Dhilin and Dahlia traders and in providing them sufficient opportunity to defend the allegations levelled against them.

28. I note that enough opportunities have been provided to both the entities in the matter and hence I am not inclined to accept the arguments put forth by Dhilin on his behalf and on behalf of Dahlia Traders that they could not make submissions because he is in jail and all the documents are with the official liquidator since the company is being liquidated. I note that Dhilin has hired the services of legal counsel who has replied to me pursuant to hearing notice

sent to both the noticees. I find no merit in the reply filed on behalf of the noticees. Since release of Dhilin is uncertain and there are evidence to suggest that Dhilin and Dahlia has not made required disclosures under SEBI PIT and SAST Regulations. Hence I am going ahead in the matter based on the matter available. I would like to rely on the Hon'ble SAT observation *in the matter of Sanjay Kumar Tayal & Ors. Vs. SEBI (in appeal No. 68/2013) decided on February 11, 2014 wherein SAT has observed that "....., appellants have neither filed reply to show cause notices issued to them nor availed opportunity of personal hearing offered to them in the adjudication proceedings and, therefore, appellants are presumed to have admitted charges leveled against them in the show cause notices"*, I conclude that Dhilin and Dahlia Traders by neither filing reply on merits to show cause notice issued to them nor availing the opportunity of personal hearing in the adjudication proceedings, are presumed to have admitted charges leveled against them in the show cause notice.

29. Further in the absence of any defense from the entities, I had to take into consideration the evidence placed before me. Mere denial by the entities that they had not violated any rules, provisions, act of SEBI will not absolve them from the proceedings whereas there are evidence in front of me about non-compliance by the noticees. Further, the release of Dhilin is uncertain and not time bound, I am proceeding further with the material available on record which clearly establishes the failure on the part of Dhilin and Dahlia Traders in making the disclosure under PIT Regulations and SAST Regulations. I would like to rely on Hon'ble SAT ruling in **Appeal No. 66 of 2003 - Milan Mahendra Securities Pvt. Ltd. Vs SEBI**, wherein the Hon'ble SAT has observed that, *"the purpose of these disclosures is to bring about transparency in the transactions and assist the Regulator to effectively monitor the transactions in the market."* Since the disclosures were not made on numerous occasions, I find Dhilin and Dahlia Traders have contravened the provisions of Law and liable for penalty.

Does the violation, if any, on the part of Dhilin and Dahlia Traders attract monetary penalty under Section 15 A (b) of the Act?

30. Having concluded that Dhilin and Dahlia Traders have violated the provision of SEBI Act and hence liable for monetary penalty under Section 15A(b) of the Act in terms of the penal provisions as stated below:

SEBI Act

Section 15A(b) of the Act (as existed during the period of violation) reads as under:

Penalty for fraudulent and unfair trade practices.

Penalty for failure to furnish information, return, etc.

15A. *If any person, who is required under this Act or any rules or regulations made thereunder,—
(b) to file any return or furnish any information, books or other documents within the time specified therefor in the regulations, fails to file return or furnish the same within the time specified there for in the regulations, he shall be liable to a penalty of one lakh rupees for each day during which such failure continues or one crore rupees whichever is less.*

Issue III: If so, what would be the quantum of monetary penalty that can be imposed on Dhilin and Dahlia Traders after taking into consideration the factors mentioned in Section 15J of the Act?

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

15J - Factors to be taken into account by the adjudicating officer 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.

32. It is observed from the records that any gain or unfair advantage accrued to Dhilin and Dahlia Traders as a result of non-disclosure has not been quantified. Further, there is no material is made available on record to assess the disproportionate gain or unfair advantage, amount of loss caused to an investor or group of investors as a result of non-disclosure. Records suggests that non –compliance of law by Dhilin and Dahlia Traders is repetitive.

ORDER

33. In view of the above, after considering all the facts and circumstances of the case and exercising the powers conferred upon me under Section 15-I of the Act and Rule 5 of Rules, I hereby impose a monetary penalty as detailed below on Dhilin and Dahlia Traders under Section 15A(b) of the Act. In my view, the penalty imposed is commensurate with the default committed by the entities

Entity	Provisions of law violated	Penalty levied under Section	Quantum of penalty in Rs.
Dhilin Mehta	Regulation 13(3) and 13(4) of PIT Regulations, 1992	Section 15 A(b) of SEBI Act, 1992	2,00,000 (Two lakhs only)
	Schedule I read with Regulation 12(1) of PIT Regulations, 1992		2,00,000 (Two lakhs only)
	Regulations 8A(2) of SAST Regulations, 1997		2,00,000 (Two lakhs only)
Dahlia Traders	Regulation 13(3) of PIT Regulations, 1992	Section 15 A(b) of SEBI Act, 1992	2,00,000 (Two lakhs only)
	Regulations 8A(2) of SAST Regulations, 1997		2,00,000 (Two lakhs only)

34. The amount of penalty shall be paid within 45 days of receipt of this order either by way of

- (i) demand draft in favor of "SEBI - Penalties Remittable to Government of India", payable at Mumbai
- (or)
- (ii) by e-payment in the account of

Bank Name	State Bank of India
Branch	Bandra Kurla Complex
RTGS Code	SBIN0004380
Beneficiary Name	SEBI - Penalties Remittable to Government of India
Beneficiary A/c No	31465271959

35. The entities shall forward said Demand Draft or the details / confirmation of penalty so paid through e-payment to the Chief General Manager of Enforcement Department of SEBI. The Format for forwarding details / confirmations of e-payments shall be made in the following tabulated form as provided in SEBI Circular No. SEBI/HO/GSD/T&A/CIR/P/2017/42 dated May 16, 2017 and details of such payment shall be intimated should be forwarded to "The Division Chief (Enforcement Department - DRA- II), Securities and Exchange Board of India, SEBI Bhavan, Plot no C- 4 A, "G" Block, Bandra Kurla Complex, Bandra (E), Mumbai – 400052 and also to e-mail ID - tad@sebi.gov.in

Date	
Department of SEBI	
Name of Intermediary/ Other Entities	
Type of Intermediary	
SEBI Registration Number (if any)	
PAN	
Amount in Rs.	
Purpose of Payment (including the period for which payment was made e.g. quarterly, annually	
Bank name and Account number from which payment is remitted	
UTR No	

36. In terms of Rule 6 of the Rules, copies of this order are sent to the entities and also to Securities and Exchange Board of India.

Date: March 27, 2018
Place: Mumbai

SAHIL MALIK
ADJUDICATING OFFICER