

BEFORE THE ADJUDICATING OFFICER
SECURITIES AND EXCHANGE BOARD OF INDIA

[ADJUDICATION ORDER/SS/AS/2018-19/1768-1771]

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

In respect of:

1. Mr. Anant Sureshchandra Maloo (PAN: ACSPM2958D)
2. M/s Maloo Building Materials Pvt. Ltd. (PAN: AABCM0619D)
3. Mr. Manan Vidhyapati Patel (PAN: AFJPP0452P)
4. Mr. Abhijeet Dwarkadas Daga (PAN: AHTPD5397B)

In the matter of Timbor Home Limited

1. M/s Timbor Home Limited (hereinafter referred to as “the company”) is a listed company having its shares listed on Bombay Stock Exchange Limited (“BSE”) and National Stock Exchange Limited (“NSE”). An investigation was conducted by SEBI in the scrip of the company during the period April 1, 2014 to May 30, 2015 (Investigation Period). It was observed that during the Investigation Period:

- a. The shareholding of 4 promoters, viz. Mr. Anant Sureshchandra Maloo, M/s Maloo Building Materials Pvt Ltd, Mr. Manan Vidhyapati Patel and Mr. Abhijeet Dwarkadas Daga (hereinafter collectively referred to as ‘the promoters’ and individually as Noticee No. 1, Noticee No. 2, Noticee No. 3 and Noticee No. 4, respectively) of the company had decreased from 29.90% to 0.29% as shown in the following table:

Name	As on 31/03/2014 (% Holding)	As on 30/06/2014 (% Holding)	As on 30/09/2014 (% Holding)	As on 31/12/2014 (% Holding)	As on 31/03/2015 (% Holding)	As on 30/06/2015 (% Holding)
Mr. Anant Sureshchandra Maloo	8.12	5.55	0.13	0.13	0.13	-
M/s Maloo Building Materials Pvt Ltd	8.66	8.66	0.08	0.08	-	-
Mr. Manan Vidhyapati Patel	7.62	7.62	0.03	0.03	0.03	0.03

Mr. Abhijeet Dwarkadas Daga	5.51	5.51	3.59	2.69	2.06	0.26
Total	29.90	27.33	3.84	2.93	2.22	0.29

Source: bseindia.com

- b. The aforesaid promoters had transferred more than 25,000 shares of the company on various occasions through off-market / on-market transactions to related entities. Details of the same are as follows:

I. Mr. Anant Sureshchandra Maloo

Date	No. of Shares Disposed Of	Mode of Transfer	Date of disclosure to NSE/BSE
31/03/2014	2,50,000 (1.69%)	Off-Market	02/05/2018
13/06/2014	54,000 (0.37%)		No Disclosure Made
30/06/2014	3,25,000 (2.20%)		
11/07/2014	2,50,000 (1.69%)		
23/07/2014	5,50,000 (3.73%)		

II. M/s Maloo Building Materials Pvt Ltd

Date	No. of Shares Disposed Of	Mode of Transfer	Date of disclosure to NSE/BSE
15/07/2014	65,000 (0.44%)	Off-Market	No Disclosure Made
22/07/2014	2,00,000 (1.36%)		
24/07/2014	5,00,000 (3.39%)		
09/08/2014	5,00,000 (3.39%)		

III. Mr. Manan Vidhyapati Patel

Date	No. of Shares Disposed Of	Mode of Transfer	Date of disclosure to NSE/BSE
03/07/2014	5,00,000 (3.39%)	Off-Market	No Disclosure Made
07/07/2014	6,20,000 (4.20%)		

IV. Mr. Abhijeet Dwarkadas Daga

Date	No. of Shares Disposed Of	Mode of Transfer	Date of disclosure to NSE/BSE
29/08/2014	2,00,000 (1.36%)	Off-Market	No Disclosure Made
13/10/2014	76,000 (0.52%)	On Market	
09/04/2015	68,041 (0.46%)		
10/04/2015	45,032 (0.31%)		
15/04/2015	50,910 (0.34%)		

21/04/2015	30,000 (0.20%)		
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- c. In the aforesaid transactions by the promoters, the number of shares sold were more than 25,000, and thus, they were under the obligation to make disclosures to the company and to the stock exchanges as stipulated in regulation 13(4A) read with 13(5) of the SEBI (Prohibition of Insider Trading) Regulations, 1992 (hereinafter referred to as the 'PIT Regulations'). However, apart from the disclosure made by Mr. Anant Sureshchandra Maloo belatedly for the transaction dated March 31, 2014, the promoters had not made any disclosure to the company or to the stock exchanges for aforementioned transactions as stipulated in regulation 13(4A) and 13(5) of the PIT Regulations.
2. It was also observed that the aforesaid promoters being "Persons Acting in Concert (PAC)", were under obligation to make disclosures under Regulation 29(2) read with 29(3) of the SEBI (Substantial Acquisition of Shares and Takeovers) Regulations, 2011 (hereinafter referred to as the 'SAST Regulations') for following sell transactions:

Date	Consolidated % of shareholding by PAC prior to sale transaction	Consolidated no. of shares sold by PAC	Consolidated % of shareholding by PAC post sale transaction	Trigger %	Trigger for Disclosure under SAST Regulations
31/03/2014	31.60	2,50,000 (1.69%)	29.90	1.69	Not Applicable
13/06/2014	29.90	54,000 (0.37%)	29.54	2.06	29(2) r/w 29(3)
30/06/2014	29.54	3,25,000 (2.20%)	27.33	2.20	29(2) r/w 29(3)
03/07/2014	27.33	5,00,000 (3.39%)	23.94	3.39	29(2) r/w 29(3)
07/07/2014	23.94	6,20,000 (4.20%)	19.74	4.20	29(2) r/w 29(3)
11/07/2014	19.74	2,50,000 (1.69%)	18.05	1.69	Not Applicable
15/07/2014	18.05	65,000 (0.44%)	17.61	2.13	29(2) r/w 29(3)
22/07/2014	17.61	2,00,000 (1.36%)	16.25	1.36	Not Applicable
23/07/2014	16.25	5,50,000 (3.73%)	12.53	3.73	29(2) r/w 29(3)
24/07/2014	12.53	5,00,000 (3.39%)	9.14	3.39	29(2) r/w 29(3)
09/08/2014	9.14	5,00,000 (3.39%)	5.75	3.39	29(2) r/w 29(3)
29/08/2014	5.75	2,00,000 (1.36%)	4.39	1.36	Not Applicable
25/09/2014	4.39	6,213 (0.04%)	4.35	1.40	Not Applicable
29/09/2014	4.35	15,473 (0.10%)	4.25	1.50	Not Applicable
30/09/2014	4.25	400 (0.01%)	4.24	1.51	Not Applicable
09/10/2014	4.24	20,000 (0.14%)	4.11	1.64	Not Applicable
13/10/2014	4.11	76,000 (0.52%)	3.59	2.16	29(2) r/w 29(3)

3. NSE vide e-mail dated December 26, 2017 and BSE vide e-mail dated January 03, 2018 provided the list of disclosures received from the aforesaid promoters of the company which showed that no disclosures were made to NSE and BSE by these promoters about their above transactions. SEBI, thus, noted that with respect to their aforesaid transactions, the promoters had failed to make relevant disclosures to the company / exchanges under Regulation 13(4A) read with 13(5) of the PIT Regulations and Regulation 12 of the SEBI (Prohibition of Insider Trading) Regulations, 2015 (hereinafter referred to as the 'PIT Regulations 2015') and Regulation 29(2) read with 29(3) of the SAST Regulations.

4. The competent authority in SEBI has *prima facie* felt satisfied that there are sufficient grounds to inquire and adjudicate the alleged violations of the provision of Regulation 13(4A) read with 13(5) of the PIT Regulations and Regulation 12 of the PIT Regulations 2015 and Regulation 29(2) read with 29(3) of the SAST Regulations, by the promoters, *viz.* Mr. Anant Sureshchandra Maloo, M/s Maloo Building Materials Pvt. Ltd., Mr. Manan Vidhyapati Patel and Mr. Abhijeet Dwarkadas Daga. Vide a communication - order dated August 21, 2018, was advised to inquire and adjudge under Rule 5 of the SEBI (Procedure for Holding Inquiry and imposing penalties by Adjudicating Officer) Rules, 1995 (Adjudication Rules) and section 15A (b) of the SEBI Act, the alleged violation of the provisions of Regulation 13(4A) read with 13(5) of the PIT Regulations and Regulation 12 of the PIT Regulations 2015 and Regulation 29(2) read with 29(3) of the SAST Regulations by these promoters.
5. Accordingly, in terms of Rule 4(1) of the Adjudication Rules read with section 15I of the SEBI Act the notice to show cause no. EAD/SS/AKS/OW/P/29111/1-4/2018 dated October 17, 2018 ('the SCN') was issued to the aforesaid promoters, calling upon them to show cause as to why an inquiry should not be held against them in terms of Rule 4 of the Adjudication Rules and penalty be not imposed under Section 15A (b) of the SEBI Act for the aforesaid alleged violations. The SCN was duly served upon the Noticee No. 1 and 2 and returned undelivered in respect to Noticee No. 4. Since, the SCN issued to Noticee No. 3 neither back as undelivered nor its acknowledgement could be received, it was again served upon Noticee No. 3 along with hearing Notice dated November 30, 2018. The SCN issued to Noticee No.4 along with the hearing Notice dated November 30, 2018 was also served upon him by delivery at last known address of Noticee No. 4.
6. The Noticee No. 1 filed reply vide letter dated October 30, 2018 on behalf of himself and the Noticee No. 2. Noticee no. 3 filed his reply to the SCN vide his letter dated December 14, 2018. In its reply the Noticee No. 1 *inter alia* made following submissions:
- a. The details of shares transferred by these promoters along with consideration and purpose/reason for transfer, if any, are as follows:

Date	No. of Shares transferred	Promoter	Transferred to	Consideration Amount	Purpose/ Reason for transfer
12/06/2014	25,000	Mr. Anant Sureshchandra Maloo	Mr. Nimish Shah	NIL	-
12/06/2014	29,000		Late Shirish Vyas	NIL	-
21/6/2014	25,000		Late Shirish Vyas	NIL	-
30/06/2014	3,00,000		Hettich India Ltd.	NIL	Shares were transferred as Security Deposit against outstanding payment towards material supplied by transferee to the company.
15/7/2014	65,000	Maloo Building Material Pvt. Ltd.	Ms. Dipali Nilay Shah	NIL	-

24/7/2014	5,00,000		Ms. Sushma Rani	NIL	Ms. Sushma Rani, Proprietor, Yuvatek Pack was a creditor, who had filed Winding-up petition against the company. The shares were sold by the party to adjust their outstanding amount.
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b. Following shares were transferred by them to Mr. Nimish Shah without any consideration:

Date	No. of Shares transferred	Promoter	Transferred to	Purpose/ Reason for transfer
10/07/2014	2,50,000	Mr. Anant Sureshchandra Maloo	Mr. Nimish Shah	The incident of fire happen in their factory and they were in need of funds to run the operations. During that time they were introduced to Mr. Sanjay Soni, who assured them funds against the sales of the shares. On the above assurance they transferred the shares in name of Mr. Nimish Shah, who further transferred the shares in demat account and names suggested by Mr. Sanjay Soni i.e. in demat accounts of Mr. Soni Sanjay Jethalal, Mr. Paresh Nathalal Chauhan and Mr. Gagabhai Desai Amul.
22/07/2014	2,00,000	Maloo Building Material Pvt. Ltd.	Late Shirish Vyas	
23/07/2014	5,50,000	Mr. Anant Sureshchandra Maloo	Late Shirish Vyas	
09/08/2014	5,00,000	Maloo Building Material Pvt. Ltd.	Hettich India Ltd.	

c. From the date of aforesaid transfer they have not received any money from Mr. Sanjay Soni and associates and Mr. Sanjay Soni had cheated and defrauded them.

d. The company had already been liquidated.

7. In his reply dated December 14, 2018, the Noticee No. 3 made *inter alia* following submissions:

- He had joined the company as a promoter with other promoters/ directors as technical person. He was not associated with day to day management or financial management of the company. He had resigned as the Executive Director of the company on May 07, 2013.
- He was allotted 11,25,000 shares of the company, but he had not paid any consideration amount for the said shares. The said shares were transferred from his name to others by other promoter / directors without his consent or his knowledge, for which he had already intimated to the company on August 08, 2014. He had not received any consideration amount for the aforesaid transactions.
- Since, he was not aware of the aforesaid transactions, therefore he was not under the obligation to make disclosure as alleged.
- The allegation that he had acted as 'person acting in concert', is not true and he does not admit the same.

8. In terms of Rule 4(3) an opportunity of personal hearing was granted to all the Noticees and was communicated to them vide notice dated November 30, 2018 and December 05, 2018. While the Noticee No. 3 and 4 did not avail the opportunity, Noticee No. 1 appeared on the date so fixed on December 18, 2018 and made submissions for himself and on behalf of the Noticee No. 2. He admitted that disclosures were not been made by him and Noticee No. 2 as alleged in the SCN. He further requested to take lenient view in the matter as according to him the aforesaid transfers were without any considerations and were in the interest of the company to secure loan/ default by the company. The default in making timely disclosure to the company and stock exchange in this case was due to ignorance.
9. It is noted that Noticee No. 3 had not availed the opportunity of personal hearing provided to him, despite service of the Notice in this regard upon him. I, therefore, am of the view that the matters should proceed *qua* him in terms of Rule 4(7) of the Adjudication Rules which says that if any person fails, neglects or refuses to appear as required by sub-rule (3) before the adjudicating officer, the adjudicating officer may proceed with the inquiry in the absence of such person after recording the reasons for doing so. In this case, since the Noticee No. 3, has not responded to the Notice dated November 30, 2018 and December 05, 2018, I am of the view that he has failed, neglected and refused to appear in the matter.
10. However, in case of Noticee No. 4, though the SCN dated October 17, 2018 and hearing notice dated November 30, 2018 were delivered the rescheduled date of hearing communicated vide notice December 05, 2014 could not be intimated to him as the notice dated December 05, 2018 could not be delivered upon him by delivery/ affixture. Therefore, the opportunity need to be given to him notice upon him in terms of Rule 7(d) of the Adjudication Rules.
11. In view of the above, I proceed to deal with charges/ allegations against Noticee No. 1 to 3 on the basis of their reply/ submissions and the relevant material brought on record. In this case, the facts about transfer of shares from the Noticees 1 to 3 as alleged in the SCN are admitted. The limited question for determination is as to whether these Noticees were required to make disclosures under Regulation 13(4A) read with 13(5) of the PIT Regulations and Regulation 12 of the PIT Regulations 2015 and Regulation 29(2) read with 29(3) of the SAST Regulations as alleged and if so, whether they had failed to make such disclosures. It is relevant to refer to the provisions of Regulation 13(4A) read with 13(5) of the PIT Regulations and Regulation 12 of the PIT Regulations 2015 and Regulation 29(2) read with 29(3) of the SAST Regulations charged in this case which read as under:-

PIT Regulations, 1992

Disclosure of interest or holding in listed companies by certain persons - Initial Disclosure

13. (4A) *Any person who is a promoter or part of promoter group 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 persons from the last disclosure made under Listing Agreement or under sub-regulation (2A) 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.

(5) The disclosure mentioned in sub-regulations (3), (4) and (4A) 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.

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;

(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.

SAST Regulations, 2011

Disclosure of acquisition and disposal.

29(1)

(2) Any person, who together with persons acting in concert with him, holds shares or voting rights entitling them to five per cent or more of the shares or voting rights in a target company, shall disclose the number of shares or voting rights held and change in shareholding or voting rights, even if such change results in shareholding falling below five per cent, 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 two per cent of total shareholding or voting rights in the target company, in such form as may be specified.

(3) The disclosures required under sub-regulation (1) and sub-regulation (2) shall be made within two working days of the receipt of intimation of allotment of shares, or the acquisition of shares or voting rights in the target company to,—

(a) every stock exchange where the shares of the target company are listed; and

(b) the target company at its registered office.

12. It is admitted position that the Noticee No. 1 to 3 had transferred more than 25,000 shares of the company on various occasions and therefore, they were under the obligation to make relevant disclosures under Regulation 13(4A) read with 13(5) of the PIT Regulations and with Regulation 12 of the PIT Regulations 2015. It is noted that these Noticees had transferred more than 25,000 shares on more than one occasions ranging from 2 to 4.
13. With regard to the obligation under Regulation 29(2) read with 29(3) of the SAST Regulations, it is noted that the Noticee No. 1 to 3 have been charged as PACs for the sale transactions of each other. The question would be whether the sellers as well as the PACs with him, should all make disclosures under Regulation 29(2) of SAST Regulations with regard to the transaction of each acquirer/ seller. As held by Hon'ble SAT in the matter of *O.P. Gulati v. SEBI (Appeal No. 185 of 2011 decided on January 11, 2012)* decided with regard to similar obligations under Regulation 7(1A) of the SAST Regulations, 1997 and in the matter of *Mr. Gopalakrishnan Raman and Ors Vs. SEBI* decided on November 20, 2015, requiring every promoter to make such disclosures with regard to transaction of other would lead to absurd consequences and disclosure by each promoter is not required under the language and spirit of relevant regulations. It is established position that concept of PAC under the SAST Regulations is acquisition specific. For the purposes of obligations under Regulation 29(2), the change in combined shareholding of acquirer/ seller and PACs is taken into the account for determining the compliance obligations of the person who acquires/ sells the shares whereby there is consequential change in combined shareholding of such acquirer/ seller and PACs. Thus, if there is change in the combined shareholding of promoters on account of acquisition/sale of shares by any one of them, such promoter should make disclosure with regard to change in shareholding in terms of Regulation 29(2) read with 29(3) of the SAST Regulations. In this case, admittedly, the consequent changes in combined shareholdings of promoters pursuant to sale of shares by Noticees 1 to 3 had triggered the threshold under Regulation 29(2) read with 29(3) of the SAST Regulations. However, requisite disclosures were not made by any of them as required in said Regulations 29(2) read with 29(3).
14. The Noticee No. 1 and 2 have contended that the aforesaid transactions were done by them in good faith without any considerations and were in the interest of the company to secure loan/ default by

the company, therefore, a lenient view may be taken on same. I am of the view that under Regulation 29(2) read with 29(3) of the SAST Regulations, what is relevant is the change in combined shareholding of promoters/PACs. Mode of acquisition or sale is not relevant at all. In this regard, it is noted that the Hon'ble SAT in its order dated September 30, 2014, in the matter of *Akriti Global Traders Ltd. Vs SEBI* observed that- "*Obligation to make disclosures under the provisions contained in SAST Regulations, 2011 as also under PIT Regulations, 1992 would arise as soon as there is acquisition of shares by a person in excess of the limits prescribed under the respective regulations and it is immaterial as to how the shares are acquired.....*". The fact of the company being under liquidation is also of no help to these Noticees, as the disclosure obligations, at the relevant time were, not subservient to financial status of the company or its subsequent liquidation. Noticee no. 3 has claimed that he had not transferred his shares and others had transferred his shares and hence he was not required to make any disclosures. However, he has not given any proof in support of his claim. Being promoters of the listed company and making such large transaction by sale of the shares repeatedly they were expected to be more vigilant about the compliance obligations with regard to disclosures to the company and the stock exchanges. Therefore, I am of the view that the Noticee No. 1, 2 and 3 have failed to make disclosure to the company and stock exchanges in respect to aforesaid transactions as required under Regulation 29(2) read with 29(3) of the SAST Regulations.

15. The disclosures requirements under the respective regulations serve very important purposes. The stock exchange is informed so that the investing public will come to know of the position enabling them to stick on with or exit from the company. Timely disclosures of the details of the shareholding of the persons acquiring/transferring substantial stake is of significant importance as such disclosures also enable the regulators to monitor such acquisitions. Hon'ble SAT in the matter of *Coimbatore Flavors & Fragrances Ltd. vs SEBI (Appeal No. 209 of 2014 order dated August 11, 2014)*, has also held that "*Undoubtedly, the purpose of these disclosures is to bring about more transparency in the affairs of the companies. True and timely disclosures by a company or its promoters are very essential from two angles. Firstly; investors can take a more informed decision to invest or not to invest in a particular scrip secondly; the Regulator can properly monitor the transactions in the capital market to effectively regulate the same.*" Further in the matter of *Appeal No. 66 of 2003 -Milan Mahendra Securities Pvt. Ltd. vs. SEBI*—the Hon'ble SAT, vide its order dated April 15, 2005 held 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.*"
16. In the facts and circumstances of this case, lack of relevant information in public domain with regard to change in shareholding of the promoters would create information asymmetry, at relevant times and the failure to make disclosure as found in this case would also defeat the purpose of the provisions of Regulation 13(4A) read with 13(5) of the PIT Regulations and Regulation 12 of the PIT Regulations 2015 and Regulation 29(2) read with 29(3) of the SAST Regulations. The statutory timelines stipulated in regulation 29(3) of the SAST Regulations and regulation 13(5) of the PIT Regulations are mandatory. Considering the above facts and circumstances, I hold that this case

deserves imposition of monetary penalty upon the Noticee No. 1, 2 and 3 under Section 15A (b) of the SEBI Act which reads as following:-

SEBI Act.

Penalties and Adjudication

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,—*

(a)

(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 therefor in the regulations, he shall be liable to a penalty which shall not be less than one lakh rupees but which may extend to one lakh rupees for each day during which such failure continues subject to a maximum of one crore rupees.

17. For the purpose of adjudication of penalty it is relevant to mention that under section 15I of the SEBI Act imposition of penalty is linked to the subjective satisfaction of the Adjudicating Officer. The words in the section that "*he may impose such penalty*" are of considerable significance, especially in view of the guidelines provided by the legislature in section 15J. Further, vide Part VIII of Chapter VI of the Finance Act, 2017 which was brought after Judgement of Hon'ble Supreme Court in the case of Roofit Industries, while adjudging the quantum of penalty the adjudicating officer has discretion and such discretion should be exercised having due regard to the factors specified in section 15J. The factors stipulated in Section 15J of the SEBI Act, which reads 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.

18. Having regard to the factors listed in section 15J, it is noted that from the material available on record, any quantifiable gain or unfair advantage accrued to the Noticee No. 1 to 3 or the extent of loss suffered by the investors as a result of the default cannot be computed. Though the certain limited disclosures about change in shareholding of the promoters were available on BSE for the

quarter ending March, 2014, June 2014, September, 2014 and December, 2014, it is established that, the Noticee No. 1 to 3 being the promoters have failed to make prescribed disclosures in terms of the relevant Regulations with regard to a series of transactions. It is further noted that these Noticees had, pursuant to their repeated sale transactions, substantially reduced the promoters' shareholding in the company in clandestine manner as they failed to make timely disclosure in the prescribed form about the relevant details of their transactions.

19. In this case there are total 10 transactions of Noticees No. 1, 2 and 3 which are subject matter of these proceedings. Out of these 10 transactions details of which were required to be disclosed under Regulation 13(4A) read with 13(5) of the PIT Regulations, 8 transactions triggered obligations to make disclosures under Regulation 29(2) read with 29(3) of the SAST Regulations also. Thus, there are overlapping obligations for these 8 transaction under relevant regulations of PIT Regulations and SAST Regulations as both provide same requirements with regard to overall threshold, timelines and the entities to whom the disclosures are to be made. Details of these 10 transactions are as follows:

Date	Consolidated no. of shares sold by PAC	Trigger for Disclosure under PIT Regulations	Trigger for Disclosure under SAST Regulations	Noticee who have to make disclosure
13/06/2014	54,000 (0.37%)	13(4A) r/w 13(5)	29(2) r/w 29(3)	Noticee No. 1
30/06/2014	3,25,000 (2.20%)	13(4A) r/w 13(5)	29(2) r/w 29(3)	Noticee No. 1
03/07/2014	5,00,000 (3.39%)	13(4A) r/w 13(5)	29(2) r/w 29(3)	Noticee No. 3
07/07/2014	6,20,000 (4.20%)	13(4A) r/w 13(5)	29(2) r/w 29(3)	Noticee No. 3
11/07/2014	2,50,000 (1.69%)	13(4A) r/w 13(5)	Not Required	Noticee No. 1
15/07/2014	65,000 (0.44%)	13(4A) r/w 13(5)	29(2) r/w 29(3)	Noticee No. 2
22/07/2014	2,00,000 (1.36%)	13(4A) r/w 13(5)	Not Required	Noticee No. 2
23/07/2014	5,50,000 (3.73%)	13(4A) r/w 13(5)	29(2) r/w 29(3)	Noticee No. 1
24/07/2014	5,00,000 (3.39%)	13(4A) r/w 13(5)	29(2) r/w 29(3)	Noticee No. 2
09/08/2014	5,00,000 (3.39%)	13(4A) r/w 13(5)	29(2) r/w 29(3)	Noticee No. 2

20. With regard to such similar violations arising out of same transactions, it is relevant to rely upon the order dated September 04, 2013 passed by the Hon'ble SAT in the matter of *Vitro Commodities Private Limited Vs. SEBI* wherein it has observed that:

"It may be noticed that provisions of Regulations 7(1) of Takeover Regulations, 1997 and Regulation 13(1) of PIT Regulations, 1992 are not substantially different, since violation of first automatically triggers violation of second and hence there is no justification for imposition of penalty for second violation when penalty for first violation has been imposed. It may be seen that Regulation 7(1) of Takeover Regulations, 1997 and Regulation 13(1) of PIT Regulations, 1992 are not stand alone Regulations and one is corollary of other."

21. As per *ratio decidendi* in the aforesaid judgement, I am of the view that the violation of the provisions of Regulation 13(4A) read with 13(5) of the PIT Regulations and Regulation 29(2) read with regulation 29(3) of the SAST Regulations are not substantially different and can be considered as a single violation by Noticee No. 1, 2 and 3 for the purpose of adjudication in the matter, for aforesaid 8 transactions

which attracted overlapping disclosure obligations under the aforesaid Regulations of PIT Regulations and SAST Regulations. In addition, the Noticees No.1 to 2 have also failed to make disclosures under Regulation 13(4A) read with 13(5) of the PIT Regulations with regard to their transactions dated July 11, 2014 and July 22, 2014, respectively, wherein there was no such overlapping applicability of Regulation 29(2) read with Regulation 29(3) of the SAST Regulations.

22. Considering all the facts and circumstances of the case, aforesaid factors/ guidelines and exercising the powers under section 15I of the SEBI Act read with Rule 5 of the Adjudication Rules, I hereby impose following penalty on the Noticees No. 1, 2 and 3 under section 15A (b) of SEBI Act. In my view, the said penalty is commensurate with the violation committed by these Noticees in this case:

Name of Noticee	Amount of Penalty - Provisions of regulations violated (₹)
Mr. Suresh Chandra Maloo (Noticee No. 1)	₹ 1,00,000/- (Rupees One lac only) for violation of regulation 13(4A) read with 13(5) PIT Regulations.
	₹ 3,00,000/- (Rupees Three lac only) for violation of regulation 13(4A) read with 13(5) PIT Regulations and regulation 29(2) read with 29(3) of the SAST Regulations.
M/s Maloo Building Materials Pvt. Ltd. (Noticee No. 2)	₹ 1,00,000/- (Rupees One lac only) for violation of regulation 13(4A) read with 13(5) PIT Regulations.
	₹ 3,00,000/- (Rupees Three lac only) for violation of regulation 13(4A) read with 13(5) PIT Regulations and regulation 29(2) read with 29(3) of the SAST Regulations.
Mr. Manan Vidhyapati Patel (Noticee No. 3)	₹ 2,00,000/- (Rupees Two lac only) for violation of regulation 13(4A) read with 13(5) PIT Regulations and regulation 29(2) read with 29(3) of the SAST Regulations.

23. The respective Noticees shall remit / pay the said amount of penalty within 45 days of receipt of this order either by way of Demand Draft in favour of “SEBI - Penalties Remittable to Government of India”, payable at Mumbai, OR through e-payment facility into Bank Account the details of which are given below:

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

24. The said demand draft or forwarding details and confirmation of e-payment made in the format as given in table below should be sent to "*The Division Chief, EFD-DRA-I, Securities and Exchange Board of India, SEBI Bhavan, Plot no. C- 4 A, "G" Block, Bandra Kurla Complex, Bandra (E), Mumbai - 400 051*" and also to e-mail id:- tad@sebi.gov.in

1	Case Name	
2	Name of the Payee	
3	Date of Payment	
4	Amount Paid	
5	Transaction No.	
6	Bank Details in which payment is made	
7	Payment is made for (like penalties/disgorgement / recovery/ settlement amount and legal charges along with order details)	

25. In terms of Rule 6 of the Adjudication Rules, copies of this order are sent to all the Noticees and also to SEBI.

Date: December 26, 2018

Place: Mumbai

Santosh Shukla

Adjudicating Officer