

BEFORE THE ADJUDICATING OFFICER
SECURITIES AND EXCHANGE BOARD OF INDIA
[ADJUDICATION ORDER NO. Order/MC/DS/2020-2021/ 8758]

UNDER SECTION 15-I (2) OF SECURITIES AND EXCHANGE BOARD OF INDIA ACT, 1992 AND RULE 5 OF SEBI (PROCEDURE FOR HOLDING INQUIRY AND IMPOSING PENALTIES BY ADJUDICATING OFFICER) RULES, 1995.

In respect of –

1. **Kanchan Bihani** (PAN – ADRPB5038M) having address at – A-1305 Mantri Elegance, Bannerghatta Road, Behind Shoppers Stop Ns Palya, Bangalore South – 560076

In the matter of Sanjivani Paranteral Ltd.

BACKGROUND

1. Securities and Exchange Board of India (hereinafter be referred to as, “**SEBI**”) initiated adjudication proceedings under Section 15A(b) of SEBI Act, 1992 (hereinafter be referred to as, the “**SEBI Act**”) against Kanchan Bihani. (hereinafter be referred to as, “**the Noticee/ Kanchan / You**”) for the alleged violations of Regulations 29(1) read with 29(3) of SEBI (Substantial Acquisition of Shares and Takeovers) Regulations, 2011 (hereinafter referred to as ‘**SAST Regulations**’).

APPOINTMENT OF ADJUDICATING OFFICER

2. SEBI appointed the undersigned as Adjudicating Officer (hereinafter referred to as “**AO**”) vide order dated May 18, 2020 to inquire into and adjudge under section 15A(b) of the Securities and Exchange Board of India Act, 1992 (hereinafter referred to as ‘**SEBI Act**’), the aforesaid alleged violations against the Noticees. The appointment of the AO was communicated vide order dated June 2, 2020.

SHOW CAUSE NOTICE, REPLY AND HEARING

3. Show Cause Notice No. EAD5/MC/DPS/10874/2020 dated June 19, 2020 (hereinafter be referred to as, the “**SCN**”) was served upon the Noticee under Rule 4(1) of the Adjudication Rules to show cause as to why an inquiry should not be held and penalty be not imposed against it under Section 15A(b) of SEBI Act, 1992, for the alleged violations of Regulations 29(1) read with 29(3) of SAST Regulations.
4. The allegations levelled against the Noticee in the SCN are summarized as below:
5. SEBI conducted an examination into trading of the scrip of Sanjivani Paranteral Ltd, (hereinafter referred to as '**Sanjivani / Scrip / Company**'). The shares of the company are listed on BSE Ltd.
6. During the examination, it was observed that Noticee had acquired shares on December 12, 2016 which resulted in change in shareholding as given in the table below. Details of transaction statement submitted by NSDL vide email dated April 8, 2019 was provided to the Noticee as Annexure – 2 of the SCN.

Date	Credit	Debit	Holding after trasaction	Share capital	% of share capital	No Disclosures made as required under PIT and SAST
Holding as on December 9, 2016			2,25,431	58,98,300	3.82	N.A.
December 12, 2016	84,584	200	3,09,815	58,98,300	5.25	29(1) r.w 29(3) of SAST

7. The aforesaid transactions triggered disclosure under SAST Regulations. BSE confirmed vide its email dated November 18, 2019 and Sanjivani (Company) also confirmed vide its email dated November 20, 2019 that no disclosures were received under SAST Regulations in the scrip of Sanjivani from Kanchan / Noticee.
8. In view of the above, it was alleged that Noticee failed to disclose change in its shareholding to BSE as well as to the Company, in violation of Regulation 29(1)

read with 29(3) of SAST Regulations. The aforesaid regulations are reproduced as under:

SAST Regulations, 2011

Disclosure of acquisition and disposal.

29(1) Any acquirer who acquires shares or voting rights in a target company which taken together with shares or voting rights, if any, held by him and by persons acting in concert with him in such target company, aggregating to five per cent or more of the shares of such target company, shall disclose their aggregate shareholding and voting rights in such target company in such form as may be specified.

29(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.

9. It was stated in the SCN that the aforesaid alleged violations, if established, would make the Noticee liable for monetary penalty under Section 15A(b) of the SEBI Act.
10. The Company vide email dated November 20, 2019 informed that as per the communication details of Kanchan Bihani provided by the RTA, her email id is bijaybihani@gmail.com. Further, as per the transaction statement provided by NSDL vide email dated April 8, 2019, Noticee demat account no. - IN300360 22052154 is having Email id - bijay@sasvat.co.in, where the transaction was carried out.
11. The SCN was digitally signed by the undersigned and was served to the Noticee vide email dated June 19, 2020 at its email id - bijaybihani@gmail.com, provided by the Company vide email dated November 20, 2019, which was provided to the Noticee as Annexure – 4 to the SCN. Digitally signed SCN was also served to the Noticee vide email dated June 19, 2020 at its email id - bijay@sasvat.co.in, as provided by NSDL vide email dated April 8, 2019, which was provided to the Noticee as Annexure – 2 to the SCN. At paragraph 9 of the

SCN, the Noticee was advised to furnish its reply, if any, towards the SCN within 14 days of its receipt, failing which, it would be presumed that the Noticee had no reply to submit and the matter would be proceeded with on the basis of the material available on record.

12. An opportunity of hearing was provided to the Noticee on July 20, 2020 through video conferencing vide notice dated July 6, 2020, which was digitally signed by the undersigned and served to the Noticee at its email ids - bijaybihani@gmail.com and bijay@sasvat.co.in. It was also communicated in the Hearing Notice that if no appearance is made or no reply is furnished by the Noticee by July 17, 2020, the matter would be decided on the basis of evidence available on record in terms of the Adjudication Rules. However, no reply was received from the Noticee as on the date of hearing and no one appeared on behalf of the Noticee.
13. Another opportunity of hearing was provided to the Noticee on August 17, 2020 at 11:00 am through video conferencing vide notice dated July 30, 2020, which was digitally signed by the undersigned and served to the Noticee at its email ids - bijaybihani@gmail.com and bijay@sasvat.co.in along with SCN. SCN and hearing notice was once again served to the Noticee vide email dated August 13, 2020 at its email ids - bijaybihani@gmail.com, bijay@sasvat.co.in and kanchan1970@gmail.com. Noticee vide email (bijay@sasvat.co.in) dated August 17, 2020 at 13:53 informed that, *"it tried to join webex meeting. However though it was displaying message connecting to meeting..... However could not connect"*.
14. Therefore another opportunity of hearing was provided to the Noticee on August 18, 2020 through video conferencing vide notice dated August 17, 2020. Further it was also intimated to the Noticee that if she was not able to login due to network problem, she may provide her mobile number or WhatsApp number. In this regard, Noticee vide email dated August 17, 2020, requested for adjournment of hearing due to pre-set program on August 18 and 19, 2020 and

requested to keep it thereafter. Accordingly, another opportunity of hearing was provided to the Noticee on August 20, 2020 at 11:00 am vide notice dated August 18, 2020. However, Noticee neither attended the hearing nor replied to the notice. Vide notice dated August 20, 2020, Noticee was informed that sufficient time has already been provided for replying the said SCN and to attend the hearing. Therefore the matter is being proceeded with on the basis of evidence available on record in terms of sub-rule (7) of rule (4) of the Adjudication Rules.

15. I am of the view that sufficient time has been provided to the Noticee to submit reply, which the Noticee had failed to make and also failed to appear for hearing. Hence, the adjudication proceedings against the Noticee are undertaken *ex-parte* on the basis of material available on record.

CONSIDERATION OF ISSUES AND FINDINGS

16. The issues that arise for consideration in the instant matter are:

Issue No. I Whether Noticee had failed to make mandated disclosures under the Regulations 29(1) read with 29(3) of SAST Regulations as alleged in the SCN?

Issue No. II If yes, whether the failure, on the part of the Noticee would attract monetary penalty under Section 15A(b) of the SEBI Act?

Issue No. III If yes, what would be the monetary penalty that can be imposed upon the Noticee taking into consideration the factors stipulated in Section 15J of the SEBI Act read with Rule 5(2) of the Adjudication Rules?

Issue No. I **Whether Noticee had failed to make mandated disclosures under the Regulations 29(1) read with 29(3) of SAST Regulations as alleged in the SCN?**

17. The details relating to change in the shareholding of the Noticee as alleged in the SCN are not in dispute in absence of any reply from the Noticee. I note that

Noticee was holding 2,25,431 shares (3.82% of share capital) on December 9, 2016 and purchased 84,584 shares and sold 200 shares on December 12, 2016. Thus her holding on December 12, 2016 increased to 3,09,815 shares or 5.25% of share capital. Hence, pursuant to purchase and sale on December 12, 2016, shareholding of Noticees crossed 5%. In terms of Regulation 29(1), *any acquirer who acquires shares or voting rights in a target company which taken together with shares or voting rights, if any, held by him and by persons acting in concert with him in such target company, aggregating to five per cent or more of the shares of such target company, shall disclose their aggregate shareholding and voting rights in such target company in such form as may be specified.* Therefore, the transaction carried on December 12, 2016, triggered disclosure requirement under Regulations 29(1) read with 29(3) of SAST Regulations.

18. The Company vide letter dated November 20, 2019 and BSE vide letter dated November 18, 2019 informed that no disclosures were received from the Noticee under SAST Regulations in respect of the relevant transaction. Further, as seen from the BSE website, no disclosures have been made by the Noticee under SAST Regulations in respect of the relevant transaction.

19. In view of the same, it is established that Noticee failed to disclose the change in its shareholding to the exchanges as well as to the company as required under regulation 29(1) read with 29(3) of SAST Regulations.

Issue No. II If yes, whether the failure, on the part of the Noticee would attract monetary penalty under Section 15A(b) of the SEBI Act?

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Issue No. III If yes, what would be the monetary penalty that can be imposed upon the Noticee taking into consideration the factors stipulated in Section 15J of the SEBI Act read with Rule 5 (2) of the Adjudication Rules?

20. Since failure of the Noticee in making disclosures to BSE and Company under Regulation 29(1) read with 29(3) of SAST Regulations is established, it warrants imposition of monetary penalty under Section 15A(b) of the SEBI Act on the Noticee, text of which is reproduced as under:

SEBI Act

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 therefore in the regulations, fails to file return or furnish the same within the time specified therefore in the regulations, he shall be liable to a penalty which shall not be less than one lakh rupees but which may extend to one lakh rupees for each day during which such failure continues subject to a maximum of one crore rupees.”

21. While determining the quantum of penalty under Section 15A(b) of the SEBI Act, the following factors stipulated in Section 15J of the SEBI Act, have to be given due regard:

- 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.

22. I note from the transaction statement of the Noticee that her holding as on December 31, 2016 is 5.29% of share capital of the company, as shown below:-

Date	Credit	Debit	Holding after trasaction	Share capital	% of share capital
Holding as on December 9, 2016			2,25,431	58,98,300	3.82
December 12, 2016	84,584	200	3,09,815	58,98,300	5.25
December 13, 2016	2050		3,11,865	58,98,300	5.29
December 14, 2016	110		3,11,975	58,98,300	5.29

23. I have perused the statement of shareholding pattern of the Company, available on the website of the BSE for the financial quarters ending December 2016. I have noted that the information regarding the Noticee shareholding was reflected as 3,11,975 shares (5.29% of holding) as on quarter ending December 2016, which was in public domain by January 19, 2017.

24. While it is established that the Noticee did not make timely disclosures to Company as well as to BSE under Regulation 29(1) read with 29(3) of SAST Regulations, 2011 in respect of transaction executed on December 16, 2016, I have taken note of the fact that relevant information was available in public domain by January 19, 2017. I also note that no quantifiable figures are available on record to assess disproportionate gain made or loss caused to investors by the aforesaid violation.

25. Therefore, taking into account the facts and circumstances of this matter, and the mitigating factors, I am of the view that a penalty of ₹1,00,000/- (Rupees One Lakh only) will be commensurate with the violations committed.

ORDER

26. After taking into consideration all the facts and circumstances of the case, in exercise of powers conferred upon me under Section 15I (2) of the SEBI Act read with Rule 5 of the Adjudication Rules, I hereby impose a penalty of ₹1,00,000/- (Rupees One Lakh only) upon the Noticee, i.e. Kanchan Bihani under Section 15A(b) of the SEBI Act for violation of Regulation 29(1) read with 29(3) of SAST Regulations.

27. The Noticee 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 online payment facility available on the SEBI website www.sebi.gov.in on the following path, by clicking on the payment link

ENFORCEMENT → Orders → Orders of AO → PAY NOW

28. The Noticee shall forward said Demand Draft or the details / confirmation of penalty so paid to the Enforcement Department – Division of Regulatory Action – III of SEBI. The Noticee shall provide the following details while forwarding DD/ payment information:

a) Name and PAN of the entity (Noticee)

- b) Name of the case / matter
- c) Purpose of Payment – Payment of penalty under AO proceedings
- d) Bank Name and Account Number
- e) Transaction Number

29. Copy of this Adjudication Order is being sent to the Noticee and also to SEBI in terms of Rule 6 of the Adjudication Rules.

DATE: AUGUST 27, 2020

PLACE: MUMBAI

MANINDER CHEEMA

ADJUDICATING OFFICER