

**BEFORE THE ADJUDICATING OFFICER  
SECURITIES AND EXCHANGE BOARD OF INDIA  
[ADJUDICATION ORDER NO. EAD-9/SM/3594-3595/39-40 /2019-20]**

**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:  
**Mr. Sanjeev Agrawal  
(PAN NO. ABOPA4675N)  
Ms. Deepti Agarwal  
(PAN NO. AAMPA0573C)**

**In the matter of M/s Superior Industrial Enterprises Ltd**

1. Securities and Exchange Board of India ("SEBI") had conducted an investigation into the dealings in the scrip of M/s Superior Industrial Enterprises Ltd (hereinafter referred to as "SIEL") for the period from August 01, 2013 to August 31, 2013 (hereinafter referred to as "Investigation period/IP") listed on Bombay Stock Exchange Limited (hereinafter referred to as 'stock exchange'). Pursuant to investigation, it was alleged that promoters of SIEL Mr. Sanjeev Agrawal (hereinafter referred to as "Noticee No. 1") and Ms. Deepti Agrawal (hereinafter referred to as "Noticee No. 2")(collectively referred to as "Noticees") had made delayed disclosure to Stock Exchange and thus have violated Regulation 13(4A) read with Regulation 13(5) of SEBI (Prohibition of Insider Trading) Regulations, 1992 (hereinafter Referred to as "PIT Regulation") (hereinafter referred to as PIT Regulations).
2. Wherever SEBI (PIT) Regulations, 1992 is mentioned it should be read with Regulation 12 of SEB(PIT) Regulations, 2015.

**Appointment of Adjudicating Officer**

3. The undersigned has been appointed as Adjudicating Officer vide order dated December 27, 2018 under Section 19 of the SEBI Act read Section 15-I of SEBI Act" read with Rule 3 of SEBI (Procedure for Holding Inquiry and Imposing Penalties by Adjudicating Officer) Rules, 1995 (hereinafter referred to as "AO Rules") to inquire and adjudge under Section 15A(b) of SEBI Act on Noticee(s) No. 1 and 2 for the alleged violation of aforesaid Regulation

**Show Cause Notice, Reply ad Personal Hearing:**

4. Based on the findings by SEBI, Show Cause Notice dated February 15, 2019 (hereinafter referred to as 'SCN") was served on Noticees in terms of Rule 4 of AO Rules read with Section 15 (I) of SEBI Act, calling upon the Noticees to show cause as to why an inquiry should not be held against them and penalty should be not imposed under Section 15A(b) of SEBI Act, 1992 on Noticee(s) No. 1 and 2 for the alleged provisions of law. SCN was duly delivered.

### Allegations in the SCN:

5. BSE vide letter dated August 10, 2016 provided the details received in respect to the disclosure filed by Noticee(s) No. 1 and 2 under Regulation 13 (4A) read with Regulation 13(5) of PIT Regulation.

**Table No. 1**

Date	No of shares held - pre Acquisition /disposal	% of shareholding held - pre Acquisition /disposal	No of shares Acquired/ (disposed off)	No of shares Acquired/ (disposed off) as a % of paid up capital	Value of transaction (Rs.)	No of shares held - post Acquisition/disposal	% of shareholding held - post Acquisition/disposal	Date of disclosure to stock exchange	Violation of Regulation(s) under PIT
<b>Deepti Agrawal</b>									
02/06/2014	6,97,500	5.04	45,866	0.33	96,57,726	6,51,634	4.70	29/9/2014 (delayed disclosure)	Reg.13(4A) r/w Reg. 13(5) of PIT, 1992
03/06/2014	6,51,634	4.70	29,220	0.21	62,23,860	6,22,414	4.49	29/9/2014 (delayed disclosure)	Reg.13(4A) r/w Reg. 13(5) of PIT, 1992
04/06/2014	6,22,414	4.49	24,035	0.17	52,15,595	5,98,379	4.32	29/9/2014 ((delayed disclosure)	Reg.13(4A) r/w Reg. 13(5) of PIT, 1992
08/07/2014	5,98,379	4.32	12,200	0.09	24,40,000	5,86,179	4.23	29/9/2014 (delayed disclosure)	Reg.13(4A) r/w Reg. 13(5) of PIT, 1992
10/07/2014	5,86,179	4.23	5,000	0.04	10,10,000	5,81,179	4.20	Non disclosure	Reg.13(4A) r/w Reg. 13(5) of PIT, 1992
11/07/2014	5,81,179	4.20	14,625	0.11	29,25,000	5,66,554	4.09	29/9/2014 (delayed disclosure)	Reg.13(4A) r/w Reg. 13(5) of PIT, 1992
22/08/2014	566554	4.09	27,000	0.19	34,29,000	5,39,554	3.90	29/9/2014 (delayed disclosure)	Reg.13(4A) r/w Reg. 13(5) of PIT, 1992
25/08/2014	539554	3.90	20,612	0.15	25,76,500	5,18,942	3.75	29/9/2014 (delayed disclosure)	Reg.13(4A) r/w Reg. 13(5) of PIT, 1992
<b>Sanjeev Agrawal</b>									
13/06/2014	7,90,000	5.7	15,000	0.11	29,51,250	7,75,000	5.60	29/9/2014 (delayed disclosure)	Reg.13(4A) r/w Reg. 13(5) of PIT, 1992
03/07/2014	7,75,000	5.60	17,107	0.12	34,38,507	7,57,893	5.47	29/9/2014 (delayed disclosure)	Reg.13(4A) r/w Reg. 13(5) of PIT, 1992
07/07/2014	7,57,893	5.47	3,000	0.02	6,27,000	7,54,893	5.45	Non disclosure	Reg.13(4A) r/w Reg. 13(5) of PIT, 1992

Date	No of shares held - pre Acquisition /disposal	% of shareholding held - pre Acquisition /disposal	No of shares Acquired/ (disposed off)	No of shares Acquired/ (disposed off) as a % of paid up capital	Value of transaction (Rs.)	No of shares held - post Acquisition/disposal	% of shareholding held - post Acquisition/disposal	Date of disclosure to stock exchange	Violation of Regulation(s) under PIT
08/07/2014	7,54,893	5.45	13,907	0.10	27,81,400	7,40,986	5.35	29/9/2014 (delayed disclosure)	Reg.13(4A) r/w Reg. 13(5) of PIT, 1992
10/07/2014	7,40,986	5.35	4,950	0.04	9,99,900	7,36,036	5.31	Non disclosure	Reg.13(4A) r/w Reg. 13(5) of PIT, 1992
11/07/2014	7,36,036	5.31	16,000	0.12	32,00,000	720036	5.20	29/9/2014 (delayed disclosure)	Reg.13(4A) r/w Reg. 13(5) of PIT, 1992
22/08/2014	720036	5.20	30,000	0.22	37,80,000	690036	4.98	29/9/2014 (delayed disclosure)	Reg.13(4A) r/w Reg. 13(5) of PIT, 1992
25/08/2014	690036	4.98	21,000	0.15	26,25,000	669036	4.83	29/9/2014 (delayed disclosure)	Reg.13(4A) r/w Reg. 13(5) of PIT, 1992

6. From the above table, it was inter-alia alleged:

6.1. Noticee No. 1: had failed to disclose the change in shareholding to the company on two instances and had delayed in intimating the change in holdings to Stock Exchange in six instances.

6.2. Noticee No. 2 had failed to disclose the change in shareholding to the company and BSE in one instance and had delayed in intimating the change in holdings to the BSE on seven instances.

7. On the basis of the observation, it was alleged that Noticee(s) 1 and 2 have violated Regulation 13(4A) read with Regulation 13(5) of SEBI(PIT) Regulations.

#### **Reply pursuant to SCN:**

8. Noticees(s) No. 1 and 2 sought for extension to submit the reply vide their letter dated February 27, 2019 and February 28, 2019 respectively.

8.1. Noticees vide March 29, 2019 inter-alia replied *“that after the disposal of shares, they have duly complied with the provisions of the Regulation 13(4A) read with Regulation 13(5) of PIT Regulations by informing the changes in the shareholding to then compliance officer of SIEL. We have acted bona-fide and did not secure any disproportionate gain or unfair advantage by withholding any information.”*

#### **Personal Hearing:**

9. In the interest of natural justice and in terms of Rule 4 (3) of Rules, the Noticees was given an opportunity of personal hearing on April 05, 2019. On behalf of the Noticees the Authorized Representative (hereinafter referred to as “AR”) appeared before the undersigned on the said date. AR made oral submissions and informed that written submission has been forwarded to SEBI.

## **ISSUES FOR CONSIDERATION and FINDINGS:**

**Issue I: Whether the Regulation 13 (4A) read with Regulation 13(5) of PIT Regulations Noticee(s) No. 1 and 2;**

**Issue II Does the violation, if any, attract monetary penalty under Section 15A(b) of SEBI Act on Noticee;**

**Issue III If so, what should be the quantum of monetary penalty?**

**10.** Before proceeding further, I would like to refer to the relevant provisions of PIT Regulations,

**Violation of Relevant provisions of SEBI (PIT) Regulations are reproduced hereunder:**

### **Regulation 13(4A) of SEBI (PIT) Regulations:**

*“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 person 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.”*

### **Regulation 13(5) of SEBI (PIT) Regulations:**

*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.*

### **Regulation 12 of SEBI (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*

11. I note that Noticee(s) No. 1 and 2 were the promoters of SIEL and from the submission and records, I observe that as promoters of SIEL they had disposed/sold their shares as mentioned at Table No. 1 of Sl. No. 5.
12. I find that Noticee(s) No. 1 had made certain disclosure on September 29, 2014 to stock exchange for the shares sold on June 13, 2014, July 03, 2014, July 08, 2014, July 11, 2014, August 22, 2014 and August 25, 2014, hence there was a delay in intimating to stock exchange and also there were no disclosures made by Noticee No. 1 for the shares sold on July 07, 2014 and July 10, 2014 to the stock exchange. With respect to Noticee No. 2, I find that she had made delayed disclosure for the shares sold on June 02, 2014, June 03, 2014, June 04, 2014, July 08, 2014, July 11, 2014, August 22, 2014 and August 25, 2014 to stock exchange on September 29, 2014 and with regard to shares sold on July 10, 2014, she had failed to disclose it to the stock exchange.
13. The Noticees have contended that they have disclosed to SIEL about the above disposal of shares and hence complied with the provisions of Regulation 13(4A) read with Regulation 13(5), I do not accept the contention of the Noticees as it is enshrined under Regulation 13(4A) read with Regulation 13(5) that *“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 ..... shall be made within two working days, in the instant case, the Noticees have delayed/failed to make disclosure to the stock exchange. The objective of the disclosures is to make public at large aware of the substantial change in the shareholding of the promoter of the company, which was delayed in current situation and in few instances it was not made also.*
14. In view of the above, I conclude that Noticee(s) No. 1 and 2 have violated the provisions of Regulation 13(4A) read with Regulation 13(5) of PIT Regulations and thus liable for monetary penalty under Section 15A(b) of SEBI Act.

**Issue II Does the violation, if any, attract monetary penalty under Section 15A(b) of 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 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 of one lakh rupees for each day during which such failure continues or one crore rupees, whichever is less.*

15. I observe that Hon'ble SAT has consistently held that the obligation to make disclosure within the stipulated time is a mandatory obligation and the penalty is imposed for the non-compliance with the mandatory obligation. I would further like to refer to the observations of Hon'ble SAT in the matter of Virendrakumar Jayantilal Patel vs. SEBI (Appeal No. 299 of 2014 vide order dated October 14, 2014), wherein it was held that - *“.. obligation to make disclosures within the stipulated time is a mandatory obligation and penalty is imposed for not complying with the mandatory obligation”*. Disclosure obligations are

created under respective regulations by SEBI, in order to enable investors to take informed investment decisions.

16. The Hon'ble Securities Appellate Tribunal, in Appeal No.66 of 2003 order dated April 15, 2005 - Milan Mahendra Securities Pvt. Ltd. Vs SEBI, has also 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."*

### **Issue III If so, what should be the quantum of monetary penalty?**

17. While determining the quantum of penalty under Section 15A(b) of SEBI Act, 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.*

18. The defaults of the Noticees are repetitive in nature at multiple occasions they have delayed in intimating to stock exchange and in certain instances it has not made disclosure to stock exchange. I find from the material on record that the loss caused to an investors as a result of the said defaults cannot be quantified. I find that the investigation did not bring out the disproportionate gain or unfair advantages to the Noticees.

### **ORDER**

19. In view of the above, after considering all the facts and circumstances of the case, the material available on record, the submission made by the Noticee, in exercise of the powers conferred upon me under Section 15-I of SEBI Act, 1992 read with Rule 5 of the AO Rules, hereby impose a penalty of **Rs. 1,00,000/- each (Rupees One Lakh only)** under Section 15 A (b) of SEBI Act for violation of the provisions of Regulation 13 (4A) read with Regulation 13(5) of PIT Regulations on Noticee(s) No. 1 and 2.
20. The said penalty imposed on the Noticees, as mentioned above, shall commensurate with the violation committed and acts as a deterrent factor for the Noticees and others in protecting the interest of investors.
21. The Noticees shall remit / pay the said amount of penalty within 45 days of receipt of this order either by way of Demand Draft in favor 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:

#### **Account No. for remittance of penalties levied by Adjudication Officer**

Bank Name	State Bank of India
Branch	Bandra-Kurla Complex
RT GS Code	SBIN0004380
Beneficiary Name	SEBI – Penalties Remittable To Government of India
Beneficiary A/c No	31465271959

22. The Noticees shall forward said Demand Draft or the details/confirmation of penalty so paid through e-payment to the General Manager (Enforcement Department - DRA- I) 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 at e-mail ID- [tad@sebi.gov.in](mailto:tad@sebi.gov.in):

Date	
Department of SEBI	
Name of Intermediary/other Entity	
Type of Intermediary	
SEBI Registration Number (if any)	
PAN	
Amount (in Rs.)	
Purpose of payment	Penalty
Bank Name and Account Number from which payment is remitted	
UTR No	

23. In the event of failure to pay the said amount of penalty within 45 days of the receipt of this Order, recovery proceedings may be initiated under section 28A of the SEBI Act, 1992 for realization of the said amount of penalty along with interest thereon, *inter alia*, by attachment and sale of movable and immovable properties.
24. In terms of Rule 6 of the Rules, copy of this order are sent to the Noticees and also to the Securities and Exchange Board of India.

**Date: July 11, 2019**  
**Place: Mumbai**

**SAHIL MALIK**  
**ADJUDICATING OFFICER**