

**BEFORE THE ADJUDICATING OFFICER
SECURITIES AND EXCHANGE BOARD OF INDIA
(ADJUDICATION ORDER NO: ORDER/PM/RR/2020-21/7576)**

**UNDER SECTION 15 - I OF THE 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:

Narayan Acharya (PAN: ADRPA1547J)

**In the matter of Alexander Stamps and Coin Limited (formerly known as
Rudraksh Cap Tech Limited)**

FACTS OF THE CASE

1. Securities and Exchange Board of India (hereinafter referred to as "SEBI") conducted an investigation in the scrip of Alexander Stamps and Coin Limited (formerly known as Rudraksh Cap Tech Limited) (hereinafter referred to as "the Company") during September 1, 2014 to July 31, 2015 (hereinafter referred to as "investigation period") and had observed violation of (i) Regulation 12(1) read with Clause 1.2 of Schedule 1, Part A of SEBI (Prevention of Insider Trading) Regulations, 1992 (hereinafter referred to as "PIT Regulations, 1992") read with Regulation 12 of SEBI (Prevention of Insider Trading) Regulations, 2015 (hereinafter referred to as "PIT Regulations, 2015"), (ii) Regulation 13(4) read with Regulation 13(5) of PIT Regulations, 1992 read with Regulation 12 of PIT Regulations, 2015 and (iii) Section 12A(a), (b) and (c) of SEBI Act, 1992 and Regulations 3(a), (b), (c) & (d), 4(1), 4(2) (e) of SEBI (Prohibition of Fraudulent and Unfair Trade Practices Relating to FUTP) Regulations, 2003 (hereinafter referred to as "SEBI PFUTP Regulations, 2003") by Narayan Acharya (hereinafter referred to as "Noticee").

APPOINTMENT OF ADJUDICATING OFFICER

2. The undersigned has been appointed as Adjudicating Officer, vide Order dated May 16, 2017 (communicated to the Adjudicating Officer vide communique dated June 7, 2017) under 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 'Adjudication Rules') to inquire into and adjudge under the provisions of (i) Section 15HB of the SEBI Act, the alleged violation of Regulation 12(1) read with Clause 1.2 of Schedule 1, Part A of PIT Regulations, 1992 read with Regulation 12 of PIT Regulations, 2015, (ii) under Section 15A (b) of the SEBI Act, the alleged violation of Regulation 13(4) read with Regulation 13(5) of PIT Regulations, 1992 read with Regulation 12 of PIT Regulations, 2015 and (iii) under Section 15HA of the SEBI Act, the alleged violation of Section 12A(a), (b) and (c) of SEBI Act and Regulations 3(a), (b), (c) & (d), 4(1), 4(2) (e) of SEBI PFUTP Regulations, 2003 by the Noticee.

SHOW CAUSE NOTICE, REPLY AND PERSONAL HEARING

3. Show Cause Notice dated June 30, 2017 (hereinafter referred to as 'SCN') was served by the undersigned on the Noticee at his latest address available on record. The SCN was issued to the Noticee under the provisions of Rule 4 (1) of the Adjudication Rules, to show cause as to why an inquiry should not be held against the Noticee and why penalty should not be imposed on the Noticee under the provisions of Section 15HB, Section 15A(b) and Section 15HA of the SEBI Act, for the aforesaid alleged violations.
4. Facts of the case and allegations made in the SCN:
 - a) SEBI conducted an investigation in the scrip of Alexander Stamps and Coin Limited during September 1, 2014 to July 31, 2015.
 - b) Alexander Stamps and Coin Limited has been listed in BSE since 1994.

c) Adoption of Code of internal procedures and conduct for listed companies and other entities was made mandatory by SEBI under SEBI (PIT) Regulations, 1992 with effect from February 20, 2002. It was observed that the Company had failed to implement the Code of Conduct as required under aforesaid Regulations. As per provisions of Schedule I (Part A) of SEBI (PIT) Regulations, 1992, the Compliance officer shall be responsible for the implementation of Code of conduct under the overall supervision of the Board of the listed company. The Noticee, being a director of the Company, had failed to ensure the implementation of the Code of Conduct as required under SEBI (PIT) Regulations, 1992. 4. On account of aforesaid failure, the Noticee was alleged to have violated Regulation 12(1) read with Clause 1.2 of Schedule 1, Part A of SEBI (PIT) Regulations, 1992 read with Regulation 12 of SEBI (PIT) Regulations, 2015.

d) It was observed that, during March 6, 2015 to March 19, 2015, the Noticee(a Director of the Company) had the following trades in Alexander Stamps and Coin Limited.

| 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 | Mode |
|-----------|--|---|---------------------------------------|---|----------------------------|---|--|-----------|
| 11-Mar-15 | 26,676 | 0.51 | -7,283 | -0.14 | 685,447.56 | 19,393 | 0.37 | on market |
| 12-Mar-15 | 19,393 | 0.37 | -13,041 | -0.25 | 1,296,927.45 | 6,352 | 0.12 | on market |
| 13-Mar-15 | 6,352 | 0.12 | -1,056 | -0.02 | 105,846.58 | 5,296 | 0.1 | on market |
| 16-Mar-15 | 5,296 | 0.1 | -1,544 | -0.03 | 162,976.57 | 3,752 | 0.07 | on market |
| 17-Mar-15 | 3,752 | 0.07 | -1,940 | -0.04 | 216,269.26 | 1,812 | 0.03 | on market |
| 18-Mar-15 | 1,812 | 0.03 | -1,811 | -0.03 | 211,147.03 | 1 | 0 | on market |

Vide email dated October 3, 2015, the Company submitted that it had received disclosures with regard to the aforesaid transactions by the

Noticee. From the submissions of the company, it is observed that Mr. Narayan Acharya had submitted the required disclosure with a substantial delay on October 01, 2015 with regard to transactions made on March 11 and March 12, 2015, thereby violating the provisions of regulation 13(4) read with Regulation 13(5) of SEBI (PIT) Regulations, 1992. Further, with regard to transaction made on March 18, 2015 (Sale proceeds of March 13, March 16, March 17, and March 18, 2015 cumulatively crossed Rs 5, 00,000 on March 18, 2015). Mr. Narayan Acharya failed to make the necessary disclosures.

Vide email dated November 08, 2016 and February 08, 2017, BSE had provided list of disclosures received in the scrip. In addition, the Noticee, vide email dated November 8, 2016, admitted that he had submitted the disclosure to the Company only. From the submissions of BSE, it is observed that Mr. Narayan Acharya failed to make required disclosure to stock exchange.

On account of aforesaid failure, the Noticee was alleged to have violated Regulation 13(4) read with Regulation 13(5) of PIT Regulations, 1992 read with Regulation 12 of "PIT Regulations, 2015.

- e) It was alleged that the Noticee belonged to a group of suspected entities.
Basis of connection among suspected entities is as under:

| S No | Particulars | PAN | Basis of connection |
|------|--------------------------|------------|---|
| 1 | Satish Korogappa Shetty | AREPS1097E | • Entities number 1, 2 and 6 are Directors of the company and entity number 3 is CEO cum compliance officer of the company (Key managerial persons) |
| 2 | Semwal Govindram Dhanesh | BCMPS3826B | • Entities number 1, 2 and 6 are Directors of the company and entity number 3 is CEO cum compliance officer of the company (Key managerial persons) |

| | | | |
|----|--------------------------|------------|--|
| 3 | Pragnesh Rohit Pandya | AMJPP4238N | <ul style="list-style-type: none"> • Entities number 1, 2 and 6 are Directors of the company and entity number 3 is CEO cum compliance officer of the company (Key managerial persons) • Entities number 3,4 and 5 are related based on common mobile number and Address • Entity number 5 named Vaishali Pragnesh Pandya is wife of entity number 3 Pragnesh Rohit Pandya (CEO) • Entity number 4 named Darshanna Bhavesh Pandya is sister in law of entity number 3 named Pragnesh Rohit Pandya (CEO). |
| 4 | Darshanna Bhavesh Pandya | BTXPP1936R | <ul style="list-style-type: none"> • Entities number 3, 4, and 5 are related based on common mobile number and Address. • Entity number 4 named Darshanna Bhavesh Pandya is sister in law of entity number 3 named Pragnesh Rohit Pandya (CEO) |
| 5 | Vaishali Pragnesh Pandya | AMTPP4474G | <ul style="list-style-type: none"> • Entities number 3, 4, and 5 are related based on common mobile number and Address. • Entity number 5 named Vaishali Pragnesh Pandya is wife of entity number 3 Pragnesh Rohit Pandya (CEO). |
| 6 | Narayan Acharya | ADRPA1547J | <ul style="list-style-type: none"> • Entities number 1, 2 and 6 are Directors of the company and entity number 3 is CEO cum compliance officer of the company (Key managerial persons) • Entity number 6 has received shares from entity number 7 through off market • Entities number 6 and 8 are related based on common Phone number and Address. • Entities number 6 and 7 are related based on common Email id, mobile number and Address. • Entities number 10 has received shares from entity number 6 through off market. |
| 7 | Anita Narayan Acharya | ALCPA9292M | <ul style="list-style-type: none"> • Entity number 6 has received shares from entity number 7 through off market. • Entities number 6 and 7 are related based on common Email id, mobile number and Address. • Entities number 7 and 8 are related based on common address. |
| 8 | Leelavathi D Acharya | AIQPA7256C | <ul style="list-style-type: none"> • Entities number 6 and 8 are related based on common Phone number and Address. • Entities number 7 and 8 are related based on common address |
| 9 | Lokesh N Mistry | AFOPM5941D | <ul style="list-style-type: none"> • Entities number 9 and 10 are related based on common Email id mobile number and Address. |
| 10 | Hinal L Mistry | ASAPM6934D | <ul style="list-style-type: none"> • Entities number 10 has received shares from entity number 6 through off market. • Entities number 9 and 10 are related based on common Email id mobile number and Address. |

f) It was observed that, during September 1, 2014 to March 20, 2015 (Patch 1), the Noticee and 6 other suspected entities namely, Satish Korogappa Shetty, Semwal Govindram Dhanesh, Pragnesh Rohit Pandya, Vaishali Pragnesh Pandya, Darshana Bhavesh Pandya and Leelavathi D Acharya traded among themselves and contributed to positive LTP. Summary of trades by these entities is given below:

| Seller Name Buyer Name | Vaishali Pragnesh Pandya | Darshanna Bhavesh Pandya | Leelavathi D Acharya | Narayan Acharya | Semwal Govindram Dhanesh | Satish Korogappa Shetty | Pragnesh Rohit Pandya | Total LTP as buyer (No. of trades) |
|-------------------------------------|--------------------------|--------------------------|----------------------|-----------------|--------------------------|-------------------------|-----------------------|------------------------------------|
| Vaishali Pragnesh Pandya | | 16.30(9) | 7.85(18) | 6.40(21) | 7.80(5) | 8.45(4) | | 46.80(57) |
| Darshanna Bhavesh Pandya | | | | | | | 6.09(12) | 6.09(12) |
| Leelavathi D Acharya | | | | | | | | |
| Narayan Acharya | | | | | | | | |
| Total LTP as Seller (No. of Trades) | | 16.30(9) | 7.85(18) | 6.40(21) | 7.80(5) | 8.45(4) | 6.09(12) | 52.89(69) |

g) From the table above, it can be observed that,

- The 7 suspected entities, by trading among themselves, had contributed an amount of Rs.52.89 to positive LTP (6.33% of market positive LTP), which was significant and contributed in manipulating the price of the scrip.
- The Noticee had acted as a counterparty (seller) to 21 buy trades (Rs 6.40 of positive LTP) of Vaishali Pragnesh Pandya, a positive LTP contributor.

h) Further, during May 12, 2015 to May 26, 2015 (Patch 3), it was observed that Vaishali Pragnesh Pandya and two counterparties, who are suspected entities, (namely, the Noticee and Darshanna Bhavesh Pandya) as given in table below had made contribution of Rs 17.65 (5.81 % of total market positive LTP) to positive LTP, which was significant, by trading among

themselves and contributed in manipulating the price of the scrip. Summary of trades by these entities is given below:

| Seller Name→ Buyer Name↓ | Vaishali Pragnesh Pandya | Narayan Acharya | Darshanna Bhaves Pandya | Total LTP as buyer (No. of Trades) |
|--|--------------------------------|--------------------|-------------------------------|---------------------------------------|
| Vaishali Pragnesh Pandya | - | 6.60(24) | 11.05(23) | 17.65(47) |
| Narayan Acharya | - | - | - | |
| Total LTP as Seller (No. of Trades) | | 6.60(24) | 11.05(23) | 17.65(47) |

- i) From the table above, it was observed that the Noticee had acted as a counterparty (seller) to 24 buy trades (Rs 6.60 of positive LTP) of Vaishali Pragnesh Pandya, a positive LTP contributor.
 - j) The aforesaid trading activity of the Noticee was alleged to have manipulated the price of the scrip which was in violation of Section 12A(a), (b) and (c) of SEBI Act and Regulation 3 (a), (b), (c), (d), 4 (1) and 4 (2) (e) of SEBI (PFUTP) Regulations, 2003.
5. In response to the SCN, Noticee, submitted multiple replies including his final reply vide e-mail dated February 28, 2020. Summary of Noticee reply is produced below:
- a) *It has been alleged that there was a delay in formulating the Code of Conduct as required under the PIT Regulations 1992 by ASCL. It may be noted that ASCL has formulated and implemented Code of Conduct on 08.05.2015 as required under the PIT Regulations 2015.*
 - b) *Non-implementation of Code of Conduct on the part of Company has been levelled since February 20, 2002, I was appointed as an Independent Director of ASCL only on 3.7.14. As an Independent Director my role is very limited and restricted. Throughout the alleged period of delay, the Company had a Compliance Officer and a Managing Director who was responsible for and was overall in charge of the day to day affairs and activities of ASCL. As an Independent Director, I cannot be held liable or responsible in any*

manner for the alleged delay in implementation of Code of Conduct on the part of Company.

- c) The alleged violation relating to non-implementation of Code of Conduct on the part of Company pertains to the year 2002 and the said SCN for the said alleged violation has been issued in the year 2017 i.e. after more than 15 years. Thus, on this ground alone the allegation needs to be withdrawn.*
- d) With regard to alleged non-disclosure on for transactions on March 11, 2015 and March 12, 2015 under Regulation 13(4) read with Regulation 13(5) of PIT Regulations, 1992 read with Regulation 12 of PIT Regulations, 2015, it is submitted that at the relevant time I had admittedly made the disclosure to the Company within the prescribed time, but I had inadvertently missed making a parallel disclosure regarding the same to the Stock Exchange. Subsequently, on becoming aware of the said infringement, I had immediately rectified the same by making the disclosure to the Stock Exchange, albeit belatedly.*
- e) With regard to alleged non-disclosure on March 18, 2015 under Regulation 13(4) read with Regulation 13(5) of PIT Regulations, 1992 read with Regulation 12 of PIT Regulations, 2015, it is submitted that I had inadvertently missed making the disclosure regarding the same. Subsequently, on becoming aware of the said infringement, I had immediately rectified the same by making the disclosure to the Stock Exchange, albeit belatedly.*
- f) With regard to alleged connection with 'group of suspected entities', it is denied that I was connected/ related to any entities save and except the fact that I am only related to Anita Narayan & Leelavati Acharya. Anita Narayan is my wife and Leelavati Acharya is my sister. In so far as transfer of shares by Anita Narayan to me is concerned the same was in the ordinary course. Further, it may be noted that Leelavati Acharya is financially independent and she trades independently. Insofar as common email id, mobile number and address with Leelavati Acharya are concerned, it is submitted that the same was given by us for our operational convenience.*

- g) Insofar as Satish Korangappa Shetty, Semwal Govindram Dhanesh, Pragnesh Rohit Pandya, are concerned, it may be noted that based on alleged common directorship in ASCL, it has been surmised that I have relationship with the aforesaid individuals which is legally untenable and unsustainable. I submit that nothing has been brought on record to substantiate that any of the said persons had any role to play in my trading during Investigation Period or vice versa. Further, it has not been demonstrated as to how I had any role to play in the trading done by them during the relevant period. Further, I had no financial dealings with any of the said persons.*
- h) Insofar as Vaishali Pandya and Darshana Pandya are concerned, I have no relation/connection or nexus with them. Further, it has not been demonstrated as to how I had any role to play in the trading done by them during the relevant period. Further, I had no financial dealings with any of the said persons.*
- i) Insofar as off market transfer with Hinal Mistry on October 12, 2014 is concerned, it is submitted that the same was in context of a loan repayment wherein I had borrowed an amount of Rs 3,00,000/- (approx) from the husband of Hinal Mistry i.e. Mr. Lokesh Mistry on January 2014 and as repayment I had transferred shares of ASCL to Hinal Mistry based on the instructions of Lokesh Mistry. In any event, the said off market transaction in October 2014 had nothing to do with the alleged trading done by them in the scrip of ASCL in April 2015 i.e. after 6 months from date of off market transaction. There is no allegation that I had traded with Hinal Mistry & Lokesh Mistry on the market. Therefore, also based on the alleged off market transfer, which happened under specific context, no adverse inferences can be drawn.*
- j) It is submitted that the serious and grave allegations of indulging in fraudulent, manipulative and unfair trade practices as levelled in the SCN, flowing from the concoction of alleged "group of suspected entities", are totally unfounded and contrary to factual position on record.*

- k) *The allegation that I had traded with the other group of suspected entities, is totally incorrect. I had sold shares in the ordinary course without being aware of the counter party buyers. Some of the 'persons belonging to group of suspected entities' being counter parties in some of my sale trades (only Vaishali Pandya) is just happenstance and not something intentional.*
- l) *From the perusal of Trade log it is evident that Vaishali Pandya was one of the major traders in the scrip during the investigation period. Therefore, probability of her trades matching with other parties (including me) would be higher and in that context if my few trades have partly matched with Vaishali's trade, it cannot be alleged that I had executed trades with positive LTP with Vaishali.*
- m) *Very few shares (mere 2210 shares qua my sales of 29524 shares) have been traded between me and Vaishali Pandya. It may be noted that during the relevant period (01.09.2014 to 31.07.2015) Vaishali Pandya had bought a total of 570,912 shares.*
- n) *I have traded on multiple days during the relevant period in the scrip of ASCL, wherein there were multiple counter parties to my trades. Out of the 108 counter parties to my trades, only one of the party i.e. Vaishali Pandya is part of the alleged suspected entities. I categorically submit that I do not have any link/nexus/relationship/connection/dealing with Vaishali Pandya. Thus, the allegation that I have traded with the 'persons belonging to group of suspected entities', is totally belied by the trading data itself.*
- o) *I have only sold the shares during the relevant period. Further all the sales were delivery based sales. As a seller, one would always like to get the maximum price for his shares. If a seller places order at price higher than the LTP he cannot be accused of increasing the price. Alternatively, if a buyer has already put the buy price at a price higher than the LTP and thereafter the seller puts the sell order at that price, seller cannot again be accused of increasing the price.*
- p) *SEBI has cherry picked only those trades wherein counter party to my transactions is Vaishali Pandya, in order to draw adverse inferences against me. There are trades which have been executed above LTP, but SEBI has not*

found anything wrong with them, because (it appears) counter party to such trades is not Vaishali Pandya.

- q) On 11.03.2015, 12.03.2015 and on 19.05.2015 I had traded in the shares of ASCL wherein I had sold 23,000 shares of ASCL. On the said days Vaishali Pandya was also trading in the shares of ASCL and few of our trades had matched. However, qua the said matched trades there is no allegation of any contribution to positive LTP. There are trades between me and Vaishali Pandya which have been executed at LTP or below LTP, but SEBI has not found anything wrong with them.*
- r) The price of the scrip was consistently rising during the Investigation period. In fact prior to the first impugned trade on 13.3.15 (as per the Notice), the price of the scrip had increased from Rs 9.16/- (on 1.9.14) to Rs 99/- (on 12.3.15). There were days when the Noticee had not traded and the price was increasing.*
- s) In light of the aforesaid, it is clear that the allegation of trading with Vaishali Pandya to contribute to positive LTP is wholly misplaced. Further, no motive has been alleged for trading the manner as erroneously alleged by SEBI. I reiterate that I have not manipulated the price of the scrip as alleged.*

6. In the interest of natural justice and in order to conduct an inquiry in terms of Rule 4(3) of the Adjudication Rules, the request made by the Noticee vide letter dated July 18, 2017 for granting additional time to reply to SCN and granting an opportunity of personal hearing was duly accorded. The Noticee, vide hearing Notice dated October 12, 2017 was granted opportunity of personal hearing on November 9, 2017. The Legal representative of the Noticee attended the said hearing and submitted that the Noticee has filed Settlement Application with SEBI. Subsequently, vide letter dated November 13, 2017, Noticee requested to keep the adjudication proceedings initiated against him in abeyance until the proceedings under settlement is complete. Thereafter, it was observed that the Settlement Application filed by the Noticee was rejected by SEBI. Therefore, vide hearing Notice dated January 8, 2020, the Noticee was

granted another opportunity of personal hearing on January 29, 2020. However, vide email dated January 27, 2020, the Noticee requested to adjourn said hearing and to fix another hearing at least after 10 days of scheduled hearing. Acceding to the request of the Noticee, another opportunity of hearing was provided to the Noticee on February 18, 2020. The Legal Representative of the Noticee attended the said hearing and subsequently, submitted additional reply on behalf of the Noticee.

7. Taking into account the aforesaid facts, I am of the view that principles of natural justice have been followed in the matter by granting the Noticee ample opportunities for replying to the SCN and of being heard. Therefore, I deem it appropriate to decide the matter on the basis of facts/material available on record and replies submitted by the Noticee.

CONSIDERATION OF ISSUES, EVIDENCE AND FINDINGS

8. I have taken into consideration the facts and material available on record wherein it is alleged that the Noticee has violated (i) Regulation 12(1) read with Clause 1.2 of Schedule 1, Part A of PIT Regulations, 1992 read with Regulation 12 of PIT Regulations, 2015, (ii) Regulation 13(4) read with Regulation 13(5) of PIT Regulations, 1992 read with Regulation 12 of PIT Regulations, 2015 and (iii) Section 12A(a), (b) and (c) of SEBI Act and Regulations 3(a), (b), (c) & (d), 4(1), 4(2) (e) of SEBI PFUTP Regulations, 2003.

After perusal of the material available on record and submissions made by the Noticee, I have the following issues for consideration, viz.

- a. *Whether the Noticee has violated Regulation 12(1) read with Clause 1.2 of Schedule 1, Part A of PIT Regulations, 1992 read with Regulation 12 of PIT Regulations, 2015?*

Whether the Noticee has violated Regulation 13(4) read with Regulation 13(5) of PIT Regulations, 1992 read with Regulation 12 of PIT Regulations, 2015?

Whether the Noticee has violated the provisions of Section 12A(a), (b) and (c) of SEBI Act and Regulations 3(a), (b), (c) & (d), 4(1), 4(2) (e) of SEBI PFUTP Regulations, 2003?

- b. Does the violation, if any, attract monetary penalty under Section 15HB, Section 15A(b) and Section 15HA of the SEBI Act?*
- c. If so, what would be the monetary penalty that can be imposed taking into consideration the factors mentioned in Section 15J of SEBI Act?*

ISSUE I : Whether the Noticee has violated Regulation 12(1) read with Clause 1.2 of Schedule 1, Part A of PIT Regulations, 1992 read with Regulation 12 of PIT Regulations, 2015?

Whether the Noticee has violated Regulation 13(4) read with Regulation 13(5) of PIT Regulations, 1992 read with Regulation 12 of PIT Regulations, 2015?

Whether the Noticee has violated the provisions of Section 12A(a), (b) and (c) of SEBI Act and Regulations 3(a), (b), (c) & (d), 4(1), 4(2) (e) of SEBI PFUTP Regulations, 2003?

9. Before moving forward, it is pertinent to refer to the relevant provisions of Law which reads as under:

Relevant provisions of PIT Regulations, 1992:

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

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

.....

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 (Part A)

Model Code of Conduct for Prevention of Insider Trading for Listed Companies

1.2 The compliance officer shall be responsible for setting forth policies, procedures, monitoring adherence to the rules for the preservation of "Price Sensitive Information", pre-clearing; of designated employees' and their dependents' trades (directly or through respective department heads as decided by the company), monitoring of trades and the implementation of the code of conduct under the overall supervision of the Board of the listed company.

Continual disclosure

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 54[(3), (4) and (4A)] shall be made within 55[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

Relevant provisions of 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.

Relevant provisions of SEBI PFUTP Regulations, 2003:

3. No person shall directly or indirectly—

- a) buy, sell or otherwise deal in securities in a fraudulent manner;*
- b) use or employ, in connection with issue, purchase or sale of any security listed or proposed to be listed in a recognized stock exchange, any manipulative or deceptive device or contrivance in contravention of the provisions of the Act or the rules or the regulations made thereunder;*
- c) employ any device, scheme or artifice to defraud in connection with dealing in or issue of securities which are listed or proposed to be listed on a recognized stock exchange;*
- d) engage in any act, practice, course of business which operates or would operate as fraud or deceit upon any person in connection with any dealing in or issue of securities which are listed or proposed to be listed on a*

recognized stock exchange in contravention of the provisions of the Act or the rules and the regulations made thereunder.

4. Prohibition of manipulative, fraudulent and unfair trade practices

- 1) Without prejudice to the provisions of regulation 3, no person shall indulge in a fraudulent or an unfair trade practice in securities.*
- 2) Dealing in securities shall be deemed to be a fraudulent or an unfair trade practice if it involves fraud and may include all or any of the following, namely:—*

(e) any act or omission amounting to manipulation of the price of a security;

Relevant provisions of SEBI Act, 1992

Prohibition of manipulative and deceptive devices, insider trading and substantial acquisition of securities or control.

12A.No person shall directly or indirectly—

- (a) use or employ, in connection with the issue, purchase or sale of any securities listed or proposed to be listed on a recognized stock exchange, any manipulative or deceptive device or contrivance in contravention of the provisions of this Act or the rules or the regulations made thereunder;*
- (b) employ any device, scheme or artifice to defraud in connection with issue or dealing in securities which are listed or proposed to be listed on a recognised stock exchange;*
- (c) engage in any act, practice, course of business which operates or would operate as fraud or deceit upon any person, in connection with the issue, dealing in securities which are listed or proposed to be listed on a recognised stock exchange, in contravention of the provisions of this Act or the rules or the regulations made thereunder.*

10. From the facts of the case and the submissions of the Noticee, findings/observations in the instant matter are as under:

A. Findings with respect to alleged violation of Regulation 12(1) read with Clause 1.2 of Schedule 1, Part A of PIT Regulations, 1992 read with Regulation 12 of PIT Regulations, 2015

- a) SEBI, with effect from February 20, 2002, made it mandatory for the listed companies to adopt Code of internal procedures and conduct as per SEBI (PIT) Regulations 1992. As per the provisions of Schedule I (Part A) of SEBI (PIT) Regulations, 1992, the Compliance officer shall be responsible for the implementation of Code of conduct under the overall supervision of the Board of the listed company.
- b) In view of the above, the Company was required to frame and implement Code of Conduct with effect from February 20, 2002.
- c) However, from the facts of the case, I find that the Company had not framed and implemented Code of Conduct as required under Regulation 12(1) of SEBI (PIT) Regulations, 1992 read with Schedule I, Part A of SEBI (PIT) Regulations, 1992, read with Regulation 12 of SEBI (PIT) Regulations, 2015. The period of said failure by Company was from February 20, 2002 till the Company adopted Code of Conduct under SEBI (PIT) Regulations, 2015.
- d) I find that the Noticee became Independent Director of the Company from July 3, 2014. Noticee, in his reply has stated that as an Independent Director, he cannot be held liable or responsible in any manner for the alleged delay in implementation of Code of Conduct on the part of Company. However, from the reply of the Company dated December 6, 2016, I find that the Noticee was part of Board of Directors of the Company. Further, from the website of the Exchange, I find that the Noticee has been continuing as Director in the Company. Therefore, as per the abovementioned provisions, the Noticee was responsible for framing and implementing the Code of Conduct during July 3, 2014 till the Company adopted Code of Conduct under SEBI (PIT) Regulations, 2015.

- e) Noticee, in his reply, has stated that, during alleged period of delay, the Company had a Compliance Officer and Managing Director who was in charge of day today affairs of the Company. Therefore, as an independent director, he cannot be held liable for alleged delay in implementation of Code of Conduct on the part of the Company.

I do not accept the above contention of the Noticee. I find that the relevant provisions of SEBI (PIT) Regulations, 1992 mandates listed companies to adopt Code of internal procedures and conduct wherein the Compliance officer shall be responsible for the implementation of Code of conduct under the overall supervision of the Board of the listed company. Therefore, being part of Board of the Company, the Noticee had joint responsibility with Compliance Officer for framing and implementing the Code of Conduct during July 3, 2014 till the Company adopted Code of Conduct under SEBI (PIT) Regulations, 2015. In addition, the relevant provisions do not provide any exemption to an independent Director from compliance of the said provision.

- f) From the reply of the Noticee, I observe that the Noticee himself admitted his period of directorship in the Company.
- g) Noticee has further stated that the alleged violation pertains to the year 2002 and the said SCN for the said alleged violation has been issued in the year 2017 i.e. after more than 15 years. Thus, on this ground alone the Notice needs to be withdrawn.

With regard to above contentions of Noticee, from the fact of the case, I find that investigation in the matter was conducted for the period September 1, 2014 to July 31, 2015 wherein the trigger for investigation was (i) directors selling their holding which was not disclosed to Exchange under SEBI (PIT) Regulations, (ii) certain suspected entities were found creating artificial volume and contributing to positive Last

Traded Price (LTP). In the process of investigation on the above, the Company was asked to confirm whether the Company had framed Code of Conduct under relevant provisions of SEBI (PIT) Regulations, 1992 and was observed that the Company had not adopted the same. Thereafter, the adjudication proceedings were initiated against the Company and other entities for Code of Conduct violation, disclosure lapses and price manipulation.

In addition to above, it may be noted that the said matter was received by me vide communiqué dated June 7, 2017 and thereafter SCN was issued to 16 entities on June 30, 2017. Further, during the adjudication proceedings, out of 16 entities, 12 entities (including the Noticee) had applied for settlement application. While Settlement Order was passed with respect to one entity, settlement application with respect to 11 entities were rejected by SEBI. As the said 11 Noticees had requested me to withhold the adjudication proceedings till completion of their settlement application, adjudication proceedings was revived after the settlement application of 11 Noticees were rejected by SEBI. Further, as the matter involved large number of entities, it was necessary to comply with principle of Natural justice with respect to each entity and give opportunities to them to present their case through filing written reply and through personal hearing. Therefore, on account of involvement of large number of entities in the adjudication proceedings, completion of settlement procedure and complying with principles of natural justice, the adjudication proceedings in the instant matter took longer time for completion.

From the fact of the case, I find that Noticee was provided ample time to submit his reply as well as additional reply and was also provided with multiple opportunities of personal hearing on his request.

In view of the above, I do not agree with the aforesaid contentions of the Noticee.

- h) In view of the abovementioned findings, I conclude that the Noticee for the period July 3, 2014 till the adoption of Code of Conduct under SEBI (PIT) Regulations, 2015, has failed to frame and implement Code of Conduct and thereby violated Regulation 12(1) read with Schedule I, Part A of SEBI (PIT) Regulations, 1992, read with Regulation 12 of SEBI (PIT) Regulations, 2015.

B. Findings with respect to alleged violation of Regulation 13(4) read with Regulation 13(5) of PIT Regulations, 1992 read with Regulation 12 of PIT Regulations, 2015

- a) I find that during March 6, 2015 to March 19, 2015, the Noticee (a Director of the Company) had traded in shares of ASCL on March 11, 2015, March 12, 2015, March 13, 2015, March 16, 2015, March 17, 2015, and March 18, 2015. The Noticee was required to make disclosures for the trades on March 11, 2015, March 12, 2015 and March 18, 2015 (for cumulative sale proceeds on March 13, 2015, March 16, 2015, March 17, 2015, and March 18, 2015) to the Company as well as to the Exchange (where the securities are listed) under Regulation 13(4) read with Regulation 13(5) of PIT Regulations, 1992 read with Regulation 12 of PIT Regulations, 2015.
- b) I further observe that, with regard to the trades on March 11, 2015 and March 12, 2015, while the Noticee made approximately 7 months delayed disclosures to the Company, he failed to disclose the same to the Exchange. In addition, with regard to the transactions made on March 18, 2015 (where cumulative sale proceeds on March 13, 2015, March 16, 2015, March 17, 2015, and March 18, 2015 crossed Rs 5,00,000 on March

18, 2015), the Noticee failed to make disclosures to the Company as well as to the Exchange.

- c) Noticee, vide his email dated November 8, 2016, admitted that he had submitted disclosures to the Company only.
- d) In addition, vide his submissions (to the SCN) dated February 28, 2020, the Noticee had stated that for the alleged non-disclosure on March 18, 2015, he had inadvertently missed making disclosures. Subsequently, on becoming aware of the said infringement, he had made disclosures to the Exchange. Further, for the alleged non-disclosures for transactions on March 11, 2015 and March 12, 2015, he had inadvertently missed making disclosures to the Stock Exchange and on becoming aware of the said infringement, he had made disclosures to the Exchange belatedly.
- e) From the above, it is evident that the Noticee admitted making delayed disclosures and thereby failed to comply with the aforesaid provisions regarding making disclosures within specified time period.
- f) Therefore, I conclude that the Noticee violated the provisions of Regulation 13(4) read with Regulation 13(5) of PIT Regulations, 1992 read with Regulation 12 of PIT Regulations, 2015.

C. Findings with respect to alleged violation of the provisions of Section 12A(a), (b) and (c) of SEBI Act and Regulations 3(a), (b), (c) & (d), 4(1), 4(2) (e) of SEBI PFUTP Regulations, 2003

- a) During Patch 1, it is alleged by investigation that, the Noticee and six other entities have traded among themselves and in total 69 trades, contributed Rs. 52.89 to positive LTP i.e., 6.33% of market positive LTP.
- b) I find that the Noticee acted as a counterparty (seller) to the trades of Vaishali Pragnesh Pandya (buyer) during Patch 1. I further observe that

the Noticee had contributed Rs 6.40 to total positive LTP contribution in 21 trades out of Rs 52.89 by all 7 entities. While the total contribution to positive LTP by all 7 entities (including the Noticee) was 6.33% of market positive LTP, individual contribution by Noticee to positive LTP contribution was insignificant.

- c) In addition, during Patch 3, the Noticee and two other entities have traded among themselves and in total 47 trades, contributed Rs. 17.65 to positive LTP i.e., 5.81% of market positive LTP.
- d) I find that the Noticee acted as a counterparty (seller) to the trades of Vaishali Pragnesh Pandya (buyer) during Patch 3. I further observe that the Noticee had contributed Rs 6.60 to total positive LTP contribution in 24 trades out of Rs 17.65 by all 3 entities. While the total contribution to positive LTP by all 7 entities (including the Noticee) was 5.81% of market positive LTP, individual contribution by Noticee to positive LTP contribution was insignificant.
- e) From the fact of the case, I do not find any analysis relating to trading pattern of the Noticee and there is nothing on record to substantiate that the Noticee, as a seller, has manipulated the scrip price by contributing to positive LTP other than the fact that the Noticee belonged to a group of suspected entities and the group's total contribution to positive LTP was 6.33% of market positive LTP during Patch 1 and 5.81% of market positive LTP during Patch 3.
- f) It is a well-accepted fact that a prudent market participant, as a seller, would seek to place sell orders at or above LTP and as a buyer, would seek to place buy orders at or below LTP.
- g) However, in the instant matter, how the trades of the Noticee, being a seller contributing to positive LTP, are manipulative has not been substantiated with facts.

h) In view of the above and on the basis of the material available on record, I find that it would be difficult to conclude that the Noticee has violated the provisions of Section 12A(a), (b) and (c) of SEBI Act and Regulation 3 (a), (b), (c), (d), 4 (1) and 4 (2) (e) of SEBI (PFUTP) Regulations, 2003. Thus, I am of the opinion that the allegation of violation of the aforesaid provisions of SEBI PFUTP Regulations, 2003 do not stand established.

ISSUE II: Does the violation, if any, attract monetary penalty under Section 15HB, Section 15A(b) and Section 15HA of SEBI Act?

The provisions of Section 15HB, Section 15A(b) and Section 15HA of the SEBI Act, 1992 read as under:

SEBI Act 15HB. Penalty for contravention where no separate penalty has been provided:

Whoever fails to comply with any provision of this Act, the rules or the regulations made or directions issued by the Board thereunder for which no separate penalty has been provided, shall be liable to a penalty which shall not be less than one lakh rupees but may extend to one crore rupees.

SEBI Act 15A- "Penalty for failure to furnish information, return, etc. –

If any person, who is required under this Act or any rules or Regulations made there under-

(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 of one lakh rupees for each day during which such failure continues or one crore rupees, whichever is less".

SEBI Act 15HA - "Penalty for fraudulent and unfair trade practices-

If any person indulges in fraudulent and unfair trade practices relating to securities, he shall be liable to a penalty of twenty-five crore rupees or three times the amount of profits made out of such practices, whichever is higher."

11. In view of the foregoing, I am convinced that;

- a) the allegations made against the Noticee regarding violation of the provisions of Section 12A(a), (b) and (c) of SEBI Act and Regulation 3 (a), (b), (c), (d), 4 (1) and 4 (2) (e) of SEBI (PFUTP) Regulations, 2003 has not been established, therefore, the Noticee is not liable for monetary penalty under Section 15HA of the SEBI Act, 1992.
- b) the Noticee is liable for monetary penalty under Section 15A(b) of SEBI Act for the alleged violation of Regulation 13(4) read with Regulation 13(5) of PIT Regulations, 1992 read with Regulation 12 of PIT Regulations, 2015.
- c) the Noticee is liable for monetary penalty under Section 15HA of SEBI Act for violation of provisions of Section 12A(a), (b) and (c) of SEBI Act and Regulation 3 the Noticee is liable for monetary penalty under Section 15HB of SEBI Act for violation of Regulation 12(1) read with Clause 1.2 of Schedule 1, Part A of PIT Regulations, 1992 read with Regulation 12 of PIT Regulations, 2015.

ISSUE III: If so, what would be the monetary penalty that can be imposed taking into consideration the factors mentioned in Section 15J of SEBI Act?

12. The provisions of Section 15J of the SEBI require that while adjudging the quantum of penalty, 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.

13. With regard to the alleged violation under Section 15HA of SEBI Act, since, the Noticee is not liable for monetary penalty in the instant matter, this issue deserves no consideration.

14. With regard to the alleged violation under Section 15HB and Section 15A(b), the material available on record has not quantified the amount of disproportionate gain or unfair advantage, if any, made by the Noticee and the loss, if any, suffered by the investors as a result of the Noticee's failure. I note that the Noticee has violated (i) provisions of Regulation 12(1) read with Clause 1.2 of Schedule 1, Part A of PIT Regulations, 1992 read with Regulation 12 of PIT Regulations, 2015 and (ii) Regulation 13(4) read with Regulation 13(5) of PIT Regulations, 1992 read with Regulation 12 of PIT Regulations, 2015.

ORDER

15. In view of the above, after considering all the facts and circumstances of the case and the factors mentioned in the provisions of Section 15-I of the SEBI 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, I hereby impose a penalty of Rs. 3,00,000/- (Rupees Three Lakh) on Narayan Acharya in terms of the provisions of Sections 15HB and Section 15A(b) of the Securities and Exchange Board of India Act, 1992. In the facts and circumstances of the case, I am of the view that the said penalty is commensurate with the default committed by the Noticee.

16. The Noticee shall remit / pay the said amount of penalty within 45 days from May 3, 2020 either

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

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 |

OR

By way of demand draft in favour of “SEBI-Penalties Remittable to Government of India”, payable at Mumbai.

17. The Noticee shall forward the following details / confirmation of penalty so paid to the Chief General Manager, Enforcement Department, SEBI, Mumbai.

| | |
|---|---------|
| 1. Case Name : | |
| 2. Name of Payee: | |
| 3. Date of payment: | |
| 4. Amount Paid: | |
| 5. Transaction No: | |
| 6. Bank Details in which payment is made: | |
| 7.Payment is made for: | Penalty |

18. In terms of the provisions of Rule 6 of the Adjudication Rules, a copy of this order is sent to the Noticee and also to the Securities and Exchange Board of India.

Date: April 29, 2020

Place: Mumbai

PRASANTA MAHAPATRA

ADJUDICATING OFFICER