

**BEFORE THE ADJUDICATING OFFICER
SECURITIES AND EXCHANGE BOARD OF INDIA
[ADJUDICATION ORDER NO. EAD-9/ AO/SM/ 127 /2018-19]**

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

In respect of:

**Neha Agrawal
(PAN: AFVPA6684C)**

In the matter of Mahamaya Steel Industries Limited

FACTS OF THE CASE IN BRIEF

1. Securities and Exchange Board of India (hereinafter referred to as 'SEBI'), pursuant to BSE report, observed that some promoters of Mahamaya Steel Industries Limited (hereinafter referred to as "Mahamaya/ company") undertook certain transactions in the shares of the Company during 2016 for which disclosures were required to be made under regulation 7(2)(a) of SEBI (Prohibition of Insider Trading) Regulations, 2015 (hereinafter referred to as "PIT Regulations"). However, it was observed that Neha Agrawal, one of the promoters (hereinafter referred to as "Noticee") failed to comply with the disclosure requirements under PIT Regulations.

APPOINTMENT OF ADJUDICATING OFFICER

2. Vide an order of the Competent Authority, SEBI, dated June 14, 2018, the undersigned has been appointed as the Adjudicating Officer under section 19 of the Securities and Exchange Board of India Act, 1992 (hereinafter referred to as "SEBI Act") read with section 15 I of SEBI Act and rule 3 of SEBI (Procedure for Holding Inquiry and Imposing Penalties by Adjudicating Officer) Rules, 1995 (hereinafter referred to as 'Rules') to inquire into and adjudge the alleged violations of provisions of PIT Regulations.

SHOW CAUSE NOTICE, REPLY AND HEARING

3. Based on the findings by SEBI, Show Cause Notice dated July 10, 2018 (hereinafter referred to as 'SCN') was issued to the Noticee under Rule 4(1) of AO Rules to show cause as to why an inquiry should not be held and penalty should not be imposed on her under Section 15A (b) of SEBI Act for the alleged violations. The Noticee submitted reply dated August 18, 2018 stating, inter alia, the following:

- *I hereby submit that I had sold the shares during 2016 as provided in the Notice and reproduced above. I further submit that the requirement to comply with regulation 7(2)(a) of the PIT Regulations is on the promoter and not on the promoter group of the Company.*
- *In the year 1994, the Company had consummated its Initial Public Offer (IPO) and in the prospectus issued, the Company had named the following persons as promoters of the Company:*
 - a) *Shri Ramanand Agrawal*
 - b) *Shri Anand Kumar Agrawal*
 - c) *Shri Jaiprakash Agrawal*
- *I am daughter of Mr Anand Kumar Agrawal, who is one of the promoters of the Company and consequently, I form part of promoter group of the Company in view of regulation 2(zb) of the ICDR Regulations. Therefore, the requirement to comply with regulation 7(2)(a) of PIT Regulations is not applicable to me.*

4. In order to comply with the principles of natural justice an opportunity of personal hearing was given to the Noticee on September 27, 2018 vide notice dated September 4, 2018. The authorised representative appeared on behalf of the Noticee and reiterated the submissions made vide letter dated August 18, 2018.

CONSIDERATION OF ISSUES AND EVIDENCE

5. I have carefully perused the charges levelled against the Noticee in the SCN, her reply and the material / documents available on record. In the instant matter, the following issues arise for consideration and determination:-

- (a) Whether the Noticee has violated the provisions of regulations 7(2)(a) of PIT Regulations?
- (b) Do the violation, if any, on the part of the Noticee attract monetary penalty under section 15A(b) of SEBI Act for the alleged violation?; and,
- (c) If so, what would be the quantum of monetary penalty that can be imposed on the Noticee after taking into consideration the factors mentioned in section 15J of the SEBI Act?

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

Relevant provisions of PIT Regulations:

Disclosures by certain persons

(2) Continual Disclosures.

(a) Every promoter, employee and director of every company shall disclose to the company the number of such securities acquired or disposed of within two trading days of such transaction if the value of the securities traded, whether in one transaction or a series of transactions over any calendar quarter, aggregates to a traded value in excess of ten lakh rupees or such other value as may be specified;

7. I note from the documents on record that the Noticee had sold shares in 2016. The details of the transactions are as follows:

Date of transaction	No. of shares bought (sold)	Value of transaction (in Rs.)	Value of transaction exceeds Rs. 10 lakhs
August 5, 2016	(4,000)	12,28,029	Yes
August 8, 2016	(2,000)	6,39,200	Yes
August 19, 2016	(2,000)	7,31,000	

8. The Noticee had submitted that she is not a promoter but she is a part of the promoter group as per the definition provided in 2(zb) of SEBI (Issue of Capital and Disclosure Requirements) Regulations, 2009. However, on perusal of the website of BSE, it is observed that the Noticee had herself made disclosures under the promoter category under regulation 7(2) read with 6(2) of PIT Regulations. Few instances (as taken from the BSE website) are as follows:

Name	Category of person	Securities held pre transaction	Securities Acquired/ Disposed				Securities held post transaction	Reported to exchange
			Type of securities	Number	Value	Transaction type		
Neha Agrawal	Promoter	12699 (0.09)	Equity shares	4000	1226188.75	Disposal	8699 (0.06)	30/11/2017
Neha Agrawal	Promoter	8699 (0.06)	Equity shares	2000	638240	Disposal	6699 (0.05)	30/11/2017
Neha Agrawal	Promoter	6699 (0.05)	Equity shares	2000	729900	Disposal	4699 (0.03)	30/11/2017

9. Further, regulation 6(2) of the PIT Regulations states that:

“The disclosures to be made by any person under this Chapter shall include those relating to trading by such person’s immediate relatives, and by any other person for whom such person takes trading decisions.”

10. This provision clearly shows that intent of the legislation. It is not only the promoters, but all those who are related to them may be privy to unpublished price sensitive information and are required to disclose the change in their shareholding to the public. In such situations, we cannot take the narrow interpretation of the provision and excuse the Noticee considering that she is not a promoter but part of the promoter group. As she is the daughter of one of the promoters, viz. Anand Kumar Agrawal, she was liable to make disclosures under regulation 7(2)(a) of PIT Regulations. Moreover, she had been making disclosures under PIT Regulations as promoter.

11. In view of the above, it is established that the Noticee did not comply with regulation 7(2)(a) of PIT Regulations.

12. I, therefore, find the act of the Noticee is liable for a penalty under section 15 A(b) of SEBI Act which read as follows:

Penalty for failure to furnish information, return, etc.

15A. 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 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;

13. The Hon'ble Supreme Court of India in the matter of *SEBI Vs. Shri Ram Mutual Fund* [2006] 68 SCL 216(SC) held that *"In our considered opinion, penalty is attracted as soon as the contravention of the statutory obligation as contemplated by the Act and the Regulations is established and hence the intention of the parties committing such violation becomes wholly irrelevant..."*.
14. While determining the quantum of penalty under section 15A(b) of the SEBI Act, it is important to consider the factors relevantly as stipulated in section 15J of the SEBI Act which read as under:-

Section 15J - Factors to be taken into account by the adjudicating officer While adjudging quantum of penalty under section 15, 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.*

15. I find that the examination did not bring out the disproportionate gain or unfair advantages to the Noticee and loss caused to investors as a result of non-disclosure of change of shareholding. The Noticee failed to make the relevant disclosure on more than one occasion. Hence we can say that the violation is repetitive in nature.

ORDER

16. 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-J of the SEBI Act, I, in exercise of the powers conferred upon me under section 15-I (2) of the SEBI Act read with Rule 5 of the SEBI

Adjudication Rules, conclude that the proceedings against the Noticee stands established in terms of the provisions of the SEBI Act. Hence, in view of the charges established under the provisions of the SEBI Act, I, hereby impose monetary penalty under section 15A (b) of SEBI Act of ₹ 1,00,000/- (Rupees One Lakh only) for violation of regulation 7(2)(a) of PIT Regulations.

17. The Noticee shall remit / pay the said amount of penalty within 45 (forty five) days of receipt of this order either by way of Demand Draft (DD) in favour of "SEBI - Penalties Remittable to Government of India", payable at Mumbai and 1) the said DD should be forwarded to the Division Chief, Enforcement Department (EFD), Division of Regulatory Action - I [**EFD-DRA-I**] SEBI Bhavan, Plot No.C4-A, ' G' Block, Bandra Kurla Complex (BKC), Bandra (East), Mumbai – 400 051 OR 2) through e-payment facility into Bank Account, the details whereof are given as below :-

Account No. for remittance of penalty(ies) levied by Adjudication Officer :-

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

18. The Noticee shall forward the said Demand Drafts or the details / confirmation of penalty so paid through e-payment to the Division Chief of the aforesaid Enforcement Department (EFD) of SEBI.
19. The Format for forwarding details / confirmations of e-payments made to SEBI shall be in the Form as provided at Annexure 'A' of Press Release No. 131/2016 dated August 09, 2016 shown at the SEBI Website which is reproduced as under:-

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 : (like penalties / disgorgement / recovery/Settlement amount and legal charges along with order details)	
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20. In terms of Rule 6 of the Adjudication Rules, copies of this order are sent to the Noticees and also to the Securities and Exchange Board of India.

Date : October 5, 2018
Place : Mumbai

SAHIL MALIK
ADJUDICATING OFFICER