

BEFORE THE ADJUDICATING OFFICER
SECURITIES AND EXCHANGE BOARD OF INDIA
[ADJUDICATION ORDER NO. EAD/NP/AS/AO/38/2017]

**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:
Smt. Vijaya Maganti (PAN AGSPV4353R)
Flat No. 503, Krishna Meadows,
Nelson Mandela Park Road,
LIC Colony, Krishna District,
Vijayawada– 520 008

FACTS OF THE CASE IN BRIEF

1. SEBI conducted investigation in the matter of MIC Electronics Ltd. (hereinafter referred to as MIC) which is listed at BSE and NSE. MIC announced the issue of shares/ warrants convertible into equity shares, on preferential basis on February 21, 2012. The closing price of the scrip which was Rs.8.59 as on February 17, 2012 increased to Rs.12.09 as on February 22, 2012 and the scrip also witnessed increased daily volume for few days after this announcement. Thereafter, on May 25, 2012, the preferential issue proposal was withdrawn and the closing price of the scrip in the month of May was Rs.5.37. During the period of announcement and withdrawal, promoters' shareholding reduced from 15.21% (December 2011) to 8.85% (June 2012).

2. As per finding of investigation report, Sreenivasa Rao Maganti was the promoter of MIC and Smt Vijaya Maganti (noticee) is the wife of Mr. Sreenivasa Rao Maganti. The noticee being wife of Mr. Sreenivasa Rao Maganti was part of the promoter group of MIC Electronics Limited. The noticee has sold shares of MIC during January 2012 as under-

Date	Stock Exchange	No. of shares sold	Value of Shares
09/01/2012	BSE	70,000	4,23,621
10/01/2012	BSE	25,000	1,58,652
12/01/2012	BSE	20,000	1,63,000
16/01/2012	BSE	15,000	1,17,458
18/01/2012	BSE	20,000	1,46,693
25/01/2012	BSE/NSE	5,000/5,000	35,391/35,500
27/01/2012	BSE	88,000	6,62,817

3. However it is noted from investigation that the noticee failed to make disclosures for sale of her shares (change of 25,000 shares) in accordance with Regulation 13(4A) read with 13 (5) of the SEBI (PIT) Regulations, 1992. The company vide their reply dated February 14, 2015 also confirmed that it had not received any disclosure from the noticee. In view of the above, it was alleged that the noticees failed to make disclosures as required under Regulation 13(4A) read with 13 (5) of the SEBI (PIT) Regulations, 1992.

APPOINTMENT OF ADJUDICATING OFFICER

4. Vide an order of Whole Time Member, SEBI, dated May 03, 2015, Ms Anita Kenkare, GM, SEBI was appointed as the Adjudicating Officer to inquire into and adjudge under Section 15 A (b) of the SEBI Act, 1992 and Rule 3 of SEBI (Procedure for Holding Inquiry and Imposing Penalties by Adjudicating Officer) Rules, 1995, for the alleged violations as stated above. Vide the internal noting of the Whole Time Member, SEBI, dated December 14, 2015, the undersigned has been appointed as the Adjudicating Officer to inquire into and adjudge under the provisions as enumerated above.

SHOW CAUSE NOTICE, REPLY AND PERSONAL HEARING

5. A show-cause notice (SCN) no. EAD/NP/JS/OW/2894/2016 dated February 3, 2016 was issued to the noticee under rule 4 of the AO Rules to show-cause as to why an inquiry should not be initiated against noticee and penalty be imposed upon it under section 15A(b) of SEBI Act for the alleged violation specified in the said SCN. The noticee was given 15 days of time to make her submission against the allegations made in SCN. The noticee vide her email dated 22nd February 2016 requested for 10 days of additional time to respond to the SCN and the same was allowed vide email dated February 22, 2016 from the office of Adjudicating Officer.
6. Noticee vide her letter dated March 7, 2016 replied to the charges levelled in the show-cause notice (SCN). The noticee admitted that she failed to make disclosures as required under the aforementioned provisions of law. The noticee did not ask for personal hearing, however, in the interest of natural justice an opportunity of personal hearing was accorded to the noticee. Vide letter EAD/NP/JS/MIC/10213/5/2016 dated April 4, 2016, the noticee was advised to attend personal hearing before me on May 19, 2016.
7. Vide letter dated May 11, 2016, the noticee intimated that Mr S. Sarveswara Reddy, Practising Company Secretary and Mrs P. Lakshmi Lavanya, ACS would represent him on the scheduled date of hearing. On the scheduled date of hearing, i.e. on May 19, 2016, Ms P. L. Lavanya and Shri S. S. Reddy appeared before me and reiterated the submissions made vide the noticee's reply dated March 07, 2016 and requested for additional 10 days to submit reply.
8. In the interest of natural justice, noticee was granted one more time opportunity of personal hearing on March 27, 2017 vide Hearing notice cum Supplementary SCN dated March 15, 2017. The noticee sought adjournment of hearing to April 17, 2017. Accordingly vide Hearing Notice dated April 11, 2017, the noticee was granted final opportunity of hearing on April 17, 2017. On the scheduled date of hearing, Ms P. L. Lavanya and Shri S. S. Reddy appeared before me and reiterated the submissions made vide the noticee's reply dated March 07, 2016.
9. Vide her reply dated March 07, 2016 the noticee made the following submission which is as under:

I was not aware that disclosures are to be made for sale of shares.

I humbly submit that it is an honest omission out of ignorance but not a deliberate violation or noncompliance of SEBI Regulations/ Guidelines.

I have not made any undue profit in transaction or caused any loss to any investor.

10. Vide her reply dated June 07, 2016 and April 03, 2017 the noticee made the following submission which is as under:

With reference to the above, I respectfully submit that I have made all the relevant disclosures as pointed out in the notice pertaining to SEBI (PIT) Regulations, 1992. The copies of the same are enclosed.

I humbly submit that it is an honest omission out of ignorance but not deliberate violations on non-compliance of SEBI Regulations/ Guidelines. I have not made any undue profit in the transaction or caused any loss to any investor.

I therefore request SEBI to pardon me this time and I assure SEBI that in future I will take utmost care in complying with the provisions of SEBI regulations.

CONSIDERATION OF ISSUES AND FINDINGS

11. I have carefully perused the replies to the SCN, oral written submissions made by the authorized representatives of the Noticee and the documents available on record. The issues that arise for consideration in the present case are:

a. Whether Noticee has violated provisions of Regulations 13(4A) read with Regulations 13(5) of SEBI (PIT) Regulations, 1992.

b. Does the violation, if any, on the part of Noticee attract any penalty under section 15 A (b) of the SEBI Act, 1992?

c. If yes, what should be the quantum of penalty?

12. Before proceeding further, I would like to refer to the relevant provisions of SEBI (ICDR) Regulations, 2009 and SEBI (PIT) Regulations, 1992.

Regulation 2(zb) (ii) of the SEBI (ICDR) Regulations, 2009 states that the promoter group includes, "an immediate relative of the promoter (i.e., any spouse of that person, or any parent, brother, sister or child of the person or of the spouse)".

Regulation 13(4A) of SEBI (PIT) Regulations, 1992 states, "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, 1992 states, "The disclosure mentioned in sub-regulations (3) and (4) 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."

FINDINGS

13. Upon perusal of the documents available on record, allegation levied and submissions made by the Noticee, I find that the noticee is wife of one of the promoters of MIC Electronics Ltd, viz. Sreenivasa Rao Maganti, who was part of the promoter group of MIC Electronics Limited. Regulation 2(zb)(ii) of the SEBI (ICDR) Regulations, 2009 states that the promoter group includes, "an immediate relative of the promoter (i.e., any spouse of that person, or any parent, brother, sister or child of the person or of the spouse)". During the period of investigation the noticee sold a total of 2,43,000 shares on BSE and 5000 shares on NSE. This sale of shares being in excess of 25000 shares on three occasions, required disclosure to the company and to the stock exchanges, under Regulations 13(4A) and 13(5) of SEBI (PIT) Regulations, 1992, however, no such disclosures had been made by the noticee. The noticee was not reflected as promoter group in the quarterly disclosures of the Promoter shareholding by MIC in its disclosure made to BSE for quarter ending March 2012 and June 2012. However as per definition of promoter group in ICDR Regulation she falls in the category of promoter group. It is admitted by the noticee in her letters dated March 7, 2016, June 7, 2016 and April 03, 2017 that she has not filed disclosure with company and Stock Exchange, however subsequently she has all made all the relevant disclosures as required on June 2016 after delay of more than 4 years.
14. Vide her submissions, the noticee while admitting the lapse on her part has requested to pardon her and assured that she would take utmost care in complying with the provisions of SEBI Regulations. The noticee has however complied with the disclosure requirement

vide her intimation dated June 07, 2016 to the company, BSE and NSE. However, much time has lapsed since the disclosure became due under PIT Regulations. In fact the sale transactions by the noticee happened during January 2012 and over 4 years have passed by ever since when she finally made disclosure in June 2016. In other words, there was inordinate delay in disclosure of the aforementioned transactions. In view of the admission of the lapse on part of the noticee to make disclosure, the violation of Regulations 13(4A) and 13(5) of SEBI (PIT) Regulations, 1992 is established against the noticee which attracts penalty under Section 15A(b) of SEBI Act, 1992. The provision of Section 15A(b) of SEBI Act, 1992 read as under-

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 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

15. While determining the quantum of penalty under Section 15A(b) of the SEBI Act, 1992, it is important to consider the factors relevantly as stipulated in Section 15J of the SEBI Act, 1992 read with Rule which reads as under:-

Section 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.

16. I note that the Investigation Report does not record any fact to suggest that as a result of the violations committed by the noticee as found herein above she has made any disproportionate gain or unfair advantage or has caused loss to investors or the default is repetitive in nature. However disproportionate gain, unfair advantage, etc. are not sine qua non for imposing a penalty when the statutory obligations contemplated in the SCR Act,

1956 are contravened as is in the instant case. In this regard I would be guided by the ruling of Hon'ble Supreme Court of India in the matter of **SEBI Vs. Shri Ram Mutual Fund [2006] 68SCL216(SC)** wherein it was held that *once the violation of statutory regulations is established, imposition of penalty becomes sine qua non of violation and the intention of parties committing such violation becomes totally irrelevant.* In view of the above, I am satisfied that the present case warrants imposition of penalty as per the provisions of section 15A(b) of the SEBI Act, 1992.

ORDER

17. Having considered all the facts and circumstances of the case, the material available on record, the submissions made by the Noticee (both oral and written) and also the factors mentioned in Section 15 J of the SEBI Act, I, in exercise of the powers conferred upon me under Section 15-I of the SEBI Act read with Rule 5 of the Adjudication Rules, hereby impose a penalty of Rs 2,00,000/- (Rupees Two Lakhs only) on the Noticee viz. Smt. Vijaya Maganti under the provisions of Section 15A(b) of the SEBI Act for the failure on the part of the Noticee to disclose the sale transactions to the company and to the stock exchanges as required under Regulations 13(4A) read with 13(5) of SEBI (PIT) Regulations, 1992.
18. I am of the view that the said penalty is commensurate with the lapse/omission on the part of the Noticee. The penalty shall be paid by way of Demand Draft drawn in favour of "SEBI Penalties Remittable to Government of India" payable at Mumbai within 45 days of the receipt of this order. The said demand draft shall be forwarded to the Chief General Manager, EFD, SEBI, SEBI Bhavan, Plot No. C – 4 A, "G" Block, Bandra Kurla Complex, Bandra (E), Mumbai – 400 051. Alternatively, noticee may avail off the e-payment facility as per the details 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

19. In terms of the provisions of Rule 6 of the Securities and Exchange Board of India (Procedure for Holding Inquiry and Imposing Penalties by Adjudicating Officer) Rules 1995, a copy of this order is being sent to the Noticee viz. Smt Vijaya Maganti and also to Securities and Exchange Board of India.

Date: May 22, 2017
Place: Mumbai

Nagendraa Parakh
Adjudicating Officer