BEFORE THE ADJUDICATING OFFICER

SECURITIES AND EXCHANGE BOARD OF INDIA

[ADJUDICATION ORDER NO. : ORDER/SRP/MCS/2018-19/1965]

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

in respect of

Emed.com Technologies Limited

(PAN : Not Available)

I. FACTS OF THE CASE IN BRIEF

1. The Securities and Exchange Board of India (hereinafter referred to as "**SEBI"**) conducted investigations into the trading and dealings in the scrip of Emed.com Technologies Limited (hereinafter referred to as "**Noticee"** or "**Company"**) covering the period from August 26, 2013 to June 30, 2014 (hereinafter referred to as "**Investigation Period"**). During the investigations, it was observed by SEBI, *inter-alia*, that the Noticee has failed to make required disclosures to the Bombay Stock Exchange Limited **(BSE)** regarding change in shareholding of one of its shareholders *namely*, Sameer Financial Services Private Limited and thereby it has allegedly violated the provisions of Regulation 13(6) of the SEBI (Prohibition of Insider Trading) Regulations, 1992 [hereinafter referred to as "**SEBI (PIT) Regulations**, **1992"**] read with Regulation 12 of the SEBI (Prohibition of Insider Trading) Regulations, 2015 [hereinafter referred to as "**SEBI (PIT) Regulations**, **2015"**].

II. APPOINTMENT OF ADJUDICATING OFFICER

2. Pursuant to investigations, SEBI initiated Adjudication Proceedings against the Noticee and appointed Shri S.V. Krishnamohan, Chief General Manager, as

the Adjudicating Officer **(AO)** vide Order dated February 15, 2017 under Section 15-I of the SEBI Act, 1992 and Rule 3 of the 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 Section 15A(b) of the SEBI Act, 1992 the aforesaid violations, alleged to have been committed by the Noticee. Subsequently, Shri Biju S, Chief General Manager was appointed as AO vide Order dated September 15, 2017 and on his transfer, the undersigned has been appointed as AO in the matter vide Order dated July 6, 2018.

III. SHOW CAUSE NOTICE, REPLY AND HEARING

3. Show Cause Notice (**SCN**) bearing ref. No. EAD-5/ADJ/SVKM/DS/OW/6294/1/2017 dated March 22, 2017 was issued to the Noticee under Rule 4 of Adjudication Rules to show cause as to why an inquiry should not be held against it and penalty should not be imposed under Section 15 A(b) of SEBI Act, 1992 for the violation alleged to have been committed by it. SCN sent to the Noticee at its available address, was returned undelivered with the remark *"left".* In view of the same, it was served through e-mail dated April 18, 2017 sent at the email ID (cdri@gamil.com) of the Noticee. Thereafter, the erstwhile AO, Shri Biju S, in in the interest of natural justice and in terms of Rule 4 of the Adjudication Rules, provided an opportunity of personal hearing on April 19, 2018 to the Noticee, which was communicated vide Notice ref. No. EAD-5/ADJ/BS/DS/OW/11206/1/2018 dated April 10, 2018. This Notice of hearing was also returned undelivered with the remark *"left".* Pursuant to transfer of the case to the undersigned, Notice ref. No. SEBI/EAD-4/SRP/MCS/OW/22898/1/2018 dated August 14, 2018, was served on the Noticee through affixture at its last known address, in terms of Rule 7(c) of Adjudication Rules. The Noticee was also informed that the unserved SCN was uploaded on the SEBI website and also the corresponding web-link was provided to the Company. Also, the Noticee was given one more opportunity to file its reply to the charges alleged in the SCN by September 17, 2018. Further, the scanned copy of the aforesaid Notice dated August 14, 2018 was

also sent to the Noticee at its available e-mail addresses on August 30, 2018 i.e. to info@emedtechno.com and also inv.cdri@gmail.com.

4. I note that despite all the above, the Noticee has failed to submit its reply to the SCN and has not refuted the charges. The Noticee has also failed to avail the opportunity of personal hearings granted on the grounds of natural justice. In the stated circumstances, I am proceeding with the matter taking into consideration the facts and circumstances of the case and the material on record.

5. In this context, I would like to rely upon the observations of The Hon'ble Securities Appellate Tribunal (**SAT**) in the matter of Classic Credit Ltd. Vs. SEBI (Appeal No. 68 of 2003 decided on December 08, 2006) wherein the Hon'ble SAT, *inter alia*, took the following view "..... *the appellants did not file any reply to the second show-cause notice. This being so, it has to be presumed that the charges alleged against them in the show-cause notice were admitted by them…….*".

6. Similarly, I note that the Hon'ble SAT has again in the matter of Sanjay Kumar Tayal & Others Vs. SEBI (Appeal No. 68 of 2013 decided on February 11, 2014*), inter alia*, observed that "……as *rightly contended by Mr. Rustomjee, learned senior counsel for respondents, appellants have neither filed reply to show cause notices issued to them nor availed opportunity of personal hearing offered to them in the adjudication proceedings and, therefore, appellants are presumed to have admitted charges levelled against them in the show cause notices…….".*

7. In view of the above, I am of the opinion that the SCN has been duly served upon the Noticee but the Noticee failed to reply. The principle of natural justice has been followed in the matter as enough opportunities were provided to the Noticee to reply to the SCN. Therefore, I am inclined to decide the matter *ex-parte* taking into account the evidence / material available on record.

IV. CONSIDERATION OF ISSUES AND FINDINGS

8. I have taken into consideration the facts and circumstances of the case, the material available on record and observed that the allegation levelled against the Noticee in the SCN is mainly to the effect that it had failed to make the required disclosures to BSE as required under the provisions of SEBI (PIT) Regulations, 1992.

9. Therefore, after perusal of the material available on record, I have the following issues for consideration :

   a) Whether the Noticee has violated/contravened the provisions of Regulation 13 (6) of SEBI (PIT) Regulations, 1992 read with Regulation 12 of SEBI (PIT) Regulations, 2015?

   b) Does the violation, if any, attract monetary penalty under Section 15A(b) of SEBI Act,1992?

   c) If so, what would be the quantum of monetary penalty that can be imposed taking into consideration the factors mentioned in Section 15J of SEBI Act, 1992?

10. Before moving forward, it is pertinent to refer to the relevant provisions of SEBI (PIT) Regulations, 1992 and SEBI (PIT) Regulations, 2015 which read as under:

- ***Regulation 13(6) of SEBI (PIT) Regulations, 1992***

Disclosure by company to stock exchanges

13(6) Every listed company, within two working days of receipt, shall disclose to all stock exchanges on which the company is listed, the information received under sub-regulations (1), (2), (3) and (4).

- ***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.

ISSUE (a): Whether the Noticee has violated/contravened the provisions of Regulation 13(6) of SEBI (PIT) Regulations, 1992 read with Regulation 12 of SEBI (PIT) Regulations, 2015?

11. I note from the available records that Sameer Financial Services Pvt. Ltd. (hereinafter referred to as "**SFSPL**") was holding 2,04,500 shares of the Company, which represents 6.04% of the total paid up capital of the Company, and acquired 1,00,200 shares of the Company on February 07, 2013, pursuant which the shareholding of SFSPL increased to 3,04,700 shares i.e. 9.00% of the total paid up capital of the Company. Subsequently, SFSPL was observed to have transacted in the shares of the Company in the following manner:

Date	**No. of shares held – pre Acquisition / Disposal**	**No. of shares Acquired / Disposed off**	**No. of shares held - post Acquisition / Disposal**	**Mode**
14/02/2013	304700 (9 %)	-180500 (-5.33%) (Sale)	124200 (3.67%)	Off-Market
24/04/2013	124200 (3.67%)	- 24000 (-0.71%) (Sale)	100200 (2.96%)	Off-Market
21/08/2013	100200 (2.96%)	-50000 (-1.48%) (Sale)	50200 (1.48%)	Off-Market
23/08/2013	50200 (1.48%)	-50200 (-1.48%) (Sale)	0	Off-Market

12. With regard to the above transactions, I note from the material available on record that SFSPL had made disclosures in Form 'D', as required under SEBI (PIT) Regulations, 1992 with respect to change in 2% or more of its shareholding to the Company on February 14, 2013, April 24, 2013, August 21, 2013 and August 23, 2013. I note that the aforesaid information had been provided to SEBI by SFSPL vide letter dated August 25, 2015. However, I note that the aforesaid disclosures were subsequently not filed by the

Noticee to the stock exchange (BSE) within 2 working days, as required under Regulation 13(6) of SEBI (PIT) Regulations, 1992. The facts relating to non-disclosure by the Noticee has not been refuted by the Noticee. Accordingly, I hold that the Noticee has violated the provisions of Regulation 13(6) of SEBI (PIT) Regulations, 1992 read with Regulation 12 of SEBI (PIT) Regulations, 2015.

ISSUE (b): Does the violation, if any, attract monetary penalty under Section 15A(b) of SEBI Act, 1992?

13. As specified under the SEBI (PIT) Regulations, 1992, there is a requirement of timely disclosure of change in shareholding beyond certain threshold by substantial shareholders. It is obligatory on the part of the Company to make timely disclosures to the Stock Exchange, where its shares are listed, with respect to the disclosures received by it. By not making the timely disclosures under SEBI (PIT) Regulations, 1992, the Noticee had failed to comply with the statutory requirements of law. The timely disclosure is mandated under these Regulations for the benefit of the investors at large. There can be no dispute that compliance with the provisions of the Regulations is mandatory and it is the duty of SEBI to enforce compliance of these Regulations. Timeliness is the essence of disclosure and if the same are not disclosed by the Company, the same would deprive the investors in taking an informed decision.

14. Going by the facts and circumstances of the case, I am of firm opinion that by not making the disclosures, the Noticee has failed to comply with the mandatory statutory obligation. In this context, it is relevant to quote the judgment of the Hon'ble Supreme Court in the matter of SEBI Vs. Shri Ram Mutual Fund wherein it was inter *alia* 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……".*

15. Further, the Hon'ble SAT in the case of Coimbatore Flavors & Fragrances Ltd. Vs. SEBI (Appeal No. 209 of 2014) observed that *"……..undoubtedly, the purpose of these disclosures is to bring about more transparency in the affairs of the companies. True and timely disclosures by a company or its promoters are very essential from two angles. Firstly; investors can take a more informed decision to invest or not to invest in a particular scrip secondly;* the *Regulator can properly monitor the transactions in the capital market to effectively regulate the same……..." (Emphasis supplied).*

16. In view of the above, the violation of the provisions of Regulation 13(6) of SEBI (PIT) Regulations, 1992 read with Regulation 12 of SEBI (PIT) Regulations, 2015 by the Noticee makes it liable for monetary penalty under Section 15 A (b) of the SEBI Act, 1992 which reads as under :

- ***Section 15A (b)* – Penalty for failure to furnish information, return, etc.**

  "*If any person, who is required under this Act or any rules or regulations made thereunder, 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".*

ISSUE (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?

17. While determining the quantum of monetary penalty under Section 15 A (b) of SEBI Act, I have considered the factors stipulated in Section 15J of SEBI Act, 1992, which reads as under:

(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. With regard to the above factors to be considered while determining the quantum of penalty, it may be noted that no quantifiable figures or data are made available on record to assess the disproportionate gain or unfair advantage and amount of loss caused to an investor or group of investors as a result of the default of the Noticee. Further, there is nothing on record to indicate that the default by the Noticee was repetitive in nature. However, it is important to note that timely disclosure of information, as prescribed under the statute is an important regulatory tool intended to serve a public purpose. Timely disclosures are also an essential part of the proper functioning of the securities market and failure to do so prevents investors from taking a well-informed investment decision. In the present case, I note that the Noticee has violated the provisions of Regulation 13(6) of SEBI (PIT) Regulations, 1992 read with Regulation 12 of SEBI (PIT) Regulations, 2015.

19. I also observe that there is no dispute that SFSPL had made the requisite disclosures to the Company upon change in 2% of shareholding within the prescribed timeline. However, the Company had failed to disclose the same to BSE, which would have hampered the interest of investors in taking an informed decision of their investment in the shares of the Noticee. Therefore, I am not inclined to view the aforesaid default leniently and consider it necessary to impose monetary penalty which would act as deterrent to the Noticee in future.

V. ORDER

20. After taking into consideration the nature and gravity of the violations established in the preceding paragraphs, I, in exercise of the powers conferred upon me under Section 15-I of the SEBI Act, 1992 read with Rule 5 of the Adjudication Rules, hereby impose a penalty of Rs. 2,00,000/- (Rupees Two lakh only) on the Noticee i.e., Emed.com Technologies Limited under the provisions of Section 15A(b) of SEBI Act, 1992 for violation of the provision of Regulation 13(6) of SEBI (PIT) Regulations, 1992 read with Regulation 12 of SEBI (PIT) Regulations, 2015. The said penalty imposed on the Noticee, as mentioned above, shall commensurate with the violation committed and acts as a deterrent factor for the Noticee and others in protecting the interest of investors.

21. The Noticee shall remit / pay the said amount of penalty within 45 days of receipt of this order either by way of Demand Draft in favour of "SEBI - Penalties Remittable to Government of India", payable at Mumbai, OR through e-payment facility into Bank Account and 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
RTGS Code	SBIN0004380
Beneficiary Name	SEBI – Penalties Remittable To Government of India
Beneficiary A/c No.	31465271959

22. The Noticee shall forward said Demand Draft or the details / confirmation of penalty so paid through e-payment made (in the format given below) should be sent to "The Division Chief, Enforcement Department-1, DRA-1, the Securities and Exchange Board of India, SEBI Bhavan, Plot No. C – 4 A, "G" Block, Bandra Kurla Complex, Bandra (E), Mumbai – 400 051."

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)	

23. In terms of rule 6 of the Adjudication Rules, copy of this order is sent to the Noticee and also to SEBI.

Date : January 25, 2019
Place: Mumbai

SATYA RANJAN PRASAD
ADJUDICATING OFFICER