

**BEFORE THE ADJUDICATING OFFICER
SECURITIES AND EXCHANGE BOARD OF INDIA
[ADJUDICATION ORDER NO. EAD-9/ AO/SM/ 103 /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:

**Chandrakant Vora
(PAN: ACEPV3698K)**

In the matter of Oregon Commercial Limited

FACTS OF THE CASE IN BRIEF

1. Securities and Exchange Board of India (hereinafter referred to as 'SEBI'), pursuant to investigation of the alleged irregularity in the trading of the shares of Oregon Commercial Limited (hereinafter referred to as "OCL/ company") had observed that Chandrakant Vora (hereinafter referred to as "Noticee"), who was holding more than 5% of the paid up capital of OCL had sold 3.65% of his holdings and allegedly failed to make the requisite disclosures under regulation 13(3) read with 13(5) of SEBI (Prohibition of Insider Trading) Regulations, 1992 (hereinafter referred to as "PIT Regulations") read with regulation 12(2) of SEBI (Prohibition of Insider Trading) Regulations, 2015 (hereinafter referred to as "PIT 2015").

APPOINTMENT OF ADJUDICATING OFFICER

2. Vide an order of the Competent Authority, SEBI, dated May 18, 2017, 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 November 20, 2017 (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 it under Section 15A (b) of SEBI Act for the alleged violations. The Noticee, vide letter dated April 23, 2018 made, inter alia, the following submissions:

"I would like to inform you that I am senior citizen aged 70+, diabetic, hypertensive. I have undergone bye-pass surgery and also have lost one eye due to retinal problem.

You please appreciate the fact that besides gap of more than 8 years of matter under reference the shares of company Oregon Commercial Limited (OCL) were sold in 2010. To best of my knowledge earlier we had appeared before SEBI Adjudicating Officer in OCL which was disposed of in 2010/11 itself. The company OCL was taken over by different entities in the year 2011/12. Unfortunately we are not able to trace the said SEBI order of alleged irregularities. I feel that earlier the matter has since been adjudicated the matter need not be again adjudicated now after a gap of 7/8 years.

In view of my not getting access to my old records of such a long period, natural justice will not be done to me.

In view of my physical conditions too, it is a request to drop the proceedings which for reasons best known have been initiated. After gap of long period with me being in disadvantageous position of not having records.

However, I will make myself available to co-operate and appear for personal hearing if so desired by you.

4. In order to comply with the principles of natural justice an opportunity of personal hearing was given to the Noticee on June 1, 2018 vide notice dated May 10, 2018. The Noticee, vide letter dated May 14, 2018 submitted that *"I could not find my copy of disclosure made. But I could find disclosure on BSE website. I herewith enclose copy for your reference."* The Noticee submitted a format for disclosure of details of acquisition to stock exchanges by target company, in terms of regulation 7(3) of SEBI (Substantial Acquisition of Shares and Takeovers) Regulations, 1997. Another opportunity of hearing was given to the Noticee on July 26, 2018. Though the notices were duly delivered to the Noticee, he failed to appear on the scheduled date.

CONSIDERATION OF ISSUES AND EVIDENCE

5. I have carefully perused the charges levelled against the Noticee in the SCN, his reply and the material / documents available on record. In the instant matter, the following issues arise for consideration and determination:-
- (a) Whether the Noticee have violated the provisions of regulations 13(3) read with 13(5) of PIT Regulations read with regulation 12(2) of PIT 2015?
 - (b) Do the violations, 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, PIT 2015 and SAST Regulations:

Relevant provisions of PIT Regulations:

Disclosure of interest or holding in listed companies by certain persons - Initial Disclosure

13. Continual disclosure.

(3) Any person who holds more than 5% shares for voting rights in any listed company shall disclose to the company in Form C the number of shares or voting rights held and change in shareholding or voting rights, even if such change results in shareholding falling below 5%, if there has been change in such holdings from the last disclosure made under sub-regulation (1) or under this sub-regulation; and such change exceeds 2% of total shareholding or voting rights in the company.

(5) The disclosure mentioned in sub-regulations (3), (4) and (4A) shall be made within two working days of:

- (a) the receipts of intimation of allotment of shares, or*
- (b) the acquisition or sale of shares or voting rights, as the case may be.*

Relevant provisions of PIT 2015:

12. Repeal and Savings:

- (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;

7. I note from the documents on record that the shareholding of the Noticee before April 19, 2010 was 60,000 shares which is 6.25% of the total shareholding of the company. On April 19, 2010 he sold 35,000 shares (3.65% of total share capital). It is observed from the website of Bombay Stock Exchange that the Noticee had made relevant disclosure under SEBI (Substantial Acquisition of Shares and Takeovers) Regulations, 1997 (hereinafter referred to as "SAST Regulations") and not under PIT Regulations.
8. The main purpose of disclosure is to make the market aware of the change of shareholding of major shareholders. When the Noticee have already made the disclosure under SAST Regulations, the market is already made aware of the change in shareholding. In such a case non-compliance of regulation 13(3) read with 13(5) of PIT Regulations become mere technical in nature.
9. Further, Hon'ble SAT in its order dated September 4, 2013 in Vitro Commodities v/s SEBI appeal no. 118 of 2013 stated "*It may be noted that provisions of Regulations 7(1) of takeover Regulations 1997 and Regulation 13(1) of PIT 1992 are not substantially different, since violation of first automatically triggers the violations of second and hence there is no justification for imposition of penalty for second violation when penalty for first violation has been imposed.*" As the Noticee has already made the disclosure under SAST Regulations, I find that it is not a fit case to levy penalty for the violation of regulation 13(3) read with 13(5) of PIT Regulations.

ORDER

10. Having considered the facts and circumstances of the case, the material available on record, the submissions made by the Noticee, 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 dispose of the SCN.

11. 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. Chandrakant Vora and also to the Securities and Exchange Board of India.

Date : August 21, 2018
Place : Mumbai

SAHIL MALIK
ADJUDICATING OFFICER