

BEFORE THE ADJUDICATING OFFICER
SECURITIES AND EXCHANGE BOARD OF INDIA
[ADJUDICATION ORDER NO. MC/DPS/ 8 /2018]

UNDER SECTION 15-I (2) OF SECURITIES AND EXCHANGE BOARD OF INDIA ACT, 1992 AND RULE 5 OF SEBI (PROCEDURE FOR HOLDING INQUIRY AND IMPOSING PENALTIES BY ADJUDICATING OFFICER) RULES, 1995.

In respect of –

1. **Shri Manoj Babulal Jain Punamiya** (PAN No. AAJPP8662L) having address at – 2001/2002, A-Wing, Vardhaman Heights, T.B. Marg, A.G. Pawar Lane, Byculla – East, Mumbai 400027.
2. **M/s Hillview Impex Pvt. Ltd.** (PAN No. AACCH2338F) having address at – 3rd Floor, Ashok House, Opp. Khara Kuwa, Bldg. No. 118/120, Zaveri Bazar, Mumbai 400002.

In the matter of *M/s Royal India Corporation Limited.*

BACKGROUND

1. Securities and Exchange Board of India (hereinafter be referred to as, “**SEBI**”) had conducted examination in the scrip of M/s Royal India Corporation Limited (hereinafter be referred to as, the “**Company**”), a company listed on the BSE Limited (hereinafter be referred to as, the “**BSE**”) for the period January 07, 2013 to November 11, 2013 (hereinafter be referred to as, the “**Examination Period**”). Examination *prima facie* revealed violation of Regulation 13(4A) read with 13(5) of the SEBI (Prohibition of Insider Trading) Regulations, 1992 (hereinafter be referred to as, the “**PIT Regulations**”) by (1) Shri Manoj Babulal Jain Punamiya and (2) M/s Hillview Impex Pvt. Ltd. (hereinafter referred to as “**the Noticee No. 1 and 2**” respectively or as “**the Noticees**” collectively) for not making disclosures upon change in their shareholding in the Company to the stock exchange and to the company.

APPOINTMENT OF ADJUDICATING OFFICER

2. SEBI initiated adjudication proceedings and appointed Mr. Suresh Gupta, Chief General Manager as Adjudicating Officer under Section 15I of the Securities and Exchange Board of India Act, 1992 (hereinafter be referred to as, the “**SEBI Act**”) read with Rule 3 of the SEBI (Procedure for Holding Inquiry and Imposing Penalties by Adjudicating Officer) Rules, 1995 (hereinafter be referred to as, the “**Adjudication Rules**”) vide order dated July 26, 2016 to inquire into and adjudge under Section 15A(b) of the SEBI Act against the Noticees for the alleged violation of aforesaid provisions of PIT Regulations and thereafter Shri K Saravanan was appointed as the Adjudicating Officer. Subsequently, the undersigned was appointed as the Adjudicating Officer on June 19, 2018.

SHOW CAUSE NOTICE, REPLY AND HEARING

3. Show Cause Notice No. E&AO/MC/JP/ 18306/1/2018 dated June 28, 2018 and Show Cause Notice No. E&AO/MC/JP/ 18306/2/2018 dated June 28, 2018 (hereinafter be referred to as, the “**SCN**”) was served upon the Noticee No.1 and 2 respectively under Rule 4(1) of the Adjudication Rules to show cause as to why an inquiry should not be held and penalty be not imposed against them under Section 15A (b) of the SEBI Act for the alleged violations of Regulation 13(4A) read with 13(5) of the PIT Regulations.
4. The allegations levelled against the Noticees in the SCN are summarized as below:
 - a) The Noticees being the promoters of the Company were observed to have sold shares of the Company during the period from January to March 2013. As per the shareholding pattern for the Quarter ending December 2012 and March 2013, it was observed that shareholding of the Noticees has been decreased and the details of such sale / decrease is shown in below table;

Name of Entity	Quarter ended December 2012	Quarter ended March 2013	Decrease in holdings / Gross Sale
Manoj B Punamiya	4510000 shares	4235067 shares	2,74,933 shares
Hillview Impex Pvt Ltd	1654245 shares	1524845 shares	1,29,400 shares

- b) It was observed that the disclosures have been received by the BSE from the Noticee No. 1 under regulation 13(4A) of the PIT Regulations for total sale of 2,47,994 equity shares only (i.e. for sale of 120346 shares on 04/02/2013, sale of 53553 shares on 04/02/2013, sale of 74095 shares on 05/02/2013). However, no disclosures was received by the stock exchange (BSE) for the sale of 26,939 shares on 06/02/2013.
- c) BSE vide e-mail dated December 08, 2017 and company vide email dated October 13, 2014 confirmed that no disclosures were made for sale of 26,939 shares by the Noticee No. 1.
- d) It was alleged that the Noticee No. 1 who had sold 26,939 shares on 06/02/2013 (which is more than 25,000 share as stipulated under aforesaid PIT regulations) had failed to make disclosures to the stock exchange and to the Company regarding such sale of 26,939 shares and thereby had violated regulation 13(4A) read with regulation 13(5) of the PIT Regulations.
- e) It was also observed that the Noticee No. 2 (promoter) had sold 1,29,400 shares from January to March 2013. It was observed that as per disclosure made by Noticee to the company, on January 10, 2013 the Noticee No. 2 has sold 15000 shares. On January 17, 2013, he had sold 101700 shares and on January 18, 2013 he has sold 13900 shares. It

was observed that for the aforesaid sale transactions, the Noticee No. 2 made delayed disclosures on September 11, 2014 under regulation 13(4A) of PIT Regulations to the Company only, and, no such disclosures were made to the stock exchange (BSE).

- f) Therefore, it was alleged that the Noticee No. 2 who had sold 1,29,400 shares on during January to March 2013 (which is more than 25,000 share as stipulated under aforesaid PIT regulations) had made delayed disclosures on September 11, 2014 under regulation 13(4A) of PIT Regulations to the Company and no disclosures were made to the stock exchange regarding such sale of shares and thereby he had violated regulation 13 (4A) read with regulation 13 (5) of the PIT Regulations.
- g) The aforesaid alleged provisions of laws are produced as under;

PIT Regulations

13 (4A) 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.

13 (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.*

5. It was stated in the SCN that the aforesaid alleged violations, if established, would make the Noticees liable for monetary penalty under Section 15A(b) of the SEBI Act.
6. In response to the SCN, the Noticees submitted their reply separately vide letter dated July 30, 2018.
7. The key submissions of the Noticee No. 1 and 2 in their reply dated July 30, 2018 towards the SCN are mentioned below;

REPLY OF NOTICEE NO. 1 :-

- (a) Unfortunately due to inadvertence and human error it was missed out to file disclosure for 26,939 shares, the non-disclosures was an inadvertent error and had no ulterior motive or intention behind the same. Further I submit that the aforesaid non-disclosures was never intended to evade the procedural aspects of the PIT Regulations but was simply a genuine error and inadvertent mistake. Due to non-filing of disclosures I have not accrued any illegal or undue profits and no public interest was harmed as the major disposal transactions were already reported to RICL and to your Honorable Office. Further with this transaction I have not made any disproportionate gain or unfair advantage, no loss has been caused to any investor or group of investors as a result of the default in making the necessary disclosures within the prescribed time period. In the past I have never defaulted in observing the PIT Regulations and SAST Regulations and this is my first default. I realized about the non-disclosure only upon receipt of the captioned Notice.
- (b) I request you not to conduct any further enquiries or impose any penalties for the unintentional non-compliances and at present I am ready to make this good this default by doing necessary filings. I am enclosing herewith the desired details as asked by your Honorable Office. I humbly request you to kindly take this representation on your record and oblige.

REPLY OF NOTICE NO. 2 :-

- (a) During the period January to March, 2013 our Company Hillview Impex Private Limited (herein after referred to as 'the Company') being promoter of Royal India Corporation Limited (herein after referred to as "RICL") has sold 1,29,400 shares in series of transaction (some transactions were more than 25,000 shares under PIT Regulations) of RICL. Unfortunately, the disclosures which were required to be filed within two working days of undertaking purchase/sale transaction could not be filed in time but as soon as the same came to knowledge of the Company, the disclosures were filed with Royal India Corporation Limited on September 11, 2014 and simultaneously with the Bombay Stock Exchange on September 12, 2014. These disclosures were further forwarded by RICL to Bombay Stock Exchange on September 12, 2014.
- (b) The Company was facing financial difficulties during Financial Year 2012-13 and it did not have a competent Compliance Officer during this period. The Company was not in a position to get advised that it had to make the disclosures. The non-compliance came to light when the Company appointed their present Compliance officer. Later on our Company made necessary disclosures to the Bombay Stock Exchange and to RICL. The Company accepts and regrets the delay in filing of the disclosure under PIT Regulations. The default has occurred as the Management was not aware about the compliance requirement and was not advised correctly. The disclosures have been filed immediately as soon as it came to the attention of the Company.
- (c) Copies of Disclosures filed by the Company with the Honorable Bombay Stock Exchange on September 12, 2014 under regulation 13(4A) of PIT Regulations (duly acknowledged copies) are attached.

- (d) The delay in filing was never intentional but just an unfortunate event and has neither caused any loss to any investor nor adversely affected shareholders / securities market defeating the intention of enforcement of PIT Regulations. The Company has not made any disproportionate gain or unfair advantage as a result of the default; and no loss has been caused to any investor or group of investors as a result of the default. The Company has never defaulted in observing the PIT Regulations and SAST Regulations and this is its first default.
8. An opportunity of personal hearing was provided to the Noticees on August 30, 2018 *vide* Notice of Hearing dated August 7, 2018. Hearing on August 30, 2018 was attended by the Authorised Representative of the Noticees (AR). AR of the Noticees reiterated submissions made in their replies dated July 30, 2018. .

CONSIDERATION OF ISSUES AND FINDINGS

9. The issues that arise for consideration in the instant matter are:

Issue No. I Whether the Noticees had failed to make mandated disclosures under the PIT Regulations as alleged in the SCN?

Issue No. II If yes, whether the failure, on the part of the Noticees would attract monetary penalty under Section 15A(b) of the SEBI Act?

Issue No. III If yes, what would be the monetary penalty that can be imposed upon the Noticees taking into consideration the factors stipulated in Section 15J of the SEBI Act read with Rule 5(2) of the Adjudication Rules?

Issue No. I

(a) Whether the Noticee No. 1 had failed to make mandated disclosures under the PIT Regulations as alleged in the SCN?

10. It was alleged in the SCN that Noticee No. 1 being the promoter of the company had sold 26,939 shares on 06/02/2013 (which is more than 25,000 share as stipulated under aforesaid PIT regulations) and had failed to make disclosures to the stock exchange and to the Company regarding such sale of 26,939

shares. The details of change in shareholding of the Noticee No. 1 in the scrip of the Company, as provided to the Noticee No. 1 by way of SCN, are as follows:

Date of Transaction	Purchase / Sale	Quantity Transacted	Closing Holding	Share Capital	% of Share Capital	Disclosure made under PIT
Holding as on 31/12/2012			4510000	23080000	19.54	NA
04/02/2013	Sale	173899	4336101	23080000	18.79	Yes
05/02/2013	Sale	74095	4262006	23080000	18.47	Yes
06/02/2013	Sale	26939	4235067	23080000	18.35	No (13(4A) r.w. 13(5))

r.w – read with; NA- Not Applicable

11. I note that Noticee No. 1 had made sale transaction on February 4 and 5, 2013 for which it had made disclosure under PIT Regulations. However, for the sale transaction of 26,939 shares (which is more than 25,000 shares) on February 6, 2013, which triggered disclosure requirements under regulation 13(4A) read with 13(5) of PIT Regulations, no disclosure was made. BSE vide e-mail dated December 08, 2017 and company vide email dated October 13, 2014 confirmed that no disclosures were made for sale of 26,939 shares by the Noticee No. 1 under regulation 13 of PIT Regulations.
12. I note that Noticee No. 1 has not disputed the non-disclosure. With regard to submission of the Noticee that the non-disclosures was an inadvertent error and he had no ulterior motive or intention behind the same; the aforesaid non-disclosures was never intended to evade the procedural aspects of the PIT Regulations but was simply a genuine error and inadvertent mistake, I note that when mandatory direction is stipulated for a particular activity, the intention of the parties becomes irrelevant.
13. In view of the aforesaid, I note that Noticee No. 1 in its reply as well as in the hearing admitted the fact that he had failed to make the disclosures with regard to sale transaction of 26,939 shares on February 6, 2013. Therefore it is established that the Noticee No. 1 had failed to make disclosures as required under 13(4A) read with 13(5) of PIT Regulations.

(b) Whether the Noticee No. 2 had failed to make mandated disclosures under the PIT Regulations as alleged in the SCN?

14. It was alleged in the SCN that Noticee No. 2 being the promoter of the company had sold 1,29,400 shares from January to March 2013. It was observed that as per disclosure made by Noticee to the company, on January 10, 2013 the Noticee No. 2 has sold 15000 shares. On January 17, 2013, it had sold 101700 shares and on January 18, 2013 it has sold 13900 shares. It was observed that for the aforesaid sale transactions, the Noticee No. 2 made disclosures on September 11, 2014 under regulation 13(4A) of PIT Regulations to the Company only, and, no such disclosures were made to the stock exchange (BSE). The details of transactions are given below:-

Date of Transaction	Purchase / Sale	Quantity Transacted	Sale Value	Closing Holding	Share Capital	% of Share Capital
Holding as on 31/12/2012				1654245	23080000	7.17
10/01/2013	Sale	15000	1879109	1639245	23080000	7.10
17/01/2013	Sale	101700	12660999	1537545	23080000	6.66
18/01/2013	Sale	13900	1766210	1523645	23080000	6.60

15. I note that Noticee No. 2 made sale transaction on January 10, 17 and 18, 2013 for which change exceeded ₹ 5 Lakh in value of shares, which triggered disclosure requirements under regulation 13(4A) read with 13(5) of PIT Regulations. However, the Noticee made disclosures belatedly on September 11, 2014 under regulation 13(4A) of PIT Regulations to the Company only, and, no disclosures were made to the stock exchange (BSE).

16. I note that Noticee No. 2 has not disputed the non-disclosure. With regard to submission of Noticee No. 2 that the disclosures could not be filed in time but as soon as the same came to its knowledge it was filed with company on September 11, 2014 and with BSE on September 12, 2014; it was facing

financial difficulties and it did not have the competent Compliance Officer and the non-compliance came to light when it appointed the present Compliance Officer; delay in filing was never intentional but just an unfortunate event and has neither caused any loss to any investor nor adversely affected shareholders / securities market nor made any disproportionate gain or unfair advantage as a result of the default, I am of the view that when mandatory direction is stipulated for doing a particular activity, the intention of the parties becomes irrelevant.

17. In view of the aforesaid, I note that Noticee No. 2 in its reply as well as in the hearing admitted the fact that it had failed to make the disclosures within 2 working days as per Regulation 13(4A) read with 13(5) of PIT Regulations. Therefore it is established that the Noticee No. 2 had failed to make disclosures as required under 13(4A) read with 13(5) of PIT Regulations.

Issue No. II If yes, whether the failure, on the part of the Noticees would attract monetary penalty under Section 15A(b) of the SEBI Act?

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Issue No. III If yes, what would be the monetary penalty that can be imposed upon the Noticees taking into consideration the factors stipulated in Section 15J of the SEBI Act read with Rule 5(2) of the Adjudication Rules?

18. Since failure of the Noticees in making disclosures to the Company and to BSE under Regulation 13(4A) read with 13(5) of the PIT Regulations is established, I am of the view that it warrants imposition of monetary penalty under Section 15A(b) of the SEBI Act on the Noticees, text of which is reproduced as under:

SEBI Act

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

19. While determining the quantum of penalty under Section 15A(b) of the SEBI Act, the following factors stipulated in Section 15J of the SEBI Act, have to be given due regard:

- 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.

20. I have also perused the disclosures available on BSE website, and find that the sale transaction of 26,939 shares on February 6, 2013 done by Noticee No. 1 was reported to BSE on December 9, 2017 and the sale transactions done on January 10, 17 and 18, 2013 by Noticee No. 2 were reported to BSE on September 12, 2014.

21. I note that the Noticees have submitted that the aforesaid non-disclosure of change of shareholding in the Company was not intentional. At this juncture, I find it relevant to take into account the observation of the Securities Appellate Tribunal (hereinafter, the “**Hon’ble SAT**”) in the matter of **Ambaji Papers Private Limited & Ors. v. Adjudicating Officer, Securities and Exchange Board of India** (Appeal No. 201 of 2013 dated January 15, 2014) wherein, it held, *“To this extent, the appellants, though inadvertently and without any intention, have defaulted in complying with the regulations regarding disclosures in question in our considered view and in the facts and circumstances of the present cases. The infraction, although venial in nature, is an infraction nonetheless. This Tribunal has held time and again that the penalty levied on any wrong-doer ought to be commensurate with the gravity of the deviation effected.”*

22. While it is established that the Noticees did not make timely disclosures to Company as well as to BSE under Regulation 13(4A) read with 13(5) of the PIT Regulations, I note that no quantifiable figures are available on record to assess disproportionate gain made or loss caused to investors by the aforesaid violation. From the material available on record, repetitive nature of default by the Noticee could also not be ascertained.
23. Therefore, taking into account the facts and circumstances of this matter, and the mitigating factors, I am of the view that a penalty of ₹1,00,000/- (Rupees One Lakh only) upon the Noticee No. 1 and ₹3,00,000/- (Rupees Three Lakh only) upon the Noticee No. 2 will be commensurate with the violations committed.

ORDER

24. After taking into consideration all the facts and circumstances of the case, in exercise of powers conferred upon me under Section 15I (2) of the SEBI Act read with Rule 5 of the Adjudication Rules, I hereby impose a penalty of ₹1,00,000/- (Rupees One Lakh only) upon the Noticee No. 1, i.e. Shri Manoj Babulal Jain Punamiya and ₹3,00,000/- (Rupees Three Lakh only) upon the Noticee No. 2, i.e. M/s Hillview Impex Pvt. Ltd., under Section 15A(b) of the SEBI Act for violation of Regulation 13(4A) read with 13(5) of the PIT Regulations.
25. 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 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
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26. The Noticees shall forward said Demand Draft or the details / confirmation of penalty so paid to the Enforcement Department – Division of Regulatory Action – I of SEBI. The Noticee shall provide the following details while forwarding DD/ payment information:

- a) Name and PAN of the entity (Noticees)
- b) Name of the case / matter
- c) Purpose of Payment – Payment of penalty under AO proceedings
- d) Bank Name and Account Number
- e) Transaction Number

27. Copies of this Adjudication Order are being sent to the Noticees and also to SEBI in terms of Rule 6 of the Adjudication Rules.

DATE: AUGUST 31, 2018

PLACE: MUMBAI

MANINDER CHEEMA

ADJUDICATING OFFICER