

**BEFORE THE ADJUDICATING OFFICER**

**SECURITIES AND EXCHANGE BOARD OF INDIA**

**[ADJUDICATION ORDER NO.ISD/IIIL/AHRTL/AO/DRK/AKS/EAD-3/322/20-12]**

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**UNDER SECTION 15 I OF SECURITIES AND EXCHANGE BOARD OF INDIA  
ACT, 1992 READ WITH RULE 5(1) OF SECURITIES AND EXCHANGE  
BOARD OF INDIA (PROCEDURE FOR HOLDING INQUIRY AND IMPOSING  
PENALTIES BY ADJUDICATING OFFICER) RULES, 1995**

**Against:**

**Telesys Info-Infra (I) Ltd.**

(Formerly known as Telesys Software Ltd.)  
New No. 72, (Old No. 33), Giri Road  
1<sup>st</sup> Floor, T. Nagar  
Chennai- 600017

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**FACTS IN BRIEF**

1. Pursuant to the preliminary examination in the dealings in the shares of Asia HR Technologies Ltd. (hereinafter referred to as '**AHRTL / Company**') listed at Bombay Stock Exchange Ltd. (hereinafter referred to as '**BSE**'), Securities and Exchange Board of India (hereinafter referred to as '**SEBI**') observed that Telesys Info-Infra (I) Ltd. (hereinafter referred to as '**noticee**') shareholding was 11.83% of the company as on September ending 2010. It was further observed that the noticee had disposed off the entire shares of the company during the period from December 27, 2010 to February 11, 2011 (hereinafter referred to as '**Investigation Period**').

## **APPOINTMENT OF ADJUDICATING OFFICER**

2. I was appointed as the Adjudicating Officer vide communiqué dated 19.04.2012 under Section 15 I of the Securities and Exchange Board of India Act, 1992 (hereinafter referred to as '**SEBI Act**') read with 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 under Section 15A (b) of the SEBI Act, the violation of Regulation 13 (3) of the SEBI (Prohibition of Insider Trading) Regulations, 1992 (hereinafter referred to as '**PIT Regulations**') alleged to have been committed by the noticee.

## **SHOW CAUSE NOTICE, HEARING AND REPLY**

3. A Show Cause Notice No. A&E/DRK/AKS/10412/2012 (herein after referred to as '**SCN**') dated 10.05.2012 was sent to the noticee by "Registered Post Acknowledgement Due" in terms of the provisions of Rule 4 of the SEBI (Procedure for Holding Inquiry and Imposing Penalties by Adjudicating Officer) Rules, 1995 requiring the noticee to show cause as to why an inquiry should not be held against it and why penalty, if any, should not be imposed on the noticee under Section 15A (b) of the SEBI Act.
4. In the said notice, it was alleged that:
  - a. The noticee's shareholding was 11.83% shares (11,83,450 shares) of the company as on September ending 2010 and that the noticee had sold 6.26% of shareholding of the company during quarter ending December 2010 and rest of the 5.58% of shareholding of the company during the quarter ending March 2011.
  - b. Further, it was alleged that no disclosure has been made by the noticee for the above mentioned sale / disposal as required under PIT Regulations to the company which has led to the violation of Regulation 13 (3) read with Regulation 13 (5) of PIT Regulations.

5. Vide personal hearing notice dated 23.08.2012, the noticee was granted an opportunity of hearing on 14.09.2012 at SEBI SRO, Chennai and was granted time till 07.09.2012 to submit a detailed reply to the SCN. The said hearing notice was served through "Registered Post Acknowledgement Due" and proof of service is on record. Noticee authorised Shri S A Inbavadvu, Legal Advisor (herein after referred to as '**AR**') to appear on its behalf. The hearing scheduled on 14.09.2012 was postponed to 01.10.2012 at SEBI SRO, Chennai.
6. During the personal hearing the AR submitted a reply dated 01.10.2012 to the SCN which was taken on record. The AR has also accepted that there was delay in filing the disclosure with the company. The AR submitted that the disclosure in Form C was filed with SEBI on 11.08.2011.
7. The noticee in its reply dated 01.10.2012 stated as follows-
  - The noticee had sold the equity shares / securities of AHRTL to the extent of 11,83,450 shares i.e., 11.83% of the shareholding of AHRTL during 2010-2011 on various dates between 27-12-2010 and 11-02-2011.
  - The noticee had intimated to the company on 14-02-2011 and to SEBI on 11-08-2011. Thus, there was a delay in disclosing of the sale of securities as per the provisions of PIT Regulations.
  - Further, the noticee submitted that it was in a financial crunch and was very badly in need of working capital to pay to its creditors. There was no other option but the noticee was forced to sell the securities of AHRTL to meet its immediate needs.
  - The noticee by oversight failed to intimate the company and the authorities within the time stipulated under PIT Regulations.
  - The aforesaid violation was neither malafide nor intentional. Neither the purchaser nor the seller has benefited out of the transactions.

- The company has not declared any dividend, rights issues and announced any other benefits to its shareholders for the past several years and the company is only wiping of its existing Losses. The sales and profit of the company has also come down.
- The noticee has complied with other returns regularly with the authorities and the noticee has assured that these types of non disclosure will not recur in future.

### **CONSIDERATION OF EVIDENCE AND FINDINGS**

8. I have taken into consideration the facts and circumstances of the case and the material made available on record. The allegation in the present matter is that the noticee had sold 11,83,450 shares of AHRTL i.e., 11.83% of the shareholding of the company during the period December 2010 to February 2011 but the noticee had failed to make disclosures under PIT Regulations.
9. It is observed that the noticee had sold 6.26% of the shareholding of AHRTL during quarter ending December 2010 and rest of the 5.58% of the shareholding of AHRTL were sold during the quarter ending March 2011. The details of the said sale are given below:

<b>Date</b>	<b>Opening Balance</b>	<b>Debit</b>	<b>Credit</b>	<b>Closing Balance</b>	<b>Issued capital</b>	<b>% of closing balance to total issued capital</b>
						11.8345
27-Dec-2010	11,83,450	1,00,000	0	10,83,450	1,00,00,000	10.8345
28-Dec-2010	10,83,450	2,50,000	0	8,33,450	1,00,00,000	8.3345
29-Dec-2010	8,33,450	1,95,000	0	6,38,450	1,00,00,000	6.3845
30-Dec-2010	6,38,450	80,000	0	5,58,450	1,00,00,000	5.5845
14-Jan-2011	5,58,450	50,000	0	5,08,450	1,00,00,000	5.0845
18-Jan-2011	5,08,450	1,00,000	0	4,08,450	1,00,00,000	4.0845
28-Jan-2011	4,08,450	50,000	0	3,58,450	1,00,00,000	3.5845
31-Jan-2011	3,58,450	50,000	0	3,08,450	1,00,00,000	3.0845
01-Feb-2011	3,08,450	60,000	0	2,48,450	1,00,00,000	2.4845

03-Feb-2011	2,48,450	1,50,000	0	98,450	1,00,00,000	0.9845
07-Feb-2011	98,450	50,000	0	48,450	1,00,00,000	0.4845
11-Feb-2011	48,450	48,450	0	0	1,00,00,000	0

10. It is observed from our records that the noticee had not made disclosures of its sale of AHRTL shares when it had triggered Regulation 13(1) of PIT Regulations on the following dates:

- When its shareholding decreased from 11.83% to 8.33% on 28.12.2010; shareholding decreased from 8.33% to 5.58% on 30.12.2010 and again when its shareholding decreased from 5.58% to 3.08% on 31.01.2011.

11. Further, the noticee at the time of hearing and in its reply dated 01.10.2012 had accepted that there was a delay in filing the disclosures with the company under PIT Regulations.

12. In view of the above findings and noticee's acceptance, it can be concluded that the noticee had failed to make disclosures about the aforesaid sale of shares of AHRTL as required under Regulation 13 (3) of PIT Regulations to the company. Further, as per Regulation 13 (5) of PIT Regulations the noticee was required to make the said disclosures to the company within 2 working days of the sale of shares. The text of the said Regulations is reproduced below:

SEBI (Prohibition of Insider Trading) Regulations, 1992  
**Continual disclosure.**

13 (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.

13 (5) 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.

13. The said failure to make disclosure under Regulation 13 (3) of PIT Regulations attracts penalty under Section 15A (b) of the SEBI Act. The text of Section 15A (b) is as follows:

15A. Penalty for failure to furnish information, return, etc.- 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 of one lakh rupees for each day during which such failure continues or one crore rupees, whichever is less.

14. In this regard, the provisions of Section 15J of the SEBI Act and Rule 5 of the Rules require that while adjudging the quantum of penalty, 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. It has been noted from the material available on record that it is difficult to quantify any gain or unfair advantage accrued to the noticee as a result of this kind of default of the noticee. SEBI's examination has also not quantified the profit / loss for the nature of default / non compliance by the noticee and no material is 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 default of the noticee.

16. In view of the abovementioned conclusion and after considering the factors under Section 15J of the SEBI Act, I hereby impose a penalty of ₹ 1,50,000/- (Rupees One Lakh Fifty Thousand only) on the noticee under Section 15A (b) of the Securities and Exchange Board of India Act, 1992 for its failure to make disclosure under Regulation 13 (3) of SEBI (Prohibition of Insider Trading) Regulations, 1992 which is appropriate in the facts and circumstances of the case.

## **ORDER**

17. In exercise of the powers conferred under Section 15 I of the Securities and Exchange Board of India Act, 1992, and Rule 5 of Securities and Exchange Board of India (Procedure for Holding Inquiry and Imposing Penalties by Adjudicating Officer) Rules, 1995, I hereby impose a penalty of ₹ 1,50,000/- (Rupees One Lakh Fifty Thousand only) on Telesys Info-Infra (I) Ltd. having PAN No. AABCT1582G in terms of the provisions of Section 15A (b) of the Securities and Exchange Board of India Act, 1992 for its failure to make disclosure under Regulation 13 (3) of SEBI (Prohibition of Insider Trading) Regulations, 1992. In the facts and circumstances of the case, I am of the view that the said penalty is commensurate with the default committed by the noticee.

18. 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 receipt of this order. The said demand draft shall be forwarded to Chief General Manager- ISD, Securities and Exchange Board of India, Plot No. C4-A, 'G' Block, Bandra Kurla Complex, Bandra (E), Mumbai – 400051.

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, copies of this order are being sent to Telesys Info-Infra (I) Ltd. (formerly known as Telesys Software Ltd.) having its office at New No. 72, (Old No. 33), Giri Road, 1<sup>st</sup> Floor, T. Nagar, Chennai- 600017 and also to the Securities and Exchange Board of India, Mumbai.

**Place: Mumbai**

**Date: October 10, 2012**

**D. RAVI KUMAR  
CHIEF GENERAL MANAGER &  
ADJUDICATING OFFICER**