

**BEFORE THE ADJUDICATING OFFICER**

**SECURITIES AND EXCHANGE BOARD OF INDIA**

**[ADJUDICATION ORDER NO. PG/AO/SPV/70/2012]**

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**UNDER SECTION 15-I OF SECURITIES AND EXCHANGE BOARD OF INDIA ACT, 1992 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**

**Mr. Rajendra Janardhan Sarangdhar**

**[PAN: AALPS5027L]**

**In the matter of**

**M/s Orchid Chemicals and Pharmaceuticals Limited**

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**Background of the case**

1. Following a news article titled "Ranbaxy to sell balance 13.02% stake in Orchid Chem" published in DNA Money on September 18, 2010, Securities and Exchange Board of India (**SEBI**) conducted investigation into the trading in the shares of M/s Orchid Chemicals and Pharmaceuticals Limited (**Orchid/company**). During the said investigation, the trading activity of all the designated employees of the company was also analyzed for any violation of company's code of conduct for

prevention of insider trading which was in effect at that time. The investigation revealed that Mr. Rajendra Janardhan Sarangdar (**Noticee**) who was the Senior General Manager( PD Lab & Production) and a designated employee of the company had allegedly entered into opposite transactions i.e. buy or sell of shares of Orchid during the next six months following the prior transaction.

2. In view of the findings of the investigation as given above, SEBI, vide Order dated August 06, 2012 appointed the undersigned as Adjudicating Officer (**AO**) under Section 15-I of the SEBI Act, 1992 (**SEBI Act**) read with Rule 3 of Securities and Exchange Board of India (Procedure for Holding Inquiry and Imposing Penalties by Adjudicating Officer) Rules, 1995 (**Adjudication Rules**) to inquire into and adjudge under Section 15HB of the SEBI Act, the alleged violation of the provisions of Clause 4.2 of Part A, Schedule I under Regulation 12 (1) of SEBI (Prohibition of Insider Trading) Regulations, 1992 (**PIT Regulations**).

### **Show Cause Notice, Reply & Personal hearing**

3. Show Cause Notice dated October 05, 2012 (**SCN**) was issued to the Noticee in terms of the provision of Rule 4 (1) of the Adjudication Rules to show cause as to why an inquiry should not be held against him in respect of the violations alleged to have been committed by him. The SCN alleged that the Noticee, who was the Senior General Manager and designated employee had allegedly entered into opposite transactions i.e. buy or sell any number of shares during the next six months following the prior transaction. The trading details and contract notes were furnished to the Noticee along with the SCN. In response to the SCN, the Noticee had, vide e-mail dated October 19, 2012, sought 4 weeks time for filing reply. However, the Noticee was

informed vide letter dated October 25, 2012 that the request for extension of time has been partially acceded to and the reply if any, should reach the AO on or before November 05, 2012. The Noticee, vide letter dated October 30, 2012 submitted the reply to the SCN. Subsequently the Noticee was, vide letter dated November 07, 2012 advised to appear before the AO for personal hearing.

4. The salient submissions of the Noticee in response to the SCN made vide letter dated October 30, 2012 are as under:

- He is not a Board member and not privy to the decisions taken in the Board.
- he is an investor and in that process only he acquired shares of the company
- he was not aware of the fact that he was not permitted to enter into opposite transactions
- He was not privy / aware of any proposal of Ranbaxy to sell its stake in the company and has not indulged in any kind of insider trading.

During the hearing conducted on November 20, 2012, the Noticee's representative reiterated his above submissions.

### **Consideration of Issues, Evidence and Findings**

5. I have carefully perused the documents available on record, written and oral submissions made by the Noticee. The issues that arise for consideration in the present case are:

- a. Whether the Noticee has violated the provisions of Clause 4.2 of Part A, Schedule I under Regulation 12 (1) of PIT Regulations?.

- b. Does the violation, if any, on the part of the Noticee attract penalty under section 15HB of SEBI Act?
- c. If so, how much penalty should be imposed on the Noticee taking into consideration the factors mentioned in section 15J of the SEBI Act?
6. The relevant provisions of the PIT Regulations are as follows:  
***PIT Regulations, 1992.***  
***Regulation 12 - Code of internal procedures and conduct for listed companies and other entities***  
***Schedule I - Part A, Clause 4.2-*** *All directors/officers/designated employees who buy or sell any number of shares of the company shall not enter into an opposite transaction, i.e., sell or buy any number of shares during the next six months following the prior transaction. All directors/officers/designated employees shall also not take positions in derivative transactions in the shares of the company at any time.*
7. I find that the Noticee was a designated employee of the company during the relevant time. I further find that the Noticee was trading in the shares of the company on BSE and the following buy and sell trades entered by the Noticee resulted in opposite transactions i.e. buy or sell of shares of the company during the next six months following the prior transaction.

Date	No. of shares bought	No. of shares sold
23/06/2010	350	
20/09/2010		500
01/10/2010		600
04/1/2010		100
05/10/2010		400
15/102010		500
01/12/2010	100	
10/02/2011	150	
01/03/2011	100	

8. The above table shows that the Noticee had entered into buy and sell transactions in the shares of the company on BSE during the period from 23.06.2010 to 01.03.2011. He purchased 350 shares of the company on 23.06.2010 and sold a total of 2100 shares in 5 transactions during the period from 20.09.2010 to 15.10.2010. Thereafter, he purchased a total of 350 shares of the company during the period from 01.12.2010 to 01.03.2011 in 3 transactions. All these sales and purchases on BSE are opposite transactions, i.e., sell or buy of shares of the company during the next six months following the prior transaction.
9. The contention of the Noticee that he was not aware of the fact that he was not permitted to enter into such opposite transaction is not tenable. Being a designated employee of the company it is the responsibility of the Noticee to understand and comply with the provisions of internal code of conduct adopted by the company. I note that as per Clause IX - (Trading Restrictions) of the Code of Conduct for Prevention of Insider Trading adopted by the company, the Noticee is not permitted from entering into opposite transactions i.e. buy or sell of shares of the company during the next six months following the prior transaction in the shares of the company. Hence, in my view, the Noticee who is a senior and designated employee of the company, should have exercised due care while dealing in shares of the company and cannot escape the responsibility of any such violations by feigning ignorance of legal provisions. Hence, I find that the Noticee has violated the provisions of PIT Regulations.
10. In view of the foregoing discussions, I find that the Noticee has violated the provisions of Clause 4.2 of Part A, Schedule I under Regulation 12 (1) of PIT regulations. The Hon'ble Supreme Court of India in the matter of **SEBI vs. Shri Ram Mutual Fund** 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. Once the contravention is established, then the penalty is to follow."*

11. Thus, the aforesaid violations by the Noticee make him liable for penalty u/s. 15HB of the SEBI Act which reads thus:

*15HB. Penalty for contravention where no separate penalty has been provided.-*

*"Whoever fails to comply with any provision of this Act, the rules or the regulations made or directions issued by the Board thereunder for which no separate penalty has been provided, shall be liable to a penalty which may extend to one crore rupees"*

12. While determining the quantum of penalty, it is important to consider the factors stipulated in section 15J of SEBI Act, which reads as under:-

***Factors to be taken into account by the adjudicating officer.***

*While adjudging quantum of penalty under S.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."*

13. It is difficult, in cases of such nature, to quantify exactly the disproportionate gain or unfair advantage enjoyed by an entity and the consequent losses suffered by the investors. It is observed that the Noticee has done few opposite transactions i.e. buy or sell of shares during the next six months following the

prior transaction in shares of Orchid Chemicals & Pharmaceuticals Ltd.

14. I am of the considered opinion that directors/ officers/ designated employees are senior functionaries in company who are reasonably expected to be aware of major developments in the company. Thus for orderly conduct of securities market, it is of utmost importance that such persons should not be doing buy & sell transactions in the shares of that company at short intervals but should have a long term view. This is also necessary to ensure a sense of fairplay amongst the ordinary investors.

## **ORDER**

15. After taking into consideration all the facts and circumstances of the case, I come to conclusion that this is a fit case for imposing the monetary penalty on the aforesaid Noticee. I, in exercise of the powers conferred upon me under section 15- I (2) of the SEBI Act, impose a penalty of ₹. 50,000/- (Rupees Fifty Thousand only) on the Noticee, Rajendra Janardhan Sarangdhar in terms of Section 15HB of the SEBI Act for violation of Clause 4.2 of Part A, Schedule I under Regulation 12 (1) of PIT Regulations. I am of the view that the said penalty is commensurate with the violation committed by the Noticee.
16. The penalty shall be paid by way of a duly crossed 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 General Manager, Investigation Department (IVD-ID6), Securities and Exchange Board of India, Plot no.C4-A, 'G' Block, Bandra Kurla Complex, Bandra (E), Mumbai- 400 051.

17. In terms of the Rule 6 of the Adjudication Rules, copies of this order are sent to the Noticee and also to the Securities and Exchange Board of India. The matter is disposed of accordingly.

**DATE: November 29, 2012**  
**PLACE: Mumbai**

**PIYOOSH GUPTA**  
**ADJUDICATING OFFICER**