

BEFORE THE ADJUDICATING OFFICER
SECURITIES AND EXCHANGE BOARD OF INDIA

[ADJUDICATION ORDER NO. ISD/PMTL-DS/AO/DRK-AKS/EAD3-720/45-2015]

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

In respect of:

Shri Dipin Surana
1-7-241/11/D
Sarojini Devi Road
Secunderabad- 500003
Telangana
PAN No. AINPS9083Q

FACTS IN BRIEF

1. Securities and Exchange Board of India (hereinafter referred to as '**SEBI**') while conducting an examination in the scrip of P.M. Telelinks Ltd. (hereinafter referred to as "**PMTL / Company**") observed certain non compliances with SEBI (Prohibition of Insider Trading) Regulations, 1992 (hereinafter referred to as '**PIT Regulations**') alleged to have been committed by Shri Dipin Surana, Promoter (hereinafter referred to as '**noticee**').

APPOINTMENT OF ADJUDICATING OFFICER

2. I was appointed as Adjudicating Officer 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 Securities and Exchange Board of India (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 the violation of Regulation 13 (4A) of PIT Regulations alleged to have been committed by the noticee and the same was communicated vide proceedings of the Whole Time Member appointing Adjudicating Officer dated July 2, 2013.

SHOW CAUSE NOTICE, REPLY AND HEARING

3. A Show Cause Notice No. A&E/EAD3/DRK/CS/7825/2014 dated 11.03.2014 (herein after referred to as '**SCN**') was served on the noticee vide Speed Post Acknowledgement Due requiring the noticee to show cause as to why an inquiry should not be held against the noticee and why penalty, if any, should not be imposed on the noticee under Section 15A (b) of the SEBI Act.
4. In the said SCN, it was alleged as follows:
 - As per the trading details on August 1, 2012 noticee was holding 5,21,000 shares of PMTL constituting 5.17% of the total shareholding of PMTL. On the same day noticee had sold 15,000 shares of the company due to which his shareholding reduced to 5.02% of the total shareholding in the company. The sell value of those 15,000 shares sold by the noticee was ₹ 7,27,141. Therefore the noticee was required to disclose such change in shareholding to the company and to the stock exchange within two working days of such sale. However, no disclosure in this regard was made by the noticee.
 - Further, on August 2, 2012 noticee had also sold another 14,000 shares of the company, due to which his shareholding had reduced from 5.02% to 4.88% of the total shareholding in the company. In the present case, due to the sale of 14,000 shares, the change in noticee's shareholding exceeded 25,000 shares. Therefore, noticee was required to disclose this change in shareholding (number of shares sold) to the company and to the stock exchange. However, no disclosure in this regard was made the noticee.
5. The noticee vide his letter dated 31.03.2014 requested for additional period of 15 days to submit a reply to the SCN as he has forwarded the SCN to his Advocate who is preparing the reply.
6. The noticee submitted a reply to the SCN vide his letter dated 15.04.2014 as follows:

- The company has forwarded a letter dated July 19, 2012 to BSE Ltd. (hereinafter referred to as '**BSE**') through email of even date wherein inter alia it was brought to the kind notice of BSE that Promoters intend to sell a part of their holding and with the result the Promoter's holding would come down to 41.44% from 49.75%. A revised shareholding pattern, after the proposed sale, was also enclosed with the said letter. PMTL has forwarded such a letter to BSE only after the noticee intimated his intention to sell some of the shares held by him. The other Promoters would have also done the same. Noticee submits that company has forwarded the above letter only after Promoters have given intimation to PMTL.
- Adequate disclosures regarding the intention to sell as well as sale of noticee's shares were also made to the company by the noticee which in turn reflected the same in the shareholding pattern of the quarter ending September 2012.
- Noticee has disclosed the details of his shareholding on quarterly basis under Regulation 8(2) of Takeover Regulations, 1997 to PMTL and PMTL disclosed the same to stock exchange on quarterly basis under Regulation 8(3) of Takeover Regulation, 1997.
- Noticee submits that he has disclosed the full details regarding intention to sell and sale of shares albeit the same were not in the formats as suggested by SEBI. This establishes that noticee did not have any malafide intention to conceal the information from the retail investors and have disclosed the same both prior to and after the sale. Noticee further submits that he only sold small percentage of his total holding and all other Promoters remain invested in the company.
- Noticee is part of the Promoter group of another listed entity Golkunda Engineering Enterprise Ltd. and Golkunda needed funds on an urgent basis as expansion was already going on. In view of the same, he had to urgently sell the shares of PMTL and the funds generated by the sale of above securities were ultimately invested in Golkunda Engineering Enterprise Ltd. The money received from the sale of securities were not used for any personal gain. Hence the sale of securities of one listed company by the noticee benefitted the retail investors of another listed company.
- The company was earning miniscule profit during that quarter, the market price of the scrip was also quite negligible and his non reporting of sale of

securities in the specified format or under specific regulation would not have any effect on the market price of the scrip.

7. As requested by the noticee, vide personal hearing notice dated 08.08.2014, the noticee was granted an opportunity of hearing on 26.08.2014 at 02:30 pm at SEBI Bhavan, Mumbai. In response to the same, the noticee vide his letter dated 20.08.2014 authorised Shri G.P. Surana, his father (herein after referred to as 'AR') to attend the scheduled hearing.
8. At the time of hearing the AR reiterated the submissions made in the reply dated 15.04.2014 and submitted that the noticee had informed BSE Ltd. his intention to sell the shares 10 days in advance under Takeover Regulations. The AR further submitted that it was a technical omission on part of the noticee as he was not aware that he was required to file the disclosures under Regulation 13 (4A) of the PIT Regulations. The AR requested that a lenient view may be taken in the matter. The AR undertook to submit the copy of disclosures filed with BSE with respect to the alleged violations within 10 days from the date of hearing.
9. Accordingly noticee submitted the copy of email dated 19.07.2012 filed with BSE, citing intention of the Promoter to sell certain shares and copy of rectified disclosure sent to BSE.

CONSIDERATION OF EVIDENCE AND FINDINGS

10. I have taken into consideration the facts and circumstances of the case and the material made available on record.
11. It is observed from the records that on two occasions noticee failed to make disclosures under Regulation 13 (4A) of PIT Regulations i.e. on 01.08.2012 when he sold 15,000 shares of PMTL whose sell value was ₹ 7,27,141/- and on 02.08.2012 when he had sold 14,000 shares of PMTL which resulted in change in his shareholding in excess of 25,000 shares. Noticee has admitted that he has failed to make disclosures under PIT Regulations as he was not

aware that he was required to make disclosures under Regulation 13 (4A) of PIT Regulations.

12. Noticee has submitted that he had disclosed full details regarding his intention to sell shares to BSE. The same has been taken on record. However, under Regulation 13 (4A) of PIT Regulations disclosure has to be done when there has been change in the shareholding pattern from the last disclosure and once there has been change in the shareholding pattern, provisions of Regulation 13 (4A) of PIT Regulations gets attracted.

13. In view of the above facts and circumstances of the case and the material made available on record, it can be concluded that the noticee has failed to comply with Regulation 13 (4A) of PIT Regulations. The text of the said provision is reproduced below:-

SEBI (Prohibition of Insider Trading) Regulations, 1992

....

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.

14. The said violation attracts penalty under Section 15A (b) of the SEBI Act. The text of the said provision is reproduced below:-

SEBI Act

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.

15. 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

16. 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 by 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.

17. In view of the abovementioned conclusion and after considering the factors under Section 15J of the SEBI Act, I hereby impose a penalty of ₹ 2,00,000/- (Rupees Two Lakh only) on the noticee under Section 15A (b) of the Securities and Exchange Board of India Act, 1992 for his failure to make disclosures under Regulation 13 (4A) of SEBI (Prohibition of Insider Trading) Regulations, 1992 which is appropriate in the facts and circumstances of the case.

ORDER

18. 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 ₹ 2,00,000/- (Rupees Two Lakh only) on Shri Dipin Surana, Promoter of P.M. Telelinks Ltd. having PAN No. AINPS9083Q in terms of the provisions of Section 15A (b) of the Securities and Exchange Board of India Act, 1992 for his failure to make disclosures under Regulation 13 (4A) 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.

19. 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- EFD, Securities and Exchange Board of India, Plot No. C4-A, ‘G’ Block, Bandra Kurla Complex, Bandra (E), Mumbai – 400051.

20. 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 Shri Dipin Surana residing at 1-7-241/11/D, Sarojini Devi Road, Secunderabad- 500003, Telangana and also to the Securities and Exchange Board of India, Mumbai.

Place: Mumbai

Date: 27.03.2015

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