

**BEFORE THE ADJUDICATING OFFICER  
SECURITIES AND EXCHANGE BOARD OF INDIA  
[ADJUDICATION ORDER NO. EAD-2/ AO/DSR/ BKM/ 647/2017]**

**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:**

**Mrs. Parnika Rathi (PAN: AAMPR2775B)**

**In the matter of Rathi Bars Limited**

- 
1. Securities and Exchange Board of India (hereinafter referred to as 'SEBI') conducted an examination into the alerts on non-disclosures in the scrip of Rathi Bars Limited (hereinafter referred to as 'RBL' / 'the company') and into the possible violation of the provisions of the Securities And Exchange Board of India Act, 1992 (hereinafter referred to as the 'SEBI Act, 1992') and various Rules and Regulations made thereunder. The shares of RBL are listed on The Bombay Stock Exchange Limited (hereinafter referred to as "BSE").
  2. As per the shareholding pattern of the Promoter and Promoter Group category of RBL for the period of 2014, it was observed that the holding of Mrs. Parnika Rathi (hereinafter referred to as the Noticee),

the promoter of RBL had crossed 5% on April 09, 2014. However, she failed to make disclosures to the BSE as required under Regulation 13(1) and 13(4A) SEBI (Prohibition of Insider Trading) Regulations, 1992 (hereinafter referred to as the "PIT Regulations, 1992").

### **Appointment of Adjudicating Officer**

3. I have been appointed as Adjudicating Officer (AO), vide order dated March 28, 2016 under Section 15 I of the Act read with Rule 3 of the 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, 1992, the alleged violation of the provisions of law by the Noticee.

### **Show Cause Notice, Reply and Personal Hearing**

4. A show cause notice dated April 05, 2016 (hereinafter referred to as 'SCN') was issued to the Noticee under Rule 4(1) of the said Rules to show cause as to why an inquiry should not be held and penalty should not be imposed on her under Section 15A (b) of the SEBI Act, 1992 for the alleged violation of the provisions of law.
5. The Noticee submitted reply vide letter dated April 17, 2016. Thereafter, an opportunity of personal hearing was granted to the Noticee on June 29, 2017. The Noticee vide letter dated June 26, 2017 sought adjournment of personal hearing. Since the detailed reply of

the Noticee is available on record , I proceed further with the case on the basis of material available on record.

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

6. I have carefully perused the charges levelled against the Noticee as mentioned in the SCN, written submission made and all the documents available on record. In the instant matter, the following issues arise for consideration and determination:

- a. **Whether the Noticee has violated the provisions of Regulation 13(1) and 13(4A) of PIT Regulations, 1992?**
- b. **Whether the Noticee is liable for monetary penalty prescribed under Section 15 A (b) of the SEBI Act for the aforesaid violation?**
- c. **If so, what should be the quantum of monetary penalty?**

7. Before proceeding further, I would like to refer to the relevant provisions of the PIT Regulations, 1992 which read as under:

*PIT Regulations, 1992*

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

**Initial Disclosure**

*13. (1) Any person who holds more than 5% shares or voting rights in any listed company shall disclose to the company in Form A, the number of*

*shares or voting rights held by such person, on becoming such holder, within 2 working days of : – (a) the receipt of intimation of allotment of shares; or (b) the acquisition of shares or voting rights, as the case may be.*

**Continual disclosures**

*(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.*

**Submissions made by the Noticee:**

**8.** The Noticee, vide her letter dated April 17, 2016 submitted as under:

- (i) She is a director of the company with effect from September 30, 2014 and belongs to promoter group of the company since incorporation.
- (ii) Her Husband, Anupam Rathi (Since Deceased) was the Promoter/Director of the company since incorporation and was in critical position suffering from cancer hospitalized since March 2014.
- (iii) Anupam Rathi (Since Deceased) was on the dying bed and he (as Karta of M/s Anupam Rathi (HUF)) transferred 2, 40,146 equity

shares of RBL to her and 3, 94,570 equity shares to his son Mr Uddhav Rathi.

- (iv) All the equity shares held were offline transferred to the respective demat accounts on April 09, 2014 due to which her holding increased from 4.51% to 5.98% of issued capital of the company.
- (v) She informed to the company and stock exchange in Form A on July 15, 2014 and again on March 17, 2016 against the letter EFD/DRA-I/JS/RK/6206/2016 dated March 01, 2016 issued by SEBI.
- (vi) There is no change in her shareholding since the public issue except this offline transfer of shares received by gift from her ailing husband who died later on. There is no market trading or consideration involved and there is no change in the holding of promoter group.
- (vii) There was neither trading on shares or financial transaction involved nor change in the promoter group shareholding as a whole nor public nor market was affected due to the said transaction and delay in reporting of disclosures under respective rules occurred due to adverse circumstances at the family part of the promoter group as explained.

### **Findings:**

9. From the shareholding pattern, I note that the shareholding of the Noticee in RBL crossed 5% on April 09, 2014 and the details are as under:

Date	Tot Hldg of Clnt	Issd Cap Shr	Tot Hldg as %age of Issd Cap	NSE/BS E Close Price	Mkt Val Of Hld
01/04/2014	735962	16330357	4.51	2.98	2193167
02/04/2014	735962	16330357	4.51	3.12	2296201
03/04/2014	735962	16330357	4.51	3.01	2215246
04/04/2014	735962	16330357	4.51	3.01	2215246
05/04/2014	735962	16330357	4.51	0	0
07/04/2014	735962	16330357	4.51	3.08	2266763
08/04/2014	735962	16330357	4.51	0	0
09/04/2014	976108	16330357	5.98	3.23	3152829

However, she failed to make disclosures under Regulation 13(1) and 13(4A) of PIT Regulations, 1992.

10. Further, I note that RBL vide its letter dated July 15, 2014 has confirmed that the Noticee had not made any disclosures under Regulation 13(1) of PIT Regulations, 1992 and further the BSE also vide its email dated

November 20, 2014 has confirmed that the Noticee had not made any disclosures under Regulation 13(4A) of PIT Regulations, 1992.

11. Since the shareholding of the Noticee had crossed 5%, she was under an obligation to disclose the same in terms of Regulation 13(1) and 13(4A) of PIT Regulations 1992 which read as under.

**Disclosure of interest or holding in listed companies by certain**

**persons –**

**Initial Disclosure**

13. (1) Any person who holds more than 5% shares or voting rights in any listed company shall disclose to the company in Form A, the number of shares or voting rights held by such person, on becoming such holder, within 2 working days of : – (a) the receipt of intimation of allotment of shares; or (b) the acquisition of shares or voting rights, as the case may be.

**Continual disclosures**

(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.

12. Therefore, it can be concluded that the Noticee has failed to comply with the provisions of Regulations 13(1) and 13(4A) of PIT Regulations 1992, thus, liable for monetary penalty as prescribed under Section 15A(b) of the Act.

Section 15A(b) of the Act (as existed during the period of violation) reads as under:

**Penalty for failure to furnish information, return, etc.-**

*15A. If any person, who is required under this Act or any rules or regulations made thereunder,-*

*(a) to furnish any document, return or report .....*

*(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 there for 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.*

13. Here, it is important to refer to the observation of the **Hon'ble Supreme Court of India** in the matter of **SEBI Vs. Shri Ram Mutual Fund [2006] 68 SCL 216(SC)** wherein it was held that:

*"In our considered opinion, penalty is attracted as soon as the contravention of the statutory obligation as contemplated by the Act and the Regulations is*



*established and hence the intention of the parties committing such violation becomes wholly irrelevant...".*

14. While determining the quantum of penalty under Section 15A(b), it is important to consider the factors stipulated in Section 15J of SEBI Act, which read as under:-

**15J - Factors to be taken into account by the adjudicating officer :**

*While adjudging quantum of penalty under section 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.*

15. It is not possible from the material available on record to ascertain the disproportionate gain or unfair advantage made by the Noticee or the amount of loss caused to an investor or group of investors as a result of the default. The default is not repetitive in nature. I note that, in **Appeal No. 66 of 2003 - Milan Mahendra Securities Pvt. Ltd. Vs SEBI** , the Hon'ble SAT has observed that, *"the purpose of these disclosures is to bring about transparency in the transactions and assist the Regulator to effectively monitor the transactions in the market."*

16. It is noted from the Noticee's letter dated March 17, 2016 that she had informed the company and the stock exchange in Form A on July 15,

2014 and again in March 2016. However, BSE vide its email dated November 20, 2014 confirmed that the Noticee had not made any disclosures under Regulation 13(4A) of PIT Regulations, 1992. RBL also vide its letter dated July 15, 2014 confirmed that the Noticee had not made any disclosures under Regulation 13(1) of PIT Regulations, 1992. As per BSE's website, the Noticee reported the said transaction on March 18, 2016. Therefore, it can be concluded that there is a delay of 23 months approximately on the part of the Noticee in making the said disclosures which attracts penalty under Section 15A(b) of SEBI Act.

### **ORDER**

17. In view of the above, after considering all the facts and circumstances of the case and exercising the powers conferred upon me under Section 15-I of the Act and Rule 5 of Rules, I hereby impose a monetary penalty of ₹ 1,00,000/- (Rupees One Lakh Only) on the Noticee viz. Mrs. Parnika Rathi under Section 15A (b) of the SEBI Act, 1992. In my view, the penalty imposed is commensurate with the default committed by the Noticee.
18. The amount of penalty shall be paid either by way of demand draft in favor of "SEBI - Penalties Remittable to Government of India", payable at Mumbai, or by e-payment in the account of "SEBI - Penalties Remittable to Government of India ", A/c No. 31465271959, State Bank of India, Bandra Kurla Complex Branch, RTGS Code SBIN0004380 within 45 days of receipt of this order. The said

demand draft or forwarding details and confirmation of e-payment made in the format as given in table below should be forwarded to " The Division Chief (Enforcement Department - DRA-I ), Securities and Exchange Board of India, SEBI Bhavan, Plot no C- 4 A, "G" Block, Bandra Kurla Complex, Bandra (E), Mumbai - 400 052.

1	Case Name	
2	Name of Payee	
3	Date of payment	
4	Amount Paid	
5	Transaction No	
6	Bank Details in which payment is made:	
7	Payment is made for: (like penalties/ disgorgement/ recovery/ Settlement amount and legal charges along with order details)	

19. In terms of Rule 6 of the Rules, copies of this order are sent to the Noticee and also to the Securities and Exchange Board of India.

**Date: June 30, 2017**

**Place: Mumbai**

**D. SURA REDDY  
GENERAL MANAGER &  
ADJUDICATING OFFICER**