

BEFORE THE ADJUDICATING OFFICER
SECURITIES AND EXCHANGE BOARD OF INDIA

[ADJUDICATION ORDER NO. EAD/BJD/BKM/VS/ 52-67 /2018]

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

In respect of

1. Astrazeneca Pharma India Ltd, P.B. No. 2483 of Bellary Road, Hebbal, Bangalore 560024	2.Dr. Nityanand, B 62 Nirala Nagar, Lucknow Pin Code 226007	3.Ronald Michael Henry, 34 Binjai Park Singapore 589837
4.John Ashley Stevens, 52 Bath Hill court, Bath road, Dorset Bournemouth U K	5.J G Zetterberg, Regementsgatam 24, S-645 33, Strangnas, Sweden	6.Lars Walan, No 5, Aumvilla No 41, Benson 'B' Cross Road, Bangalore 560046
7.Andrew James Howden, 25, Cluny Park, Singapore 259631	8.Supriya Kumar Guha, 2409, HAL 3rd Stage, 3rd cross, BDA Layout, Bangalore-560017	9.Darius Erach Udawadia, Empress Court, 142 M-Karve Road, Mumbai, Maharashtra-400020
10.Kirtikumar Shantilal Shah, 505/506, Makhija Chambers, Turner Road, Bandra (West) Mumbai 400050	11.Bhasker V Iyer, Apartment No 3A Eden Hall, No 14(Old Mo 96), 3rd main Road, Jaymahal Extension, Bangalore 560046	12.Graham Timothy Baker, 11, EVELYN ROAD, 14-01, SETIA Residences, Singapore, 309304
13.Anandh Balasundaram, 236, Fern City, Off Outer Ring Road, Doddenakundi, Marathali Bangalore 560037	14.Ian Brimicombe, 12 Brassey Hill Oxted Surrey RH80ES GB	15.Srinivasan N R, Flat No 802, Hoysala landmark, No 30/1, 60 feet Road, Bhoopa Sandra, Bangalore 560094

**16.Pawan Singhal,
A-103, Mantri Classic
Apartment,
Koramangala, 4th
Block, Bangalore South
560034**

In the matter of Astrazeneca Pharma India Limited

BACKGROUND

- Investigation was conducted into the alleged irregularities in the scrip of Astrazeneca Pharma India Limited (hereinafter referred to as 'AZPIL'/'Noticee-1') and the possible violation of the provisions of the Securities and Exchange Board of India Act, 1992 (hereinafter referred to as 'SEBI Act') and SEBI (Prohibition of Insider Trading) Regulations, 1992 (hereinafter referred to as the "PIT Regulations 1992") for the period from May 2, 2013 to March 30, 2014 (hereinafter referred to as '**Investigation Period**'/'IP') with a reference also outside the IP, if necessary. Based on the investigation report, it was observed that the Noticee-1, the Indian arm of the global pharmaceuticals company AstraZeneca, listed in the year 1982 attempted delisting in 2004, which failed as the discovered price of Rs 3,000 was too high and in 2010, which failed as the proposal was rejected by shareholders.
- From the investigation report it was observed that the shareholding Pattern of promoter and non-promoter groups from quarter ending March 2003 to quarter ending June 2014 was as under.

Particular	Quarter ended Mar 2013			Quarter ended June 2013			Quarter ended Sept 2013		
	No. of shareholders	No. Of shares	%	No. of shareholders	No. Of shares	%	No. of shareholders	No. Of shares	%
Promoter Holding	1	22499950	90	1	18750000	75	1	18750000	75
Non Promoter Holding	14570	2500050	10	15390	6250000	25	14164	6250000	25
Total share capital	14571	25000000	100.00	15391	25000000	100.00	14165	25000000	100.00

Particular	Quarter ended Dec 2013		Quarter ended Mar 2014		Quarter ended June 2014	

	No. of shareholders	No. Of shares	%	No. of shareholders	No. Of shares	%	No. of shareholders	No. Of shares	%
Promoter Holding	1	18750000	75	1	18750000	75	1	18750000	75
Non Promoter Holding	14161	6250000	25	13977	6250000	25	12718	6250000	25
Total share capital	14162	25000000	100.00	13978	25000000	100.00	12719	25000000	100.00

3. The financial performance of the company during the IP was as follows:

Description	Quarter Ended						Yearly	
	Mar 31, 2013	June 30, 2013	Sept 30, 2013	Dec 31, 2013	Mar 31, 2014	Jun 30, 2014	FY 2012-13	FY 2013-14
Net sales	94.91	125.2	115.6	118.9	114.5	125.6	390.42	473.97
Other Income	0.67	2.8	3.3	1.4	1.4	1.7	10.46	9.21
Total income	95.58	128.0	119.0	120.5	115.5	127.4	400.88	483.18
Profit before Depreciation and Tax	-13.09	3.5	1.6	4.5	0.4	-14.1	-57.99	10.13
Net Profit	-18.57	1.7	-1.2	1.5	-2.5	-17.6	-89.53	-0.51

(in Rs. Crores)

4. It was observed that Financial Year 2013-14 was comparatively better than Financial Year 2012-13 due to increased Sales. The company was, however, in loss during both FY i.e 2012-13 and 2013-14.

5. From the Corporate announcements and their price/volume impact it is observed that the announcements pertained to quarterly financial results and intimation of Offer for Sale (OFS) to be held on May 28, 2013 and intention to delist by the promoter on March 3, 2014.

6. **Price Volume Analysis**

The Price Volume data of the scrip on BSE for the period before, during and after the IP is given below:

Period	Dates		Opening Price (volume) on first day of the period (Rs.)	Closing price (volume) on last day of the period (Rs.)	Low price(volume) during the period (Rs.)	High Price(volume) during the period (Rs.)	Avg. no. of (shares) traded daily during the period
Before IP	01.02.2013 to 01.05.2013	Price	1364	733.95	595	1365	27055
		Vol	1519	63903	1519	484614	
During IP	2.05.2013 to 28.03.2014	Price	738.6	1109.8	634	1285	29559
		Vol	41596	2919	824	752220	
After investigation period (29 and 30th March are Saturday and Sunday)	31.03.2014 to 30.06.2014	Price	1075	1136.2	998.55	1245	6246
		Vol	4148	4179	453	44818	

7. It was observed that there were decreased volumes in the period after the IP. The price of the scrip before the IP fell from Rs 1,364 to Rs 733.95. During the IP, the price of the scrip rose from Rs 738.6 (at the start of the IP) to Rs 1109.8 (end of IP). The scrip closed at Rs 1162.60 on 05/02/2016.
8. From the Corporate announcement made on March 3, 2014, it was observed that the price of the scrip in a trading day previous to the corporate announcement rose from 845.6 to 927.4. On the day of announcement, the scrip was traded on single price throughout day on both exchanges at Rs. 1110.9 on BSE and Rs 1112.9 on NSE. Volumes traded were substantially lower (7.2% of traded volume the previous day) on the day of announcement. The analysis of trading on March 3, 2014 is as under.

Date of Annou nceme nt	Corporate Announcement	Price Volume Impact	Comments			
03/03/ 2014 9:05(BS E)	AstraZeneca Pharma India Ltd has informed exchanges that the Board of Directors (Board) of AstraZeneca Pharma India Limited (Company) have, on March 01, 2014, received by email a scanned copy of the letter from AstraZeneca Pharmaceuticals AB (AZP AB) Sweden, promoter of the Company, proposing to make a voluntary delisting offer (the Delisting Proposal) to the public shareholders of the Company.		The price of the scrip a trading day previous to the corporate announcement rose from 845.6 to 927.4. On the day of announcement the scrip was traded on single price throughout day on both exchanges at Rs. 1110.9 on BSE and Rs 1112.9 on NSE. Volumes traded were substantially lower (7.2% of traded volume the previous day) on the day of announcement			
	AZP AB has requested the Board of the Company to:					
	(i) convene a meeting of the Board of the Company to consider and approve the Delisting Proposal, and					
	(ii) take requisite steps to obtain the prior approval of the shareholders of the Company to the Delisting Proposal by a special resolution passed through postal ballot as per the Delisting Regulations.					
	Accordingly, meeting of the Board of the Company has been scheduled on March 05, 2014.					
	AstraZeneca Pharma India Ltd also informed Exchanges about letter dt March 1, 2014 received from AZP AB Sweden regarding discontinuation of voluntary payment of grant from the FY 2014 from AZP AB to Company					
	February 28, 2014					
		O		H	L	C
	NSE	845.6		955.4	845	927.4
	BSE	848		955	845	925.7
NSE	Volume		431143			
BSE	Volume		129693			
		March 3, 2014				
	O	H	L	C		
NSE	1112.9	1112.9	1112.9	1112.9		
BSE	1110.9	1110.9	1110.9	1110.9		
NSE	Volume		31048			
BSE	Volume		8777			

9. It was observed that a chronology of events leading to announcement dated 03.03.2014 (intention of delisting of shares) along with documentary evidence was sought from Astrazeneca Pharmaceuticals AB (AZP AB). AZP AB vide its letters dated 28.1.2015 and 16.12.2014 provided a chronology of events and corresponding documentary evidences. Since the documentary evidences contained redactions, documentary evidences without redactions were sought by SEBI and submitted by AZP AB vide letter dated 20.04.2015. Details were also sought from ICICI Securities Ltd. Based on documentary evidence a chronology of events were as given below.

Date	Event	Participants
09/07/2013	Telephonic request from AZP AB/ AZ Group seeking IRR calculations to buy out shareholders of AZPIL including Elliott Group	Ian Brimicombe (VP Corporate Finance AZ Group), Ravi Talwar (Sr. VP ICICI Securities Ltd.)
16/07/2013	Based on request from AZP AB/AZ Group, an e-mail was sent from ICICI providing IRR calculations to buy out shareholders including Elliott Group	Sender: Ravi Talwar Receivers: Ian Brimicombe ; Pranjal Srivastava (Sr. VP ICICI Securities Ltd); Vishal Kanjani (VP ICICI Securities Ltd.) Saurabh Jain (Senior Associate)
16/08/2013	E-mail from AZP AB/AZ Group to ICICI Securities Ltd. attaching Draft paper on delisting	Sender: Ian Brimicombe Receiver: Ravi Talwar
30/08/2013	Circulation of draft paper on potential for delisting AZPIL within AZ Group via e-mail	Sender: Ian Brimicombe, Receiver: Mallon Mark (Executive VP International) ; Greg Mueller (Deputy General Counsel International); Graham Baker (VP Finance International)
19/09/2013-23/09/2013	Internal discussions on delisting via e-mail	Ian Brimicombe and Simon Lowth (then CFO and Executive Director resigned in Oct end 2013), Mallon Mark and David Smith (EVP Operations)
19/11/2013	Updated Draft paper by ICICI Securities Ltd.	Sender: Ravi Talwar Receivers: Ian Brimicombe; Vishal Kanjani
03/12/2013	Draft paper on potential for delisting AZPIL forwarded to new CFO, AZ Group	Sender: Ian Brimicombe Receiver: Marc Dunoyer (CFO)
13/01/2014	Updated Draft paper by ICICI Securities Ltd.	Sender: Ravi Talwar Receivers: Ian Brimicombe; Vishal Kanjani
07/02/2014-09/02/2014	Internal discussions on delisting via e-mail	Sender: Ian Brimicombe Receivers: Marc Dunoyer; Graham Baker, Andy, Staples(Executive Director); Michael Diem (SVP, Corporate Strategy)
11/02/2014	Meeting with ICICI Securities Ltd. at Mumbai Office	Ian Brimicombe and Ravi Talwar, Vishal Kanjani, Pranjal Srivastava
15/02/2014	Updated documents for reference of AZ Group internal discussions	Sender: Ravi Talwar Receivers: Ian Brimicombe; Vishal Kanjani
21/02/2014-22/02/2014	Internal discussions via e-mail	Sender: Ian Brimicombe Receiver: Marc Dunoyer
25/02/2014	Draft board minutes/resolutions/intimation letters/ etc	Sender: Vishal Kanjani

		Receivers: Ian Brimicombe; Ravi Talwar, Pranjal Srivastava
26/02/2014	Email from AZ Group to ICICI stating conditional green light for delisting and AZP AB company secretarial is good to go.	Sender: Ian Brimicombe Receiver: Ravi Talwar, Vishal Kanjani
27/02/2014	Changes to draft intimation letter	Sender: Ian Brimicombe Receiver: Claire-Marie, O'Grady (Deputy Company Secretary AZ Group), Shelley, Barnett (Company Secretary Assistant AZ Group), Ravi Talwar, Vishal Kanjani
28/02/2014	ICICI Securities mailed the process chart and Indicative Activity Schedule for reference to VP Corporate Finance, AZ Group	Sender: Vishal Kanjani Receivers: Ian Brimicombe; Ravi Talwar, Pranjal Srivastava
28/02/2014	AZ Group confirmed engagement terms with ICICI Securities	Ian Brimicombe, Ravi Talwar
28/02/2014	AZPIL officials and Chairman of AZPIL informed telephonically of the delisting proposal after market hours	Mr. D E Udwadia (Chairman) AZPIL, Ian Brimicombe
01/03/2014	AZP AB directors approve delisting offer through board resolution; necessary documentation sent to AZPIL	Jan-Olof Jacke, Yvonne Bertlin, and Per Alfredsson
01/03/2014	AZPIL notified exchanges regarding delisting proposal from AZP AB	Pawan Singhal (AZPIL Company Secretary)
03/03/2014	Intimation of AZPIL available on Exchange Website	NA

10. It was further observed that the specific event of AZPIL was considered as price sensitive information as under:

"Proposal of the promoter AZP AB Sweden making a voluntary delisting offer (the Delisting Proposal) to the public shareholders of the Company AZPIL"

11. It was observed that on 09/07/2013, ICICI Securities Ltd., received a request to provide IRR calculations to buy out shareholders of AZPIL including Elliott from AZP VP Corporate Finance. Thus, Unpublished Price Sensitive Information (UPSI) was in existence from 09/07/2013.

12. Further, on 01/03/2014 AZPIL notified stock exchanges of the intimation received from AZP AB regarding delisting proposal. 01/03/2014 and 02/03/2014 being holidays, the exchanges disseminated the information on 03/03/2014 at 08:56 AM (NSE) and 9:05 AM (BSE). The period of UPSI was from 09/07/2013 to 28/02/2014.

13. It was observed that the code of conduct for prevention of Insider Trading was mandated in the amendment dated 20/02/2002 to PIT Regulations 1992 which are applicable to all listed companies. However, the company AZPIL had adopted code of conduct as prescribed in PIT Regulations 1992, only on 24/02/2004, as per AZIPL email dated November 11, 2015. Thus, there was a delay of 2 (two) years in adopting the code. Although there was specific UPSI, during the period (09/07/2013 to 28/02/2014) as mentioned above, the provisions of code of conduct were alleged to have not been adopted and implemented.
14. Regulation 12 (1) of PIT Regulation 1992, states that listed companies shall frame a code of internal procedures and conduct as near thereto the model code as specified in Schedule I of PIT Regulations 1992. Further, it also provided for appointment of compliance officer who shall report to the MD / CEO and that compliance officer shall be responsible for implementation of code of conduct under overall supervision of Board of listed company. MD / CEO is operational head of company responsible for day to day operation of company and implementations of various regulatory compliance or other applicable provisions of law including PIT Regulations 1992. It was observed that MD, being operational head, had failed to monitor and ensure that model code of conduct as specified in Schedule I of PIT Regulation 1992 was adopted within reasonable timeframe.
15. The directors and compliance officer during the period February 2002 to February 2004, as per submissions made by AZPIL vide email dated December 1, 2015, were as follows:

Sr. No	Name	Designation	Tenure	Present during the Board meeting on 24/02/2004
1	Dr. Nityanand	Independent Director	05/11/1986 to 14/03/2002	Resigned
2	Ronald Michael Henry	Non Independent Director	29/03/2001 to 31/01/2003	No
3	John Ashley Stevens	Non Independent Director	29/03/2001 to 20/10/2005	Yes
4	J G Zetterberg	Non Independent Director	29/03/2001 to 05/05/2004	No

5	Lars Walan	Non Independent Director (Managing Director)	29/03/2001 to 01/04/2004	Yes
6	Andrew James Howden	Non Independent Director	27/02/2003 to 27/11/2006	Yes
7	Darius Erach Udwadia	Independent Director	w.e.f. 11/07/1979	Yes
8	Kirtikumar Shantilal Shah	Independent Director	w.e.f. 29/11/2001	Yes
9	Supriya Kumar Guha	Company Secretary / Compliance Officer	01/07/1999 to 31/01/2006	Yes

16. It is alleged that Board of Directors (as mentioned above), in particular MD / CEO and compliance officer viz AstraZeneca Pharma India Ltd., Dr. Nityanand, Ronald Michael Henry, John Ashley Stevens, J G Zetterberg, Lars Walan, Andrew James Howden, Supriya Kumar Guha, Darius Erach Udwadia, Kirtikumar Shantilal Shah (hereinafter referred to as Noticees 1-10 respectively) have failed to frame, adopt and implement the code of conduct as specified in Schedule I of PIT Regulations 1992 till February 24, 2004 and therefore violated Regulation 12(1) read with Clause 1.2 of the code of conduct specified under Part A of Schedule I of Regulations, 1992 read with Regulation 12(2) of the PIT Regulations, 2015.

Model Code of Conduct as amended in 2002 – Near thereto the Model code of conduct under PIT Regulations, 1992.

17. The Model Code of Conduct for prevention of insider trading of the company, AZPIL, was provided by the company vide email dated 19/11/2015 and 23/11/2015. On analysis, it was observed that the code of conduct in force during the IP was approved by the Board of Directors of AZPIL in its meeting held on 24/02/2004.

18. On further analysis of the Model Code of Conduct adopted by the company on 24/02/2004, which was in force during the period of IP, it was observed that the same was not as near thereto with the Model Code of Conduct for Prevention of Insider Trading of PIT Regulations 1992 as highlighted below.

- (i) The code of conduct as provided by AZPIL closes trading window for specific 7 (seven) events. These events are the same as mentioned in model code of conduct as provided in PIT Regulations 1992. Clause 3.2-3 of the model code of conduct states that "*The trading window shall be, inter alia, closed at the time...*" The words inter alia are missing in the code of conduct for prevention of insider trading as provided by AZPIL.
- (ii) Further, clause 3.2-1 of the model code of conduct mentions that the trading window shall be closed during the time information referred to in para 3.2-3 is unpublished. However, the code of conduct as provided by AZPIL has no such specific clause and simply states that the commencement of trading window shall be decided by the Company Secretary in consultation with the Board of Directors of the company AZPIL.
- (iii) It is necessary to include the words "inter-alia" as price sensitive information is defined PIT Regulations 1992 as any information which relates directly or indirectly to a company and which if published is likely to materially affect the price of securities of company. In view of absence of any particular statement that the trading window shall remain closed during the time information is unpublished and the fact that trading window closure is restricted to seven events, it is necessary to include the words "inter-alia" in the code of conduct or any other clause which ensures closure of trading window during the time any price sensitive information remains unpublished.
- (iv) It was observed that the events relating to "Proposal of the promoter AZP AB Sweden making a voluntary delisting offer (the Delisting Proposal) to the public shareholders of the Company AZPIL " is considered UPSI as event is in the price sensitive in nature and therefore covered under clause 3.2.3. Failure to include "inter-alia" in

the model code of conduct, the applicable event for trading window closure is restricted only to 7 events, which violates the Regulation 12(1) of code of conduct for prevention of Insider Trading of AZPIL wherein it was stated that “shall frame a code of internal procedure and conduct as near thereto to the Model Code specified in Schedule I of these Regulations” Further, by non-inclusion of “inter-alia” the event covered were also restricted whereas the UPSI event mentioned above would have been covered and closure of trading window would have been applicable.

19. In view of above, it is alleged that the Company (AZPIL), its compliance officer and the Directors viz Noticees 4 & 6-10 during the amendment to PIT Regulations 1992 dated 20/02/2002 failed to adopt the model code of conduct for prevention of Insider Trading for listed companies, as near thereto the Model Code of Conduct Specified in Part A of Schedule I of PIT Regulations, 1992 read with Regulation 12(2) of the SEBI(PIT) Regulations, 2015 and therefore allegedly violated Regulation 12(1) read with clause 1.2. and 3.2.3 of code of conduct specified in PIT Regulations, 1992 read with Regulation 12(2) of SEBI (Prohibition of Insider Trading) Regulations 2015 (hereinafter referred to as the "PIT Regulations 2015").

Trading Window closure

20. It was observed that the delisting announcement was conveyed to AZPIL officers after the closure of market hours on 28/02/2014. AZPIL vide notification to Stock Exchanges dated 01/03/2014 disseminated delisting announcement. 01/03/2014 and 02/03/2014 were trading holidays. The information was made public by exchanges on 03.03.2014 before trading hours.

21. With regard to closure of trading window, AZPIL vide email dated 23/11/2015 submitted that the trading window was not closed for the delisting announcement since the information was received after market hours and disseminated to stock exchanges prior to market opening.
22. Clause 3.2-4 of the model code of conduct states that the trading window shall be opened 24 hours after the information referred to in 3.2-3 is made public. Further, clause 4(c) of the code of conduct of AZPIL also states that the trading window shall be opened after 24 hours the information is made public. It is alleged that AZPIL failed to close the trading window during the period of 24 (twenty four) hours after the UPSI is made public. It is therefore alleged that as a compliance officer of AZPIL during the period 28/02/2014 to 03/03/2014, Pawan Singhal (hereinafter referred to as 'Noticee 16'), has violated clause 1.2 read with clause 3.2-1 and 3.2-4 of the code of conduct specified under Part A of Schedule I read with regulation 12(1) of PIT Regulations, 1992 read with 12(2) of SEBI (Prohibition of Insider Trading) Regulations 2015 (hereinafter referred to as the "PIT Regulations 2015") PIT Regulations, 2015.

Model Code of Conduct as amended in 2008 – near thereto to the Model code of conduct under PIT Regulations, 1992 (without diluting it in any manner and ensure compliance of same)

23. It is noted that by virtue of the amendment to Regulation 12 (1) of PIT Regulations 1992 on November 19, 2008 a code of internal procedures and conduct was required to be framed, as near to the Model Code specified in Schedule I of these Regulations without diluting it in any manner and ensure compliance of the same. However, the Company (AZPIL), its compliance officer and the Directors have failed to implement and supervise the adoption of code of conduct as near thereto the Model Code of Conduct specified in Part-A of Schedule I of PIT Regulations 1992. The directors and compliance officers since November 2008 onwards, as submitted by AZPIL during investigations, are as follows

Sr. No	Name	Designation	Tenure
1	Bhasker V Iyer	Director	26/07/2007 to 23/02/2010
2	Graham Timothy Baker	Director	26/07/2007 to 31/12/2008
3	Anandh Balasundaram	Director	01/06/2007 to 31/08/2012
4	Darius Erach Udwadia	Director	w.e.f. 11/07/1979
5	Kirtikumar Shantilal Shah	Director	w.e.f. 29/11/2001
6	Ian Brimicombe	Director	w.e.f. 08/09/2006
7	Srinivasan N R	Company Secretary / Compliance Officer	01/12/2006 to 31/07/2011

24. As per the amendment in PIT Regulations 1992 on 19/11/2008, the holding period as mandated in clause 4.2 of the model code is minimum 6 (six) months. However, the holding period as provided in the code of conduct of AZPIL is a minimum of 30 days. The company had not amended its code of conduct pursuant to change in PIT Regulations 1992 vide notification dated 19/11/2008.

25. In view of above, it is alleged that the Company (AZPIL), its compliance officer and the Directors during the amendment to PIT Regulations 1992 dated 19/11/2008 have failed to adopt the model code of conduct for prevention of Insider Trading for listed companies, as near thereto the Model Code of Conduct Specified in Part A of Schedule I of PIT Regulations, 1992 read with Regulation 12(2) of the SEBI(PIT) Regulations, 2015 and therefore Noticee 1 & Darius Erach Udwadia, Kirtikumar Shantilal Shah, Bhasker V Iyer, Graham Timothy Baker, Anandh Balasundaram, Ian Brimicombe and Srinivasan N R (hereinafter referred to as Noticees-9 to 15 respectively) allegedly violated Regulation 12(1) read with clause 1.2. and 4.2 of code of conduct specified in PIT Regulations, 1992 read with Regulation 12(2) of PIT Regulations 2015.

APPOINTMENT OF ADJUDICATING OFFICER

26. The undersigned has been appointed as the Adjudicating Officer vide order dated May 18, 2017 under section 15 I of SEBI Act in place of Shri S V Krishnamohan to inquire into and adjudge under section 15HB of the SEBI Act, the alleged violation of Regulation 12(1) read with Clause 1.2 of the Model Code of Conduct specified under Part A of Schedule I of PIT Regulations 1992 read with Regulation 12(2) of PIT Regulations 2015 by Noticees 1-10, Regulation 12(1) read with Clause 1.2 and

3.2.3 of the Model Code of Conduct specified under Part A of Schedule I of PIT Regulations 1992 read with Regulation 12(2) of PIT Regulations 2015 by Noticees 4 & 6-10), Regulation 12(1) read with Clause 1.2 and 4.2 of the Model Code of Conduct specified under Part A of Schedule I of PIT Regulations 1992 read with Regulation 12(2) of PIT Regulations 2015 by Noticees 1 & 9-15 and Clause 1.2 read with Clause 3.2-1 and 3.2-4 of the Model Code of Conduct specified under Part A of Schedule I read with Regulation 12(1) of PIT Regulations 1992 and 12(2) of PIT Regulations 2015 by Noticee 16 in the shares of AstraZeneca Pharma India Ltd.

SHOW CAUSE NOTICE, REPLY AND PERSONAL HEARING

27. A Show Cause Notice dated September 29, 2017 (hereinafter referred to as 'SCN') was issued to the Noticees under rule 4(1) of the SEBI (Procedure for Holding Inquiry and Imposing Penalties by Adjudicating Officer) Rules, 1995 (hereinafter referred to as 'AO Rules'), calling upon the Noticees to show cause as to why an inquiry should not be held against them in terms of Rule 4 of the AO Rules read with Section 15-I of SEBI Act and why penalty should not be imposed on them in terms of Section 15HB of SEBI Act for the aforesaid alleged violations. The said SCNs were served upon the Noticees-1, 2, 5, 8, 9, 10, 13 and 14 who replied in response to the SCN vide speed post. The SCNs were served upon the Noticees-6, 11, 15 and 16 vide affixture in terms of rule 7(c) of AO Rules. However, various attempts to deliver the SCN to Noticees-3, 4, 7 & 12 failed.

28. Further it is noted that the Noticee-1 vide its reply dated February 22, 2018 has stated as under:

"....

1. At the outset, we state that all the allegations made in the SCN are without any merit and are denied in totality. Nothing stated in the SCN shall be deemed to be admitted unless the same is expressly admitted. It is stated that AZPIL has not committed any breach of any provision of the regulations applicable for prevention of insider trading as alleged or otherwise or at all.

2. Perusal of the SCN makes it apparent that the same refers to the events which date back more than one and a half decades. During the said period, many of the concerned persons who were

affiliated to AZPIL or AstraZeneca Pharmaceuticals AB ("AZP AB") at the relevant time have left the organization. Further, AZPIL is unable to retrieve all the material including e-mails, letters, notes, reports etc. which was otherwise available at the relevant time owing to the time span and the change in systems brought for maintaining records. These aspects are seriously prejudicing AZPIL in sufficiently responding to the incorrect allegations made in the SCN. Thus, issuance of the SCN after such a long span of time itself is unfair, unreasonable and against the principles of natural justice. Consequently, initiation of any inquiry as threatened will also be illegal and non-est. On this ground alone the SCN should be discharged. However, the present reply is sent on the basis of the limited record available as of today with AZPIL. AZPIL craves leave to amend its reply or file an additional reply, as and when necessary

3. The SCN seeks to allege various technical breaches. The SCN does not even allege any insider trading which is sought to be prevented by the Securities and Exchange Board of India (Prohibition of Insider Trading) Regulations, 1992 ("PIT Regulations, 1992") or Securities Exchange Board of India (Prevention of Insider Trading) Regulations, 2015 ("PIT Regulations, 2015"). It is clear that the investigation carried out by the officers of Securities Exchange Board of India ("SEBI") has not yielded any material which would show that any insider trading was carried out at the relevant time i.e. between 02.05.2013 and 30.03.2014 ("Investigation Period"). Having found no material in support of the suspicion of insider trading, the proceedings should have been dropped at that stage itself. Issuance of the SCN without any material in support of allegations of the insider trading is illegal and dehors the reading and spirit of the provisions of PIT Regulations, 1992 and/ or PIT Regulations, 2015. There is neither any allegation nor any material in the SCN to establish any past or present relations between the Directors of AZPIL / Others, AZPIL, its Directors or the Designated Employees (50 employees) with the entities mentioned as "Elliot Group" in SEBI Order dated 24.06.2014. Your good self will appreciate that after the investigation is carried out if no material is found in support of any allegations of insider trading, there is absolutely no justification to conduct an inquiry against the Noticees under the PIT Regulations, 1992 and/ or 2015. Initiation of inquiry as threatened without any allegation and material of insider trading would amount to abuse of process of law. On this ground alone the investigation ought to have been dropped, but in any event, the present SCN should be discharged and the matter be put to rest.

4. Without prejudice to the above, following is the reply to the four charges.

Delay in Adopting Model Code of Conduct

5. It is alleged that the Board of Directors, in particular the Managing Director / CEO and Compliance Officer (Noticee 1- 10) have failed to frame, adopt and implement the Code of Conduct as specified in Schedule I of PIT Regulations, 1992 till February, 2004 and therefore violated Regulation 12(1) read with Clause 1.2 of the code of conduct specified under Part A of Schedule I of PIT Regulations, 1992 read with Regulations 12(2) of PIT Regulations, 2015.

6. Firstly, it appears that by an Order dated 20.10.2014 (copy not provided to AZPIL) SEBI issued summons to investigate the trading activities of certain entities in the scrip of AZPIL. Pursuant to the said Order, SEBI issued two summons dated 30.10.2014 and 12.11.2014 seeking certain documents / information as stated therein. Such trading activity investigated appears to have been for the period between 02.05.2013 and 30.03.2014. Therefore, no grievance was raised in relation to the allegations of delayed adoption of the Model Code of Conduct as specified by PIT Regulations, 1992 as amended on 20.02.2002. The SCN was issued on 29.09.2017, i.e. after repeal of the PIT Regulations, 1992. It is stated that Regulation 12(2) of PIT Regulations, 2015 protects

only pending investigations and/ or inquiries, amongst other things. It does not allow a fresh investigation and inquiry which was not otherwise initiated prior to repeal of PIT Regulations, 1992. Therefore, if no action was initiated under PIT Regulation, 1992 on the allegation by 15.01.2015, there no inquiry can be conducted under the repealed PIT Regulations, 1992 by replying on Regulation 12(2) of PIT Regulations, 2015.

7. Without prejudice to the above, it is stated that the PIT Regulations, 1992 were amended on 20.02.2002 which required the listed companies to adopt the Model Code of Conduct specified in Schedule "A" as near thereto.

8. AZP AB holds around 75% shareholding in AZPIL. The ultimate holding company is AstraZeneca PLC, United Kingdom. During 2002-04, AstraZeneca PLC was listed inter alia on New York Stock Exchange. It is the policy for all companies forming part of the AstraZeneca group that the policies / practices / procedures related to securities law matters, including codes or policies regarding insider trading, which are to be adopted by each company are reviewed in advance by the parent company i.e. AstraZeneca PLC, UK. This is to ensure that there is no conflict in the policies / practices / procedures adopted by AZPIL and the ultimate holding company. Accordingly, the draft Code of Conduct proposed to be adopted by AZPIL was made and sent to AstraZeneca PLC, UK for its review and comments. Sometime prior to 24.02.2004, AstraZeneca PLC, UK gave its approval to the said draft Code of Conduct which were ultimately adopted by AZPIL. However, due to the passage of time, AZPIL does not have the correspondence relating to the relevant exchange. The present grossly delayed investigation is causing grave prejudice to AZPIL. After the review process was completed, the said Code of Conduct was adopted by AZPIL on 24.02.2004. Pertinently, there is no provision stipulating any timeline for adopting the Model Code of Conduct. Preparation and adoption of the Code of Conduct in February, 2004 was achieved in a reasonable time. Therefore, there is no delay in adopting the Code of Conduct as alleged. Hereto annexed and marked as **Annexure "1"** is a True Extract of the Minutes of Meeting of the Board of Directors of AZPIL dated 24.02.2004.

9. In any event, the SCN is silent as to how the alleged late adoption of Code of Conduct affected the scrip of AZPIL between 02.05.2013 and 30.03.2014. Also, there is no allegation that the alleged violation of delayed adoption affected the scrip of AZPIL during 20.02.2002 till 24.02.2004 or how it violated the Model Code of Conduct at the relevant time.

10. The said allegation is hyper technical and without any merit.

Model Code of Conduct as amended in 2002 - Near thereto the Model Code of Conduct under PIT Regulations, 1992

11. It is alleged in the SCN that AZPIL, its Compliance Officers and the Directors (Noticee 4 & 6 to 10) during the process of amendment to PIT Regulations, 1992 dated 20.02.2002 have failed to adopt the Model Code of Conduct for Prevention of Insider Trading for Listed Companies, as near thereto the Model Code of Conduct specified in Part A of Schedule I of PIT Regulations, 1992 read with Regulations 12(2) of PIT Regulations, 2015. Therefore, it is alleged in the SCN that AZPIL violated Regulation 12(1) read with Clause 1.2 and 3.2.3 of Code of Conduct specified in PIT Regulations, 1992 read with Regulation 12(2) of PIT Regulations 2015.

12. Firstly, by an Order dated 20.10.2014, SEBI issued summons to investigate the trading activities of certain entities in the scrip of AZPIL. Such trading activity investigated was for the period between 02.05.2013 and 30.03.2014. Therefore, no grievance was raised in relation to

the allegations of not adopting the Model Code of Conduct as near thereto as specified by PIT Regulations, 1992 as amended on 20.02.2002. The SCN has been issued on 29.09.2017, i.e. after repeal of the PIT Regulations, 1992. It is stated that Regulation 12(2) of PIT Regulations, 2015 protects only pending investigations and/ or inquiries, amongst other things. It does not allow a fresh investigation and inquiry which was not otherwise imitated prior to repeal of PIT Regulation, 1992. Regulation 8 of PIT Regulations, 2015 does not require adoption of Model Code of Conduct as near thereto, but requires a Company to adopt a code of practices and procedures which adheres to the principles set out in Schedule A thereto and without diluting the provisions of PIT Regulations, 2015. Therefore, if no action was initiated under PIT Regulations, 1992 on this allegation, no action can be taken under the repealed PIT Regulations, 1992 by relying on Regulation 12(2) of PIT Regulations, 2015

13. Without prejudice to the above, it is clear that the entire allegation of non-- adoption of the Model Code as near thereto as specified, hinges on the absence of the words "inter alia" in the Code of Conduct adopted by AZPIL. The absence of the words "inter alia" in Clause 3.2.3 would not make any material difference to the substance of the Clause. Further, PIT Regulations, 1992 only required AZPIL to adopt the Code of Conduct as near to the specified Model Code and not verbatim. Clause 3.2.3 of the Model Code of Conduct, while using the words "inter alia" lists seven situations in which the trading window is required to be closed. Neither in the PIT Regulations, 1992 nor in any other part of the Model Code of Conduct is any other situation specified which also requires the closing of the trading window. Hence, it is clear that apart from the seven situations listed in Clause 3.2.3 of the Model Code of Conduct no other situation is expressly contemplated either by the Model Code of Conduct or the PIT Regulations, 1992 for closing the trading window. It is therefore clear that the words "inter alia" are a surplusage and are redundant. Consequently, the absence of these words in clause 4 (b) of the Code of Conduct of AZPIL is irrelevant and makes no difference. Even otherwise, if the company desires to close the trading window in any other situation, it is not prevented from doing so. Clause 3.2.3 of the Model Code of Conduct does not provide that the seven situations listed therein are the only situations wherein the trading window may be closed. In the circumstances, it's clear that the Code of Conduct adopted by AZPIL is near to the Model Code of Conduct and that the absence of the words "inter alia" does not change that fact. Therefore, the said allegations are hyper-technical in nature and meritless.

14. In view of the above, it is submitted that the said charges are also without any merit and need to be dropped forthwith.

Allegation that the Code of Conduct adopted by AZPIL in 2008 was not as per prescribed Model Code of Conduct

15. Since the holding period prescribed in Clause 4.2 of the Model Code of Conduct is minimum 6 (six) months and the holding period prescribed in the AZPIL Code of Conduct, was minimum 30 days, it is alleged that Noticee Nos. 1 and 9-15 failed to adopt the Model Code of Conduct as near thereto as prescribed, and hence have violated the provisions of Regulation 12(1) read with clauses 1.2 and 4.2 of code of conduct specified in PIT Regulations, 1992 read with Regulation 12(2) of PIT Regulations, 2015.

16. It is submitted that in its correspondence to SEBI by email dated 19.11.2015 and 23.11.2015 in response to SEBI's email dated 18.11.2015 and 20.11.2015 seeking a copy of the Company's Code of Conduct, the Company inadvertently sent the incorrect version of its Code of Conduct, having attached a copy of the Code of Conduct which was adopted in the year 2004 rather than

a copy of the Code of Conduct which had been amended during an Audit Committee Meeting of the Company held on 18.02.2009 which was noted in the Minutes of the Board Meeting dated 16.03.2009. The 2009 version of the Code of Conduct captures the relevant requirements of the 2008 amendments of SEBI, including the requirement that the holding period should be a minimum of 6 months. Hereto annexed and marked as **Annexures "2""3" and "4"** are the copies of the (a) True Extract of the Minutes of the Audit Committee Meeting held on 18.02.2009; (b) Minutes of Board Meeting dated 16.03.2009 and (c) Copy of the revised Code of Conduct as approved and adopted by the company on the said date

Trading Window Closure

17. It is also alleged that the trading window was not closed for 24 hours when price sensitive information was made public.

18. At the outset, it is stated that the charge under reply is against the Noticee No. 16 and not AZPIL. Therefore, AZPIL is not required to deal with the present charge. Without prejudice to the above, the said charge is dealt with in short.

19. As per the information recorded in paragraph 10 of the SCN, on 01.03.2014, AZPIL provided to the necessary Stock Exchanges the information regarding the desire of AZP AB to delist AZPIL. Pertinently, on 01.03.2014 and 02.03.2014 the trading window was closed since both days were holidays (weekend i.e. non- trading days). It is denied that AZPIL had any unpublished price sensitive information prior to 28.02.2014. Therefore, without prejudice to the other defences, it is stated that it was bona fide believed that closure of the trading window on 01.03.2014 and 02.03.2014 was sufficient compliance of the requirement to shut the trading window for 24 hrs. It is not even alleged that the trading window was open for trading on 01.03.2014 or 02.03.2014 or that there was trading on those days which affected the scrip price based on any unpublished price sensitive information. It is submitted that in view of the fact that in effect the trading window was not available for trading and no trading could be / or was conducted which affected the price of the scrip, then whether the window was closed or shut is a mere technicality

20. Without prejudice to the above, it is stated that the delisting announcement is not covered within the instances contemplated in Clause 3.2.3 of the Model Code of Conduct. Therefore, there was no requirement to close the trading window. In view thereof, the charge as framed is without any basis and misconceived in law

21. Therefore, it is submitted that the present charge is extremely technical in nature without any real consequence. In view of the above the said charge should be dropped."

29. Further, vide their letters dated March 07, 2018, the Noticees – 9 & 10 submitted their reply with identical submissions. The submission dated March 07, 2018 by Noticee-9 are as under:

"....

1. The SEBI Notice has been issued to me by you in 2017, in respect of alleged violations by me as a Director of Astra Zeneca Pharma India Ltd. (AZPIL) during 2002 to 2004 and during 2008 i.e. after a lapse of as many as 13 to 15 years and 9 years, respectively! This has seriously impaired and indeed handicapped my ability to fully defend myself as correspondence pertaining to the above periods which could be relevant is simply not

available with AZPIL/me. Also, I cannot personally recall, and be fairly expected to personally recall, what occurred 13 to 15/9 years ago, at this distance in time. Persons who were either employed with AZPIL during 2002-2004 or during 2008 and very many Directors of AZPIL during the above period have since retired and their present whereabouts is not known. The issue of the SEBI Notice to me by you at this very late stage is tantamount to a denial of a fair/reasonable opportunity to me to adequately defend myself against the several allegations made therein, resulting in a failure of natural justice. On this ground alone, I respectfully submit that the SEBI Notice against me should be withdrawn/discharged.

2. In light of the above preliminary observations and without prejudice thereto, I can only reply to the SEBI Notice based on (a) whatever information/record is available with me now, (b) some documents pertaining to the period 2002-2004 and 2008 kindly provided by AZPIL to me at my request and (c) what little I can at this distance in time personally recall, of what occurred between 2002 to 2004 and during 2008.

3 Before I do so, the following brief background which is relevant would, I believe, assist in a better understanding of my reply.

4. I was a Non-Executive Independent Director of AZPIL in 2002 and thereafter upto early December 2016. I ceased to be a Director of AZPIL effective 2nd December, 2016. I was not involved or associated in the day to day management nor was I ever in charge of the affairs of the day to day operations or activities of AZPIL.

5. Throughout the above period AZPIL had (i) a Company Secretary and Compliance Officer in its full time employment and (ii) a full time Managing Director, who was responsible for, and was overall in charge of, the day to day management of the business, operations, affairs and activities of AZPIL in India. No Non-Executive Director of AZPIL, whether independent or otherwise (and there were several), was at all involved in or associated with the day to day management of the business operations, affairs or activities of AZPIL. As a Non-Executive Independent Director on the Board, I, along with other Non-Executive Directors, whether independent or otherwise, only attended meetings of the Board and participated in their deliberations. Four Board Meetings were, by and large, held during a financial year. The Board Meetings were, as a rule, held in Bangalore where the Registered Office of AZPIL is situated. I have been, and am, a resident of Mumbai. I therefore travelled to Bangalore for the purpose of attending the Board Meetings of AZPIL, when convened and held.

6. At almost every meeting of the Board of Directors of AZPIL, elaborate Statutory Compliance Certificates signed by (a) the Company Secretary and (b) the Managing Director of AZPIL were tabled for review and noting by the Directors. They were intended to provide the necessary assurance and comfort by the Management to the Board and in particular its Non-Executive Directors, both independent and non-independent, that the Company was, subject to qualifications, if any, stated therein, fully compliant with all laws, orders, regulations and other legal requirements of the Central and State Government concerning the business and affairs of AZPIL. The Non-Executive Directors of AZPIL, both independent and non-independent, placed full reliance upon the authenticity of such Statutory Compliance Certificates. They had no reason to disbelieve or doubt their veracity.

7. Statutory Compliance Certificates of the Company Secretary, who was also the Compliance Officer, and of the then Managing Director were placed before the Board at its meeting on 24th February 2004 at which the AZPIL Code of Conduct was, in pursuance of Regulation 12(1) of the SEBI (Prohibition of Insider Trading) Regulations 1992 ("**PIT Regulations 1992**") approved and adopted by the Board. Copies of these Statutory Compliance Certificates both dated 9th February 2004 are enclosed. The Managing Director's Certificate expressly states, in its penultimate paragraph, and I quote, "This Certificate is given by the undersigned with full knowledge that, on its faith and strength, full reliance is placed by the Board of Directors of the Company". In the last paragraph of his Certificate specific attention of the Board was also drawn by the Managing Director to the status report on various legal matters of importance by way of information to the Directors.

8. I am named as Noticee No.9 in the SEBI Notice. It has been alleged at page 2 of the SEBI Notice that I, a Director of AZPIL, have along with other Noticees committed the following three violations, namely, :-

- (i) Violation of Regulation 12(1) of the PIT Regulations 1992 read with Clause 1.2 of the Model Code of Conduct specified under Part A of Schedule 1 thereof read with Regulation 12(2) of PIT Regulations 2015, along with other eight named Noticees.
- (ii) Violation of Regulation 12(1) of the PIT Regulations 1992 read with Clauses 1.2 and 3.2.3 of the Model Code of Conduct specified under Part A of Schedule 1 thereof read with Regulation 12(2) of the PIT Regulations 2015, along with other seven named Noticees, and
- (iii) Violation of Regulation 12(1) of the PIT Regulations 1992 read with Clauses 1.2 and 4.2 of the Model Code of Conduct specified under Part A of Schedule 1 thereof read with Regulation 12(2) of the PIT Regulations 2015, along with other seven named Noticees.

9. I have been called upon to show cause why an enquiry should not be held against me for the above alleged violations.

10. To begin with, I strongly and emphatically deny that I, a Non- Executive independent Director of AZPIL, have/had committed the above violations or any of them, as wrongly alleged or otherwise or at all.

11. My reply to the show cause notice is confined to only those paragraphs of the SEBI Notice which concern or relate to me as a Non-Executive Independent Director of AZPIL, in the context of the above three violations that have been alleged against me. Having said which, I do not admit, and should not be deemed to have admitted, any of the statements, allegations, insinuations or inferences that have been made or drawn by you as Adjudicating Officer in any of the other paragraphs of the SEBI Notice which I have not dealt with.

Alleged Delayed Adoption of the Code of Conduct

12. Para 12(a) of the PIT Regulations 1992 was inserted therein with effect from 20th February 2002. The above Regulation was in force between 2002 and 2004 and required all listed Companies, inter alia, to frame a Code of Conduct as near thereto to the Model Code of Conduct specified in Schedule 1 of the PIT Regulations 1992. Neither the said Regulation 12 nor any other Regulation in the PIT Regulations 1992 at any time specified/stipulated any time frame within which the Code of Conduct should be so framed. The Board of AZPIL approved and adopted the Code of Conduct framed in pursuance of the above Regulation 12(1) at its meeting held on 24th February 2004.

13. The allegation made in para 14 that "Thus there was a delay of 2 (two) years in adopting the code" is not only factually incorrect but also patently mischievous. It is emphatically denied. No listed Company could have conceivably framed, adopted and implemented the Code of Conduct virtually overnight after 20th February 2002 from which date it came into force. The preparation and finalisation of a Code by listed Companies, as near as the Model Code specified in Schedule 1 of the PIT Regulations 1992 obviously necessitated consultations and discussions all of which required considerable attention, effort and time.

14. At the Board Meeting of AZPIL held on 24th October 2002 the Directors were advised by Mr. Guha (Noticee No.8), the then Compliance Officer of the Company that a draft Note on SEBI (Insider Trading) had been made and would be sent for review by AstraZeneca Corporate and thereafter, it would be placed before the Board. This would demonstrate that the framing of the Code of Conduct was then work in progress.

15. AZPIL was then a subsidiary of AZP AB, Sweden ("AZP AB") and as such a member of the Global AZ Group. The Code of Conduct, in keeping with Global AZ Group practice, needed to be reviewed by AZ Corporate in London. All this apparently resulted in longer time being taken for finalisation of the Code of Conduct and its submission thereafter to the Board of AZPIL for approval and adoption in February 2004. The delay was by no means a delay of two years from 2002 to 2004, as wrongly alleged and in fact the code of conduct was, in the above circumstances adopted within a reasonable timeframe.

16. The allegation made in the last sentence of paragraph 14 is completely false and unfounded. There was no specific UPSI between the period February 2002 when the said Regulation 12(1) of the PIT Regulations 1992 was brought into effect and the approval of the Code of Conduct by the Board of Directors of AZPIL in February 2004 as aforesaid.

17. The allegations made in paragraph 17 against the Directors (including me) comprising the Board of Directors of AZPIL is emphatically denied. It has no legal basis and is contrary to the provisions contained in paragraphs 1.1 and 1.2 of Part A of Schedule 1 to the PIT Regulations 1992. It is also inconsistent with what has been stated in para 15 of the SEBI Notice. The duty and responsibility for framing, adopting and implementing the AZPIL Code of Conduct was that of the then Compliance Officer, (who reported to the Managing Director) and the Managing Director. AZPIL was not a Board managed Company. All Directors (excepting the Managing Director) on the Board of AZPIL during the period 2002-2004, including myself, were non-executive directors, independent or non-independent. They were not at all involved with the conduct, management or the operations, affairs and activities of AZPIL which was the responsibility of the Managing Director. Framing, adopting or implementing the AZPIL

Code of Conduct was by no means the responsibility of the Board and/or its directors. There is no question therefore of the Directors including myself having failed to frame, adopt and implement the Code of Conduct as wrongly alleged or that the Directors including myself had hence violated the PIT Regulations 1992 as wrongly alleged.

18. The SEBI Notice is issued only on 29th September 2017. Framing a charge in relation to alleged delayed adoption of 2002 amendment to the PIT Regulations, 1992 is not permissible in law after coming into existence of PIT Regulations, 2015. The issuance of SEBI Notice in September 2017 itself is illegal and without any basis in law. In any event, the alleged breach is hyper technical in nature that too raised after 13 years of the alleged breach. It is clear from the SEBI Notice itself that the allegations of delayed adoption of the code has no correlation with the price of the scrip of AZPIL before, during or subsequent to the investigation period. I respectfully submit that such a hyper technical charge ought not to be inquired into after passage of 13 years and the SEBI Notice should be discharged forthwith.

Alleged failure to adopt the Code of Conduct as near thereto as the Model Code of Conduct

19. It has been, inter alia, alleged that in view of what has been alleged in para 19 of the SEBI Notice, the Directors of AZPIL during the period 2002-2004 including myself, failed to adopt the Code of Conduct as near thereto as the Model Code of Conduct specified in Part 1 of Schedule A of PIT Regulations 1992 read with Regulation 12(2) of the PIT Regulations 2015 and therefore allegedly violated the said Regulation 12(1) read with paras 1.2 and 3.2.3 of the Model Code of Conduct. I reiterate what has been stated above. I deny that there was any failure on the part of the Directors of AZPIL, including myself and/or any violation by them of Regulation 12(1) read with para 1.2 and/or 3.2 of the Model Code, as wrongly alleged or otherwise.

20. The Non-Executive Directors on the Board including myself were justified in placing full reliance upon the Statutory Compliance Certificates that were being tabled at Board meetings of AZPIL by the Compliance Officer and by the Managing Director certifying full compliance by AZPIL with all laws and regulations framed by the Central Government concerning the business and affairs of AZPIL. The Non- Executive Directors of AZPIL surely could not have been expected to themselves undertake the task of framing the Code or ascertaining for themselves that the Code as framed was indeed as near to the Model Code and/or to have detected that the words "inter alia" which appeared in para 3.2.3 of the Model Code in Schedule 1 of the PIT Regulations 1992 had not been included in the AZPIL Code approved by the Board at its meeting on 20 February 2004; which is what the allegations in this paragraph envisage.

21. Without prejudice to the above, I say that AZPIL was required to adopt a code of conduct as near to the model code of conduct and not verbatim. The absence of the words "inter alia" in Clause 3.2.3 of the code of conduct does not affect the interpretation and applicability of the clause. It cannot be suggested that Clause 3.2.3 of the model code is exhaustive in nature. Even without the words "inter alia" AZPIL was not prevented from closing the trading window in a situation apart from the 7 situations contemplated in Clause 3.2.3 of the code, subject to such a situation being prescribed in the code adopted by AZPIL. There is no room for any interpretation that the legislature intended UPSI to be covered under Clause 3.2.3 of the model code. If that was the case the

legislature would have specifically provided for the same in the model code, especially since UPSI is defined in the same regulations. Therefore, the allegations in relation to deletion of the terms "inter alia" are hyper technical in nature and hence, the SEBI Notice, it is respectfully submitted, ought to be discharged forthwith.

Alleged failure to close the Trading Window

22. Firstly, the charge does not relate to me personally. Therefore, I am not required to deal with the same in details. However, without prejudice to my rights, I am cursorily dealing with the charge regarding non closure of trading window.

23. Without prejudice to the above, I set out below some background facts for better appreciation of my defence.

24. I was the Non-Executive Independent Director and Chairman of the Board of Directors of AZPIL during 2013 and 2014. I came to know of the Delisting Proposal of AZP AB, the overseas promoter shareholder of AZPIL, for the first time on 28th February 2014 when I received a telephone call at my residence from Mr. Ian Brimicombe, a Non-Executive Non-independent Director residing in the United Kingdom representing AZP AB, much after the close of trading hours of the Bombay Stock Exchange (BSE), National Stock Exchange (NSE) and Bangalore Stock Exchange on which the shares of AZPIL were then listed.

25. I was informed during the telephone call that AZP AB Directors would be meeting soon to formally approve the Delisting Proposal and an email communication would soon thereafter be sent by AZP AB to AZPIL, the Target Company, whose shares were proposed to be delisted by a Voluntary Delisting Offer to be made by AZP AB to AZPIL's public shareholders. The Delisting Proposal approved by AZP AB Directors was formally conveyed to AZPIL on 1st March 2014 by its email of the same date.

26. Upon receipt of the De-listing proposal, I informed the Company Secretary / Compliance Officer to notify the concerned Stock Exchanges of the De-listing Proposal and to take such steps as are required by law in respect of the De-listing Proposal. The then Company Secretary and Compliance Officer conveyed the Delisting Proposal received by AZPIL to the Stock Exchanges where the shares of AZPIL were listed the very same day, even though 1st March 2014, being a Saturday, was a trading holiday. 2nd March 2014, being a Sunday, was also a trading holiday.

27. AZPIL, the Target Company, and I as its Non-Executive Independent Director and Chairman were made aware of the Unpublished Price Sensitive Information ("UPSI") by AZP AB for the first time only on 28th February 2014, much after close of the Stock Exchange trading hours. This has been duly noted as the third event in the chronology at page 7 of the SEBI Notice. Accordingly, so far as AZPIL and I as its Non-Executive Independent Director are concerned, no UPSI was in existence before 28 February 2014 and any suggestion to the contrary is denied.

28. A plain reading of para 3.2.1 of the Model Code Schedule 1 of PIT Regulations 1992, which deals with the Closing of Trading Window, demonstrates that it would apply to information which is referred to in para 3.2.3 which is unpublished. Likewise, the provisions of para 3.2.4 of the Model Code which deals with Opening of Trading Window,

would, on plain reading, apply only to information referred to in para 3.2.3. The Delisting Proposal of AZP AB was not information referred to in para 3.2.3. In the above circumstances, neither para 3.2.1 nor para 3.2.4 of the Model Code was applicable.

29. If the intent of the Legislature was also to include other kinds of Unpublished Price Sensitive Information in para 3.2.3, then paras 3.2.1 and 3.2.4 would have so stated, more so since Price Sensitive Information was expressly defined in Regulation 1(ha) of the PIT Regulations, 1992. Para 3.2.3 does not, conspicuously, make any reference to Price Sensitive Information as defined in Regulation 1(ha) of the PIT Regulations, 1992.

30. I crave leave to refer to and rely upon paras 3.2.1, 3.2.3 and 3.2.4 of the Model Code Schedule 1 of the PIT Regulations, 1992 for their true meaning and effect in the context of Regulation 1(ha) of the PIT Regulations, 1992.

31. In any event, it is not the responsibility of the Non-Executive Directors to ensure that Mr. P. Singhal who was the then Company Secretary and Compliance Officer had after 28th February 2014, informed the Stock Exchanges of the Delisting Proposal received by AZPIL earlier on 28th February 2014 and had complied with all other requirements of the PIT Regulations 1992 vis-a-vis Stock Exchanges/opening of the Trading Window. It was his job and responsibility to ensure full compliance with all applicable requirements of PIT Regulations 1992 and take whatever action was necessary in that behalf. As stated earlier, I reiterate that upon receipt of the De-listing Proposal, I informed the Company Secretary / Compliance Officer to notify the concerned Stock Exchanges of the De-Listing proposal and to take such steps as are required by law in respect thereof.

32. In view of the above, it is respectfully submitted that the SEBI Notice ought to be discharged forthwith.

Alleged failure to adopt the Code of Conduct as near thereto to the Model Code of Conduct as amended in 2008

33. For the reasons elaborated earlier, the allegation made in this paragraph that, I, a Non-Executive Director of AZPIL since November 2008 onwards, have "failed to implement and supervise the adoption of Code of Conduct as near thereto the Model Code of Conduct specified in Part A of Schedule 1 of PIT Regulations 1992" is emphatically denied. I reiterate that the Non-Executive Directors of AZPIL, including myself, were not liable or responsible either for the framing of the Code or for its adoption or its implementation in pursuance of the said Regulation 12(a) of the PIT Regulations 1992.

34. The allegations made in paragraph 26, inter alia, against the Non-Executive Directors of AZPIL including myself, are emphatically denied for the reasons elaborated above. It is denied that I as a Director of AZPIL, was at all responsible for adopting the Model Code of Conduct as wrongly alleged, for

36. The allegations made against the non-executive independent directors of AZPIL including myself in SEBI Notice are wholly misconceived, unwarranted and have no basis in law. I respectfully submit that there is hence no warrant or justification in law for an inquiry to be held against me as a Non Independent Executive Director of AZPIL

and/or the imposition of any penalty for violations wrongly alleged in the SEBI Notice or otherwise or at all.

.....”

30. Further, vide his letter dated March 06, 2018, the Noticee-8 submitted his detailed reply to the SCN wherein it was *inter alia* stated as under:

“....

The various alleged violations of the SEBI (Prohibition of Insider Trading) Regulations 1992 as amended in February 2002 by me in the SCN while I was the Company Secretary of AstraZeneca Pharma India Limited ("AZPIL"), during the period 2002 to 2004, all of which at the very outset I emphatically deny. Nothing stated in the SCN should be deemed to be admitted unless the same is expressly admitted.

I was the Company Secretary of AZPIL during the period 2002 and upto January 2006. On tendering my resignation in December 2005, I was released from the employment of AZPIL in January 2006 and consequently ceased to be its Company Secretary effective from January 31, 2006. I am at present not employed as I had attained superannuation in September 2014.

As I had ceased to be the Company Secretary of AZPIL in January 2006, I had no access to the emails, records, documents and correspondence for the period 2002 to 2004. I have relied only on the relevant Board minutes pertaining to the above period. Other records, documents, email and correspondences that I could have relied upon, I have been given to understand, are no longer available with AZPIL since the allegations pertain to 2002 to 2004 i.e. almost 14 years ago. Further, the issue of the SCN after such a long time is unfair, unreasonable and against the principles of natural justice. Consequently, initiation of any inquiry as threatened will also be illegal and non est. On this ground alone the SCN should be discharged.

In any case, on perusal of the SCN, it appears that neither any prejudice has been established nor any insider trading of the shares of AZPIL has been established during the enquiry for the period 2002-2004. Therefore, there was no basis to issue the SCN to the undersigned and it should be discharged on this ground itself.

As already stated, the SCN has been issued after a gap of almost 14 years and for most of my responses, I have relied on my memory since the other records, documents, email and correspondences that I could have relied upon are unavailable owing to the time span and the change in systems brought for maintaining records, as advised by AZPIL

I will now respond to the two allegations alleged in the SCN which I am concerned with:

A. Alleged Delay in Adopting Model Code of Conduct

1. AstraZeneca Pharmaceuticals AB (AZP AB) held 91.6% shareholding in AZPIL at the relevant time. The ultimate holding company of AZP AB is AstraZeneca PLC, United Kingdom. During 2002-04, AstraZeneca PLC was listed inter alia on the New York Stock Exchange. It is the policy for all companies forming part of the AstraZeneca group that the policies / practises / procedures related to securities law matters, including codes or policies regarding insider trading, which are to be adopted by each company are reviewed in advance by the parent company i.e. AstraZeneca PLC, UK. This is to ensure that there is no conflict in the policies / practises / procedures adopted by AZPIL and the ultimate holding company. Accordingly, the draft Code of Conduct proposed to be adopted by AZPIL was made and sent to AstraZeneca PLC,

UK for its review and comments. Sometime prior to February 24, 2004, AstraZeneca PLC, UK gave its approval to the said draft Code of Conduct which was ultimately adopted by AZPIL on February 24, 2004.

2. As already stated, after the review process was completed, the said Code of Conduct was adopted by AZPIL on February 24, 2004. I have carried out all my duties during the relevant time in a timely manner. Pertinently, there is no provision stipulating any timeline for adopting the Model Code of Conduct. Preparation and adoption of the Code of Conduct in February, 2004 was achieved in a reasonable time. Therefore, there was no delay in adopting the Code of Conduct as alleged. Further, there is no allegation that the alleged violation of delayed adoption affected the scrip of AZPIL during 20.02.2002 till 24.02.2004 or how it violated the Model Code of Conduct at the relevant time.

B. Model Code of Conduct as amended in 2002 - Near thereto the Model Code of Conduct under PIT Regulations, 1992 - deletion of the word "inter alia"

1. It has been alleged in the SCN that AZPIL, its Compliance Officers and the Directors (Noticees 4 & 6 to 10) during the process of amendment to PIT Regulations, 1992 dated February 20, 2002 have failed to adopt the Model Code of Conduct for Prevention of Insider Trading for Listed Companies, as near thereto the Model Code of Conduct specified in Part A of Schedule I of PIT Regulations, 1992 read with Regulations 12(2) of PIT Regulations, 2015. Therefore, it is alleged in the SCN that AZPIL violated Regulation 12(1) read with Clause 1.2 and 3.2.3 of Code of Conduct specified in PIT Regulations, 1992 read with Regulation 12(2) of PIT Regulations 2015.

2. Before responding to the above allegation, your attention is drawn to the explanation to the definition to Regulation 2 (ha) as to what will constitute price sensitive information i.e.

"Explanation - The following shall be deemed to be price sensitive information-

- (i) periodical financial results of the Company;
- (ii) intended declaration of dividends (both interim and final); (III) issue of securities or buy back of securities;
- (Iv) any major expansion plans or execution of new projects;
- (v) amalgamation, mergers or takeovers;
- (vi) disposal of the whole or substantial part of the undertaking;
- (viii) and significant changes in policies, plans and operations of the Company."

Clause 3.2.3 has to be read with the explanation to the sub regulation (ha) of regulation 2 of Securities and Exchange Board of India (Prohibition of Insider trading) Regulations, 1992 as amended in 2002 and cannot be read in isolation.

Hence, it is clear that apart from the seven situations listed in Clause 3.2.3 of the Model Code of Conduct no other situation is expressly contemplated either by the Model Code of Conduct or the PIT Regulations, 1992 for closing the trading window. It is also clear that the words "inter alia" are superfluous in nature and redundant. Consequently, the absence of these words in clause 4 (b) of the Code of Conduct of AZPIL was irrelevant and made no difference. Even otherwise, if the company desired to close the trading window in any other situation, it was not prevented from doing so. Clause 3.2.3 of the Model Code of Conduct does not provide that the seven situations listed therein are the only situations wherein the trading window may be closed. In the circumstances, it's clear that the Code of Conduct adopted by AZPIL is as near to the Model Code of Conduct and that the absence of the words "inter alia" did not change that fact. Therefore, the said allegations are hyper-technical in nature and meritless.

3. Without prejudice to the above, it is stated that the PIT Regulations, 1992 as amended on February 20, 2002 which required listed companies to adopt the Model Code of Conduct specified in Schedule "A" shall be as near thereto (and not identical), which was done in AZPIL case.

In view of the above, it is submitted that the said allegations above are also without any merit and need to be dropped forthwith.

....”

31. Further, Authorized representatives of the Noticees-1, 2, 8, 9, 10 and 13 appeared for the hearing before the undersigned on March 22, 2018 and April 18, 2018 and reiterated their submissions. However, Noticees-6, 11, 15 and 16 being served with the Notice of hearing through affixture granting hearing opportunity on February 22, 2018 failed to avail the same.

32. In the facts and circumstance of the case and also giving due regard to the submissions of the Noticees as mentioned above, I am of the view that no prejudice would be caused to Noticees-3, 4, 5, 7, 12 and 14 if opportunity of hearing under Rule 4(3) of Adjudication Rules is not provided to them before me and I deem it appropriate to decide the matter on the basis of facts/material available on record with respect to them.

33. Further, I am of the view that sufficient opportunity have been provided to the Noticees - 6, 11, 15 and 16 to submit reply and appear for hearing. However, the said Noticees failed to reply and also to avail the opportunity of hearing, In view of the aforesaid and as per Rule 4(7) of AO Rules, if any person fails, neglects or refuses to appear as required by sub-rule (3) before the Adjudicating Officer, he may proceed with the inquiry in the absence of such person after recording the reasons for doing so. Thus, I am proceeding with the matter on the basis of material available on record with respect to the said Noticees.

CONSIDERATION OF ISSUES AND FINDINGS

34. After perusal of the material available on record, I have the following issues for consideration viz.

- I. Whether the Noticees 1-10 have failed to frame, adopt and implement the code of conduct as specified in Schedule I of PIT Regulations 1992 till February 24, 2004 and therefore violated Regulation 12(1) read with Clause 1.2 of the code of conduct specified under Part A of Schedule I of Regulations, 1992 read with Regulation 12(2) of the PIT Regulations, 2015?
- II. Whether the Noticees-4 & 6-10, with respect to the amendment to PIT Regulations, 1992 dated 20/02/2002, have failed to adopt the model code of conduct for prevention of Insider Trading for listed companies, as near thereto the Model Code of Conduct Specified in Part A of Schedule I of PIT Regulations, 1992 read with Regulation 12(2) of the SEBI(PIT) Regulations, 2015 and therefore violated Regulation 12(1) read with clause 1.2 and 3.2.3 of code of conduct specified in PIT Regulations, 1992 read with Regulation 12(2) of PIT Regulations?
- III. Whether Noticee-16 has violated clause 1.2 read with clause 3.2-1 and 3.2-4 of the code of conduct specified under Part A of Schedule I read with regulation 12(1) of PIT Regulations, 1992 read with 12(2) of PIT Regulations, 2015?
- IV. Whether Noticees-1 & 9-15 during the amendment to PIT Regulations 1992 dated 19/11/2008 have failed to adopt the model code of conduct for prevention of Insider Trading for listed companies, as near thereto the Model Code of Conduct Specified in Part A of Schedule I of PIT Regulations, 1992 read with Regulation 12(2) of the SEBI(PIT) Regulations, 2015 and therefore violated Regulation 12(1) read with clause 1.2. and 4.2 of code of

conduct specified in PIT Regulations, 1992 read with Regulation 12(2) of PIT Regulations 2015?

- V. Do the violations, if any, on the part of the Noticees attract monetary penalty under Section 15HB of the SEBI Act, 1992?
- VI. If so, what quantum of monetary penalty should be imposed on the Noticees?

FINDINGS

35. On perusal of the material available on record and giving regard to the facts and circumstances of the case and submissions of the Noticees, I record my findings hereunder.

ISSUE I: Whether the Noticees 1-10 have failed to frame, adopt and implement the code of conduct as specified in Schedule I of PIT Regulations 1992 till February 24, 2004 and therefore violated Regulation 12(1) read with Clause 1.2 of the code of conduct specified under Part A of Schedule I of Regulations, 1992 read with Regulation 12(2) of the PIT Regulations, 2015?

36. I note the following provisions of PIT Regulations, 1992 (as it stood on February 24, 2004) and PIT Regulations, 2015:

PIT Regulations, 1992

CHAPTER IV POLICY ON DISCLOSURES AND INTERNAL PROCEDURE FOR PREVENTION OF INSIDER TRADING

Code of internal procedures and conduct for listed companies and other entities.

12. (1) All listed companies and organizations associated with securities markets including:

- (a) the intermediaries as mentioned in section 12 of the Act, asset management company and trustees of mutual funds ;*
- (b) the self-regulatory organizations recognized or authorized by the Board;*
- (c) the recognized stock exchanges and clearing house or corporations;*

(d) the public financial institutions as defined in section 4A of the Companies Act, 1956; and
(e) the professional firms such as auditors, accountancy firms, law firms, analysts, consultants, etc., assisting or advising listed companies,
shall frame a code of internal procedures and conduct as near thereto the Model Code specified in Schedule I of these Regulations.

MODEL CODE OF CONDUCT FOR PREVENTION OF INSIDER TRADING FOR LISTED COMPANIES

1.2 The compliance officer shall be responsible for setting forth policies, procedures, monitoring adherence to the rules for the preservation of "Price Sensitive Information", pre-clearing; of designated employees' and their dependents' trades (directly or through respective department heads as decided by the company), monitoring of trades and the implementation of the code of conduct under the overall supervision of the Board of the listed company.

Explanation: For the purpose of this Schedule, the term 'designated employee' shall include:—

- (i) officers comprising the top three tiers of the company management
- (ii) the employees designated by the company to whom these trading restrictions shall be applicable, keeping in mind the objectives of this code of conduct.

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. In the case of subscription in the primary market (initial public offers), the above mentioned entities shall hold their investments for a minimum period of 30 days. The holding period would commence when the securities are actually allotted.

PIT 2015

Repeal and Savings.

12. (1) The Securities and Exchange Board of India (Prohibition of Insider Trading) Regulations, 1992 are hereby repealed.

(2) Notwithstanding such repeal,—

(a) the previous operation of the repealed regulations or anything duly done or suffered thereunder, any right, privilege, obligation or liability acquired, accrued or incurred under the repealed regulations, any penalty, forfeiture or punishment incurred in respect of any offence committed against the repealed regulations, or any investigation, legal proceeding or remedy in respect of any such right, privilege,

obligation, liability, penalty, forfeiture or punishment as aforesaid, shall remain unaffected as if the repealed regulations had never been repealed; and
(b) anything done or any action taken or purported to have been done or taken including any adjudication, enquiry or investigation commenced or show-cause notice issued under the repealed regulations prior to such repeal, shall be deemed to have been done or taken under the corresponding provisions of these regulations.

37. I note, from the email dated December 01, 2012 by AZPIL, that Noticee-3 was a non-independent Director from March 29, 2001 to January 31, 2003, Noticee-4 was a non-independent Director from March 29, 2001 to October 20, 2005, Noticee-5 was a non-independent Director from March 29, 2001 to May 05, 2004, Noticee-6 was a Managing Director from March 29, 2001 to April 01, 2004, Noticee-7 was a non-independent Director from February 27, 2003 to November 27, 2006, Noticee-8 was a Company Secretary/compliance officer of AZPIL from July 01, 1999 to January 31, 2006, Noticee-9 was an independent Director from July 11, 1979 and Noticee-10 was an independent Director from November 29, 2001. Further, Noticee-9 and Noticee-10 vide their submissions dated March 07 2018 have submitted that Noticee-9 and Noticee-10 ceased to be directors from the date December 02, 2016.

38. Having noted above, in order to address the instant issue, I consider it relevant to examine the role of the aforesaid Noticees vis-as-vis awareness of the requirement of framing, adopting and implementing the the code of conduct as specified under PIT Regulations, 1992. Further, I also consider it relevant to examine whether the aforesaid Noticees were directly associated and involved in the day to day operations or activities in the capacity of holding any executive position in the company.

39. With respect to the instant allegation against the Noticees-1 to 10, firstly, I note the submissions made by the Noticee-2. The said Noticee vide his reply dated March 16, 2018 has submitted that he had resigned as a director of AZPIL with effect from March 12, 2002. In support of the same, the Noticee-2 has submitted a

copy of his resignation letter dated March 14, 2002 and copy of the covering letter along with the form no. 32 notifying his resignation to the Registrar of Companies by AZPIL. In view of the said submission and document, I note that Noticee-2 was not a director during the time period of alleged delay with respect to framing code of conduct and therefore I conclude that the instant allegation does not stand proved as against the Noticee-2.

40. Further, I also consider the submissions of the Noticees-9 and 10 that they were independent directors of AZPIL and were not involved or associated in the day to day management nor were they in charge of the affairs of the day to day operations or activities of AZPIL. It is also the submission of the said Noticees that no non-executive director of AZPIL, whether independent or otherwise were involved in or associated with the day to day management of the business operations, affairs or activities of AZPIL. The said Noticees have further contended that throughout the alleged period of delay, AZPIL had (i) a Company Secretary and Compliance Officer in its full time employment and (ii) a full time Managing Director, who were responsible for, and was overall in charge of, the day to day management of the business, operations, affairs and activities of AZPIL in India. I note that independent directors of the Board would not be involved or associated in the day to day management nor would they be in charge of the affairs of the day to day operations or activities as they do not hold any executive position in the company. Therefore I find merit in the submission of the Noticees-9 & 10 and they were not involved or associated with the activities of AZPIL and conclude that the issue stands not proved as against Noticee-9 and 10.

41. I note from the minutes of the meeting dated February 24, 2004 submitted by Noticee-1, a reference has been made that the draft code of conducted was circulated earlier to the said board meeting (the back papers of the said meeting has not been submitted). From the same, I note that the non-independent directors viz Noticees-3, 4,5 and 7 were aware of the issue pertaining to code of conduct only before the said board meeting. However, I also note that there is no

material available on record to show that the said non-independent directors viz Noticees-3, 4,5 and 7 were associated with any activity or day to day operations with regard to the framing and adoption of the code of conduct pertaining to the instant issue. In the absence of same, I am inclined to give the benefit of doubt to the aforesaid non-independent directors that they may not be aware and associated with the code of conduct issue with respect to the instant allegation against them. Therefore, I conclude that the allegation pertaining to the instant issue stands not proved as against the Noticees-3,4,5,7,9 and 10.

42. In light of the conclusions arrived at paragraphs above, the instant issue survives for consideration only in respect of the Noticee-1 i.e. the company, Noticee-6 and Noticee-8, the Managing Director and Compliance officer of AZPIL respectively during the period of alleged delay with respect to the instant issue. Before proceeding any further, I deem it necessary to address the preliminary contention raised by the Noticee-1 disputing the issuance of SCN in the instant matter as the same was issued on September 29, 2017 after repeal of PIT Regulations, 1992 and that Regulation 12(2) of PIT Regulations, 2015 saved only pending investigations and/or inquiries, amongst other things. However, I note that Regulations 12(2)(a) of PIT Regulations, 2015 specifically saves *inter alia* the obligation or liability accrued or incurred under the repealed regulations stating that the same shall remain unaffected as if the repealed regulations had never been repealed. Further, in this regard, I also note that the investigations pertaining to the instant matter was approved and the investigating authority was appointed in October 20, 2014 i.e. before the PIT Regulations, 1992 was repealed and the same also has been admittedly saved under regulation 12(2) of PIT Regulations, 2015.

43. Now proceeding further, I note that it is not in dispute that the model code of conduct that was mandated to be framed and adopted under the amendment dated February 20, 2002 was adopted by AZPIL only on February 24, 2004. Further, it is also not in dispute that the Noticees-6 and 8 were the Managing Director and Compliance officer of AZPIL during the said period of delay.

However, the Noticee-1 vide its submission dated February 22, 2018 and Noticee-8 vide his submission dated March 06, 2018 have contended that there was no provision for stipulation of timeline for adopting the Model code of conduct under the PIT Regulations, 1992 and that the preparation and adoption of model Code of conduct was achieved in reasonable time. In this regard, I note that even though the PIT Regulations, 1992 did not include the specific time limit to comply with the February 20, 2002 amendment that does not warrant any undue delay in its implementation. I am of the view that one of the objectives for said code of conduct was mandated to be put in place was to effectively regulate the insider trading at the company level itself. I note that the issue of insider trading is of serious nature and the listed companies were required to act efficiently and expeditiously to comply with the amended provisions. The Noticee-1 and have submitted that the ultimate holding company of AZPIL was Astrazeneca PLC, United Kingdom was listed inter alia on Newyork Exchange and that the policy for all companies forming part of the Astrazeneca group including policies regarding insider trading was to be reviewed in advance by the parent company to ensure no conflict in the policies between the companies falling within the group and that the policy was approved by Astrazeneca PLC sometime prior to February 24, 2002. While I note that the said Noticees have not produced any document in support of initiating the process of framing the Modal Code of Conduct and the claimed communication between the parent company and AZPIL even though the said Noticees were specifically asked to provide the same during the hearing before me. Nevertheless, even providing of the same would by no means justify a time period of 2 years inordinately taken to frame and adopt the code of conduct. Further, I am of the view that the Noticees' contention that the SCN is silent on how the alleged late submission of code of conduct affected the scrip of AZPIL between February 20, 2002 and February 24, 2004 would bear no relevance to the instant issue as the allegation is directly pertaining to the delay in framing the model code of conduct and the same is not that there has been a price manipulation. For the reasons mentioned as above, I am of the view that the compliance after 2 years from the

date of amendment cannot be accepted as a compliance within reasonable time as contended by the Noticee-1 and 8.

44. Considering my findings in the para above, I now note that the Noticee-6 being the Managing director of AZPIL and Noticee-8 being the company secretary/compliance officer of AZPIL, the liability pertaining to unreasonable time taken in adopting the model code of conduct would fall directly on the same. Further, in this regard, it is also pertinent to note the submissions of Noticee-9 and Noticee-10 that throughout the period of delay, AZPIL had (i) a Company Secretary and Compliance Officer in its full time employment and (ii) a full time Managing Director, who were responsible for, and was overall in charge of, the day to day management of the business, operations, affairs and activities of AZPIL in India. Further the said Noticees had also submitted that Statutory Compliance Certificates of the Company Secretary, who was also the Compliance Officer, and of the then Managing Director were placed before the Board at its meeting on 24th February 2004 at which the AZPIL Code of Conduct was, in pursuance of Regulation 12(1) of PIT Regulations, 1992, approved and adopted by the Board. Copies of these Statutory Compliance Certificates both dated 9th February 2004 were submitted in support of their submission. Further, the Managing Director's Certificate expressly stated, in its penultimate paragraph, "*This Certificate is given by the undersigned with full knowledge that, on its faith and strength, full reliance is placed by the Board of Directors of the Company*". In view of the above, I note that the Noticee-6 and Noticee-8 had awareness and significant role in framing and adopting the model code of conduct and are liable for the said delay in adopting the same. In view of all the above, I conclude that Noticees-1, 6 and 8 have failed to frame, adopt and implement the code of conduct as specified in Schedule I of PIT Regulations 1992 till February 24, 2004 and therefore violated Regulation 12(1) read with Clause 1.2 of the code of conduct specified under Part A of Schedule I of Regulations, 1992 read with Regulation 12(2) of the PIT Regulations, 2015.

ISSUE II. Whether the Noticees-4 & 6-10, with respect to the amendment to PIT Regulations, 1992 dated 20/02/2002, have failed to adopt the model code of conduct for prevention of Insider Trading for listed companies, as near thereto the Model Code of Conduct Specified in Part A of Schedule I of PIT Regulations, 1992 read with Regulation 12(2) of the SEBI(PIT) Regulations, 2015 and therefore violated Regulation 12(1) read with clause 1.2 and 3.2.3 of code of conduct specified in PIT Regulations, 1992 read with Regulation 12(2) of PIT Regulations?

45. Before proceeding any further with respect to the instant issue, I refer to my observations and findings recorded at para 41 above. In view of the aforesaid observations and findings, I further conclude that the allegation pertaining to the instant issue does not merit consideration as against the Noticees-4,7,9 and 10.

46. Therefore, I proceed to consider the instant issue with respect to the remaining Noticees i.e. Noticee-6 and 8. While the Noticee-6 has not filed any reply nor has availed the opportunity of hearing, I note that the Noticee-8 vide his submissions dated March 06, 2018 has *inter alia* stated that the absence of the word “*inter alia*” which is the basis of the instant issue did not make any difference and that apart from the seven instances listed in clause 3.2.3 of Model Code of conduct no other situation is expressly contemplated either by the model code of conduct or the PIT Regulations, 1992 for closing the trade window. Further, it has been submitted that even if the company desired to close the trading window in any other situation, it was not prevented from doing so. In light of the aforesaid submissions, I note that the provision 12(1) of PIT Regulations, 1992 as it stood from February 2002 till November 2008 stated that a code of internal procedures and conduct *as near thereto* the model code specified in schedule I of said Regulation were to be adopted. Therefore in view of the same, I note that the submission of the Noticee is partially acceptable and benefit of doubt can be given to the Noticees-6 and 8 i.e. only in respect of the absence of the word “*inter alia*” from the code of conduct during the period from February 20, 2002 till November 19, 2008.

47. However, I note that regulation 12(1) of PIT Regulations, 1992 were amended in 2008 to include the word “*without diluting it in any manner and ensure compliance of the same.*” In view of the said amendment, the Noticee was required not only to have a code of conduct in place that is near thereto the model code of conduct but also that the code of conduct is not diluted in any manner. However, from the code of conduct adopted in the board meeting on February 18, 2009 pursuant to the amendment of regulation 12(1) of PIT regulations in November 19, 2008, which has been produced by the Noticee-1 along with its submission that has been submitted, I note that the word “*inter alia*” continue to be omitted. In this regard, I am of the view that such omission did amount to dilution of the provision of model code of conduct after adoption for the period subsequent to November 19, 2008. However, from the material available on record, it is noted that Noticee-6 was a Managing Director of AZPIL from March 29, 2001 to April 01, 2004 and Noticee-8 was a Company Secretary/compliance officer of AZPIL from July 01, 1999 to January 31, 2006 and therefore both the Noticees-6 and 8 were not associated with AZPIL during the period subsequent to the amendment of November 19, 2008. Therefore, I am inclined to conclude that the allegation with respect to the instant issue does not stand proved as against the Noticees-6 and 8 for the reasons mentioned as above.

ISSUE III. Whether Noticee-16 has violated clause 1.2 read with clause 3.2-1 and 3.2-4 of the code of conduct specified under Part A of Schedule I read with regulation 12(1) of PIT Regulations, 1992 read with 12(2) of PIT Regulations, 2015?

48. I note that the allegation with respect to the instant issue pertains to Noticee-16 and the said Noticee has not submitted any reply nor has availed the opportunity of hearing in the matter. However, I note that, Noticee-1 in its submission dated February 22, 2008 has *inter alia* also submitted with respect to the instant issue. I note that, vide its email dated November 23, 2015, AZPIL had confirmed that on the evening of February 28, 2014, the company had received telephonic call from

Noticee-14 whereby AZPIL was intimated about the intention of Astrazeneca Pharmaceuticals AB, Sweden (AZP AB) had sought delisting of equity shares of AZPIL. Further, vide the said email, AZPIL also confirmed that email communication was received by it from AZP AB regarding the delisting proposal and that on March 01, 2014, the said information was sent to the stock exchanges. It has been admitted by the Noticee-1 vide its email dated November 23, 2015 as well as its aforesaid submission that the trading window was not closed subsequently with respect to the aforesaid event pertaining to the desire of AZP AB to delist AZPIL. In this regard, Noticee-1 submitted that it was under a bona fide belief that closure of the trading window on 01.03.2014 and 02.03.2014 was sufficient compliance of the requirement to shut the trading window for 24 hrs. I note that March 01, 2014 and March 02, 2014 were trading holidays. However, in this regard, I note the price movement of the scrip on the aforesaid dates which is as under:

On February 28, 2014:

	O	H	L	C
NSE	845.6	955.4	845	927.4
BSE	848	955	845	925.7
NSE	Volume		431143	
BSE	Volume		129693	

On March 03, 2014:

	O	H	L	C
NSE	1112.9	1112.9	1112.9	1112.9
BSE	1110.9	1110.9	1110.9	1110.9
NSE	Volume		31048	
BSE	Volume		8777	

49. From the above, I note that the closing price of the scrip on February 28, 2014 was Rs. 927.4 on NSE and Rs. 925.7 on BSE and the opening price of the scrip on March 03, 2014 on NSE was Rs. 1112.9 on NSE and Rs. 1110.9 on BSE. From the

same, I note that the price of the scrip, a trading day previous to the corporate announcement rose from 845.6 to 927.4. On the day of announcement the scrip was traded on single price throughout day on both exchanges at Rs. 1110.9 on BSE and Rs 1112.9 on NSE. Volumes traded were substantially lower (7.2% of traded volume the previous day) on the day of announcement. From the same, I note that the information pertaining to the delisting had the effect on the price and volume of the scrip on the next trading day. In such circumstance, the 24 hours prescription for closing trading window as per the regulation must have been followed for 24 hours of the immediately following trading day. I am of the view that, the non-closure of the trading window on March 03, 2014 was in gross violation of the model code of conduct, the object of which is to regulate the trading by potential insiders on the basis of UPSI and 24 hours subsequent to the announcement is directed to be closed by the company. Further, I note from the model code of conduct that the Compliance officer is responsible for *setting forth policies, procedures, monitoring adherence to the rules for the preservation of "Price Sensitive Information", pre-clearing; of designated employees' and their dependents' trades (directly or through respective department heads as decided by the company), monitoring of trades and the implementation of the code of conduct under the overall supervision of the Board of the listed company.* In this regard, I further note that vide its email dated December 01, 2015, the Noticee-16 was the company secretary/compliance officer of AZPIL for the period from May 07, 2012 to July 31, 2014, which includes the period of the violation with respect to the instant issue. Therefore, in view of my findings above, I conclude that Noticee-16 has violated clause 1.2 read with clause 3.2-1 and 3.2-4 of the code of conduct specified under Part A of Schedule I read with regulation 12(1) of PIT Regulations, 1992 read with 12(2) of PIT Regulations, 2015.

ISSUE IV. Whether Noticees-1 & 9-15 during the amendment to PIT Regulations 1992 dated 19/11/2008 have failed to adopt the model code of conduct for prevention of Insider Trading for listed companies, as near thereto the Model Code of Conduct Specified in Part A of Schedule I of PIT Regulations, 1992 read

with Regulation 12(2) of the SEBI(PIT) Regulations, 2015 and therefore violated Regulation 12(1) read with clause 1.2. and 4.2 of code of conduct specified in PIT Regulations, 1992 read with Regulation 12(2) of PIT Regulations 2015?

50. I note that the instant issue is emerging from the observation of SEBI that the holding period prescribed in clause 4.2 of the Model Code of Conduct is minimum 6 (six) months and the holding period prescribed in the AZPIL Code of Conduct as communicated to SEBI vide its email dated November 19, 2015 and November 23, 2015, was minimum 30 days. With respect to the same, I refer to the submission made by the Noticee-1 dated February 22, 2018 before me wherein it has been *inter alia* submitted that, in its correspondence to SEBI by email dated 19.11.2015 and 23.11.2015 in response to SEBI's email dated 18.11.2015 and 20.11.2015 seeking a copy of the Company's Code of Conduct, the Company i.e. AZPIL inadvertently sent the incorrect version of its Code of Conduct, having attached a copy of the Code of Conduct which was adopted in the year 2004 rather than a copy of the Code of Conduct which had been amended during an Audit Committee Meeting of the Company held on 18.02.2009 which was noted in the Minutes of the Board Meeting dated 16.03.2009. It further submitted that the 2009 version of the Code of Conduct captured the relevant requirements of the 2008 amendments of SEBI, including the requirement that the holding period should be a minimum of 6 months. In support of the said submission, The Noticee-1 has produced before me (a) True Extract of the Minutes of the Audit Committee Meeting held on 18.02.2009; (b) Minutes of Board Meeting dated 16.03.2009 and (c) Copy of the revised Code of Conduct as approved and adopted by the company on the said date. I have carefully perused the same and I am of the view that the said submission of the Noticee are acceptable. Even though it is desired that the Noticee while providing information to SEBI had to be more diligent, in view of the reply of the Noticee along with the Documentary evidence as mentioned above, I am inclined to conclude that instant issue does not merit consideration.

ISSUE V. Do the violations, if any, on the part of the Noticees attract monetary penalty under Section 15HB of the SEBI Act, 1992?

51. I note the provisions of Section 15HB of SEBI Act as applicable to the facts and circumstances of the case read as under:

Penalty for contravention where no separate penalty has been provided.

15HB. 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.

52. From the conclusions arrived at para 44 above, I further conclude that the Noticees-1, 6 and 8 are liable for penalty under section 15HB of the SEBI Act and from the conclusions arrived at para 49 above, I further conclude that the Noticee-16 is liable for penalty under section 15HB of the SEBI Act.

ISSUE IV: If so, What quantum of monetary penalty should be imposed on the Noticees?

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

SEBI Act

Factors to be taken into account by the adjudicating officer

15J. 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 a group of investors as a result of the default ;
- c) the repetitive nature of the default

54. The material available on record has not quantified the amount of disproportionate gain or unfair advantage, if any, made by the Noticees-1,6, 8 and 16 and the loss, if any, suffered by the investors as a result of the said Noticees' failures. From the documents available on record, it is noted that no prior default is on record.
55. In view of the abovementioned conclusion and after considering the factors under Section 15J of the SEBI Act, I hereby impose a penalty of ₹ 1,00,000/- (Rupees one Lakh only) each on the Noticees-1,6 and 8 under Section 15HB of the SEBI Act, 1992 for the violation of Regulation 12(1) read with Clause 1.2 of the code of conduct specified under Part A of Schedule I of Regulations, 1992 read with Regulation 12(2) of the PIT Regulations, 2015 and I impose a penalty of ₹ 1,00,000/- (Rupees one Lakh only) on the Noticee-16 under Section 15HB of the SEBI Act, 1992 for the violation of clause 1.2 read with clause 3.2-1 and 3.2-4 of the code of conduct specified under Part A of Schedule I read with regulation 12(1) of PIT Regulations, 1992 read with 12(2) of PIT Regulations, 2015, which is appropriate in the facts and circumstances of the case.

ORDER

56. In view of my findings noted in the preceding paragraphs, I hereby dispose of the Adjudication Proceedings initiated against Dr. Nityanand, Ronald Michael Henry, John Ashley Stevens, J G Zetterberg, Andrew James Howden, Darius Erach Udwadia, Kirtikumar Shantilal Shah, Bhasker V Iyer, Graham Timothy Baker, Anandh Balasundaram, Ian Brimicombe and Srinivasan N R vide Show Cause Notice dated September 29, 2017.
57. 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 ₹ 1,00,000/- (Rupees One Lakh

only) each on Astrazeneca Pharma India Ltd, Lars Walan and Supriya Kumar Guha in terms of the provisions of Section 15HB of the Securities and Exchange Board of India Act, 1992 for the violation of Regulation 12(1) read with Clause 1.2 of the code of conduct specified under Part A of Schedule I of Regulations, 1992 read with Regulation 12(2) of the PIT Regulations, 2015 and I impose a penalty of ₹ 1,00,000/- (Rupees One Lakh only) on Pawan Singhal in terms of the provisions of Section 15HB of the Securities and Exchange Board of India Act, 1992 for the violation of clause 1.2 read with clause 3.2-1 and 3.2-4 of the code of conduct specified under Part A of Schedule I read with regulation 12(1) of PIT Regulations, 1992 read with 12(2) of PIT Regulations, 2015.

58. The aforesaid entities at para 57 above shall remit / pay the said amount of penalty within 45 days of receipt of this order either through e-payment facility into the Bank Account, the details of which are given below:

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

or by way of Demand Draft in favour of “SEBI - Penalties Remittable to Government of India”, payable at Mumbai.

59. The aforesaid entities at para 57 above shall forward the following details / confirmation of penalty so paid to the Chief General Manager, Enforcement Department, SEBI Mumbai :

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:	Penalty

60. 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, a copy of this order is being sent to all the entities at their respective addresses and also to the Securities and Exchange Board of India, Mumbai.

Place: MUMBAI
Date: MAY 23, 2018

B J DILIP
ADJUDICATING OFFICER