

BEFORE THE ADJUDICATING OFFICER
SECURITIES AND EXCHANGE BOARD OF INDIA
[ADJUDICATION ORDER NO. MC/CB/2018-19/60]

UNDER SECTION 15-I (2) OF SECURITIES AND EXCHANGE BOARD OF INDIA ACT, 1992 AND RULE 5 OF SEBI (PROCEDURE FOR HOLDING INQUIRY AND IMPOSING PENALTIES BY ADJUDICATING OFFICER) RULES, 1995.

In respect of –

Man Finance Pvt. Ltd. (PAN: AAHCM6681R) having address at – 101, Man House, Opp. Pawan Hans, S. V. Road, Vile Parle (West), Mumbai – 400 056

In the matter of *Man Industries (India) Limited*

BACKGROUND

1. Securities and Exchange Board of India (hereinafter be referred to as, the “**SEBI**”) conducted examination in the scrip of Man Industries (India) Limited (hereinafter be referred to as, the “**Company**”), a company listed on the BSE Limited (hereinafter be referred to as, the “**BSE**”) as well as the National Stock Exchange of India Limited (hereinafter be referred to as, the “**NSE**”) for the period April 01, 2013 to March 31, 2014 (hereinafter be referred to as, the “**Examination Period**”). Examination *prima facie* revealed violation of Regulations 13(1), 13(4A) read with 13(5) of the SEBI (Prohibition of Insider Trading) Regulations, 1992 (hereinafter be referred to as, the “**PIT Regulations**”) and Regulation 29(1) read with 29(3) of the SEBI (Substantial Acquisition of Shares and Takeover) Regulations, 2011 (hereinafter be referred to as, the “**SAST Regulations**”) by M/s. Man Finance Pvt. Ltd. (hereinafter be referred to as, the “**Noticee**”) upon not making relevant disclosures upon change in its shareholding in the Company.

APPOINTMENT OF ADJUDICATING OFFICER

2. SEBI initiated adjudication proceedings and appointed Mr. Suresh Gupta, Chief General Manager as Adjudicating Officer under Section 15I of the Securities and Exchange Board of India Act, 1992 (hereinafter be referred to as, the “**SEBI Act**”) read with Rule 3 of the SEBI (Procedure for Holding Inquiry and Imposing Penalties by Adjudicating Officer) Rules, 1995 (hereinafter be referred to as, the “**Adjudication**”).

Rules”) vide order dated March 07, 2017 to inquire into and adjudge under Section 15A (b) of the SEBI Act against the Noticee for the alleged violations of regulation 13(1), (4A) read with 13(5) of the PIT Regulations and Regulation 29(1) read with 29(3) of the SAST Regulations. Subsequently, the undersigned was appointed as the Adjudicating Officer on April 26, 2018 which was communicated vide order dated August 21, 2018.

SHOW CAUSE NOTICE, REPLY AND HEARING

3. Show Cause Notice No. EAD/EAD5/MC/CB/29287/2018 dated October 19, 2018 (hereinafter be referred to as, the “**SCN**”) was served upon the Noticee under Rule 4(1) of the Adjudication Rules to show cause as to why an inquiry should not be held and penalty be not imposed against it under Section 15A (b) of the SEBI Act for alleged violations of Regulations 13(1), 13(4A) read with 13(5) of the PIT Regulations and Regulation 29(1) read with 29(3) of the SAST Regulations.
4. The allegations levelled against the Noticee in the SCN are summarized as below:
 - a) During the Examination Period, the Noticee was a promoter of the Company and indulged in various transactions involving change in its shareholding in the Company, relevant excerpts of which are produced as under:

Date of Transaction	Holding before Transaction (No. of shares held & their percentage)	Transaction Volume (Number of Shares Transacted and their percentage)	Holding Post Transaction (No. of shares held & their percentage post transaction)
June 07, 2013	2576338 (4.49%)	276338 (-0.46%)	2300000 (4.03%)
March 31, 2014	2300000 (4.03%)	16,00,000 (2.80%)	39,00,000 (6.83%)

Relevant evidences of the aforesaid transactions were provided to the Noticee vide *Statement of Transactions* carried out by the Noticee provided to SEBI by the NSDL.

- b) As a result of the transaction on June 07, 2013, the Noticee was required to submit relevant disclosures within 2 days of these transactions to the Company

and to BSE & NSE under Regulation 13(4A) read with 13(5) of the PIT Regulations. Similarly, pursuant to the transaction on March 31, 2014, the Noticee was required to disclose its shareholding to the Company within 2 days of receipt of the aforesaid acquisition under Regulation 13(1) of the PIT Regulations and to the Company as well as the BSE & NSE under Regulation 29(1) read with 29(3) of the SAST Regulations. However, the Noticee, allegedly, failed to submit required disclosures under the PIT Regulations and SAST Regulations.

- c) The alleged failure of the Noticee to disclose change in its shareholding was confirmed by the NSE *vide* e-mail dated July 17, 2018, BSE *vide* e-mail dated July 11, 2018 and the Company *vide* e-mail July 18, 2018.
- d) It was alleged that the non-disclosures regarding change in its shareholding on June 07, 2013 and March 31, 2014 by the Noticee were in violation of Regulations 13 (1), 13(4A) read with 13(5) of the PIT Regulations and Regulation 29(1) read with 29(3) of the SAST Regulations, text of which is mentioned as below:

SEBI (Prohibition of Insider Trading) Regulations, 1992

13. (1) any person who holds more than 5% shares or voting rights in any listed company shall disclose to the company in Form A, the number of shares or voting rights held by such person, on becoming such holder, within 2 working days of :—

- (a) the receipt of intimation of allotment of shares; or*
- (b) the acquisition of shares or voting rights, as the case may be.*

...

(4A) Any person who is a promoter or part of promoter group of a listed company, shall disclose to the company and the stock exchange where the securities are listed in Form D, the total number of shares or voting rights held and change in shareholding or voting rights, if there has been a change in such holdings of such person from the last disclosure made under Listing Agreement or under sub-regulation (2A) or under this sub regulation, and the change exceeds Rs. 5 lakh in value or 25,000 shares or 1% of total shareholding of voting rights, whichever is lower.

(5) *The disclosure mention in sub-regulations (3), (4) and (4A) shall be made within two working days of:*

- (a) the receipts of intimation of allotment of shares, or*
- (b) the acquisition or sale of shares or voting rights ,as the case may be.*

SEBI (Substantial Acquisition of Shares and Takeovers) Regulations, 2011

“29. (1) *Any acquirer who acquires shares or voting rights in a target company which taken together with shares or voting rights, if any, held by him and by persons acting in concert with him in such target company, aggregating to five per cent or more of the shares of such target company, shall disclose their aggregate shareholding and voting rights in such target company in such form as may be specified.*

...

- (3) *The disclosures required under sub-regulation (1) and sub-regulation (2) shall be made within two working days of the receipt of intimation of allotment of shares, or the acquisition of shares or voting rights in the target company to,—*
- (a) every stock exchange where the shares of the target company are listed; and*
 - (b) the target company at its registered office..”*

- e) The Noticee was also informed that the alleged violations, if established, would make it liable for imposition of monetary penalty under Section 15A (b) of the SEBI Act.

5. The SCN was served upon the Noticee by way of *Speed Post with Acknowledgment Due* at the address of the Noticee on October 26, 2018, an acknowledgment of which is available on record. The Noticee was also advised to file its reply, if any, within 14 days from the receipt of the SCN. However, the Noticee, vide e-mail dated November 06, 2018, requested an extension for filing its reply towards the SCN which was granted.

6. Thereafter, an opportunity of personal hearing was granted to the Noticee on November 26, 2018 *vide* Notice of Hearing dated November 12, 2018. The Noticee was also advised to file its reply, if any, towards the SCN by November 23, 2018.
7. Thereafter, the Noticee submitted its reply towards the SCN *vide* letter dated November 15, 2018. Relevant submissions of the Noticee are summarized as under:
- a) The Noticee refuted the allegation relating to failure to make disclosures under PIT Regulations and SAST Regulations.
 - b) With respect to the transaction of disposal of 2,76,338 shares on June 07, 2013, the Noticee submitted that the transaction was an *off market intra DP transaction* done by its broker, *Mangal Keshav Financial Services Ltd.* ("MKFSL") through which 2,76,338 shares were debited from the Noticee's account and were credited to MKFSL's account to maintain margin. Therefore, the transaction did not require any disclosure to be made under Regulation 13(4A) read with 13(5) of the PIT Regulations. To substantiate this argument, the Noticee produced copies of transaction statements evidencing Off Market Intra DP Transaction done by MKFSL.
 - c) With respect to the transaction of acquisition of 16,00,000 shares on March 31, 2014, the Noticee submitted that this transaction was a part of 20,00,000 shares purchased by the Noticee on September 17, 2013 and October 01, 2013 on Open Market and disclosures for the same were already made by the Noticee under Regulation 29(2) of the SAST Regulations on September 19, 2013 and October 03, 2013. Out of the 20,00,000 shares, the shares under examination, i.e. 16,00,000 shares were credited to the Noticee's account only on March 31, 2014.
 - d) The Noticee also submitted that it was already a *Person Acting in Concert* holding 51,32,834 shares (8.99%) and 56,32,8834 shares (9.86%) as per the disclosures under Regulation 29(2) of the SAST Regulation for the transactions done on September 17, 2013 and October 01, 2013 respectively. Therefore, the question of making disclosure under Regulation 29(1) did not arise as disclosure under Regulation 29(1) of the SAST Regulation is to be made by *Acquirer together with PAC* acquiring 5% or more in aggregate of shares or voting rights of the target company, while the Noticee already held 8.99% and 9.86% of the total share capital of the Company. Similarly, the Noticee was also not required to make disclosures under Regulation 13(1) of the PIT Regulations

as this disclosure is initial which is required to be given at the time of becoming such holder of more than 5% shares or voting rights in a listed company.

e) Thus, the Noticee submitted that it did not fail to make required disclosure under PIT Regulations and SAST Regulations.

8. The hearing scheduled on November 26, 2018 was attended by Mr. Shashank Belkhede and Mr. Prathmesh Bhatt who were appointed as authorized representatives by the Noticee (hereinafter be referred to as, the “**Authorized Representatives**”). During the hearing, the Authorized Representatives reiterated their submissions dated November 15, 2018 and sought additional time to make submissions. The request of the Authorized Representative was acceded to and the Noticee was given additional time until December 07, 2018 to make submissions.

9. Thereafter, *vide* e-mail dated December 07, 2018, the Noticee submitted additional submissions, a summary of which is produced as under:

- a. The Noticee did not give any sale instructions to MKFSL nor did they receive any contract notes for sale of any such shares for the transaction on June 07, 2013. .
- b. The acquisition on March 31, 2014 was made in pursuance of Deed of Family Settlement which was executed on September 11, 2013. Under the Deed of Family Settlement, the RCM Group (including the Noticee) was to purchase 20,00,000 shares from the JCM Group and accordingly, the same was bought from MKFSL. Noticee presented contract notes for the aforesaid purchase to substantiate its arguments.
- c. The Noticee finally submitted that it did not fail to make any disclosures under PIT Regulations or SAST Regulations.

10. Since inquiry proceedings in the instant matter are concluded, I proceed to decide the case on merit taking into account the allegations levelled against the Noticee in the SCN, submissions of the Noticee towards the SCN and material available on record.

CONSIDERATION OF ISSUES AND FINDINGS

11. The issues that arise for consideration in the instant matter are:

Issue No. I Whether the Noticee failed to make disclosure required under Regulations 13(1), 13(4A) of the PIT Regulations and Regulation 29(1) read with 29(3) of the SAST Regulations as alleged in the SCN?

Issue No. II If yes, whether the failure, on the part of the Noticee would attract monetary penalty under Section 15A (b) of the SEBI Act?

Issue No. III If yes, what would be the monetary penalty that can be imposed upon the Noticee taking into consideration the factors stipulated in Section 15J of the SEBI Act read with Rule 5 (2) of the Adjudication Rules?

Issue No. I **Whether the Noticee failed to make disclosure required under Regulation 13(1), 13(4A) read with 13(5) of the PIT Regulations and Regulation 29(1) read with 29(3) of the SAST Regulations as alleged in the SCN?**

12. I note from the reply of the Noticee that it did not dispute the transfer of shares in / from the account of the Noticee; however, it submitted that the transfer of shares as alleged in the SCN was not on account of acquisition or disposal of shares of the dates mentioned therein. The transactions mentioned in the SCNs which allegedly required disclosures under provisions of PIT Regulations and SAST Regulations are as follows:

Date of Transaction	Holding before Transaction (No. of shares held & their percentage)	Transaction Volume (Number of Shares Transacted and their percentage)	Holding Post Transaction (No. of shares held & their percentage post transaction)	Disclosure Required under
June 07, 2013	2576338 (4.49%)	276338 (-0.46%)	2300000 (4.03%)	Regulation 13(4A) read with 13(5) of the PIT Regulations
March 31, 2014	2300000 (4.03%)	16,00,000 (2.80%)	39,00,000 (6.83%)	Regulation 13(1) and Regulation 29(1) read with 29(3) of the SAST Regulations

13. Regulation 13(4A) of the PIT Regulations requires any person who is a promoter or part of a promoter group of a listed company to disclose to the company as well as the stock exchanges the number of shares held and change in such shareholding if there

is a change in shareholding from the last disclosure made and such change exceeds Rs. 5 Lakhs in value or 25000 shares or 1% of the total shareholding.

- 14.** Thus, to examine the veracity of the submission by the Noticee that disposal of 2,76,338 shares of the Noticee was a transfer by its broker, *MKFSL* for margin maintenance, and that the Noticee did not give any sale instructions to *MKFSL* nor did they receive any contract notes for sale of any such shares, information was sought from *MKFSL*. *MKFSL*, vide reply dated February 26, 2019, informed that that the transfer of 2,76,338 shares on June 07, 2013 from the account of the Noticee to the account of *Mangal Keshav Capital Limited* was on account of margin towards loan against shares. Placing reliance upon material available on record, the reply of the Noticee and the information provided in relation to the transfer of shares by *MKFSL* broker of the Noticee, I am of the considered view that the transaction did not involve any sale of shares but was instead a transfer of shares for margin purpose. Hence, it did not require a disclosure to be made under Regulation 13(4A) read with 13(5) of the PIT Regulations.
- 15.** With regard to the second transaction, the Noticee has submitted that the credit of 16,00,000 shares of the Company on March 31, 2014 was a part of the 20,00,000 shares purchased earlier by the Noticee on September 17, 2013 and October 01, 2013 from *JCM Group* on account of family settlement. I note that the Noticee, through its reply dated December 07, 2018, submitted a deed of family settlement along with the contract notes for settlement number 2013178, 2013129 and 2013119 for dates September 17, 2013, October 01, 2013 and September 17, 2013 respectively, which indicated that the Noticee was to get 20,00,000 equity shares of the Company on account of a family settlement. The Noticee has also submitted that disclosures for acquisition of 10,00,000 shares on September 17, 2013 and 10,00,000 shares on October 03, 2010 had already been made to the BSE under Regulation 13(4), 13(4A) read with 13(5) of the PIT Regulations and Regulation 29(2) read with 29(3) of the SAST Regulations.
- 16.** I have perused the list of disclosures relating to shareholding of the Noticee in the Company as available on the website of the BSE and I note that the aforementioned two disclosures were made on the dates claimed by the Noticee. Therefore, I note that

the information of acquisition of 20,00,000 shares of the Company by the Noticee was available in the public domain within the time frame prescribed in the regulations.

17. To ascertain the veracity of Noticee's submissions and the details of receipt of the 20,00,000 shares acquired by the Noticee, information was sought from the Broker of the Noticee, i.e. MKFSL.

18. In its reply dated January 29, 2019, MKFSL informed that the Noticee purchased shares of the Company as mentioned hereunder:

Exchange	No. of shares	Date of Purchase	Settlement No.	Date of receipt in the pool account of broker	Date of transfer from pool account to beneficiary account of broker MKFSL
BSE	5,00,000	17.9.2013	2013119	19.9.2013	19.9.2013
NSE	5,00,000	17.9.2013	2013178	19.9.2013	19.9.2013
BSE	10,00,000	01.10.2013	2013129	04.10.2013	04.10.2013

Through the same e-mail, MKFSL confirmed that these shares were transferred from the pool account of the broker to the beneficial ownership (BO) account of the broker on the date of receipt in the pool account of broker as the Noticee had outstanding debit balance. It also informed that after receipt of the outstanding debit balance, 21,00,957 shares of the Company were transferred to the BO account of the Noticee on December 31, 2013. I note that on the same day, the same 21,00,957 shares were again transferred from the BO account of Noticee to the BO account of NBFC Company, Mangal Keshav Capital Limited. MKFSL also produced the delivery instruction slip for the aforesaid transfer of 21,00,957 shares of the Company from the BO account of the Noticee.

19. I also note that MKFSL, in its reply dated January 29, 2019 further informed that the Noticee maintained a *loan against shares* facility with a NBFC Company, Mangal

Keshav Capital Limited, against which the 21,00,957 shares were transferred to the account of the NBFC on Dec 31, 2013. On closure of the aforesaid facility, 16,00,000 shares of the Company were finally transferred to the BO account of the Noticee from the account of the Mangal Keshav Capital Limited on March 31, 2014. Thus, MKFSL informed that the transaction involving credit of 16,00,000 shares to the account of the Noticee was not a sale transaction.

20. I have perused the statement of transactions, delivery instructions slips and relevant contract notes, provided by the Noticee as well as MKFSL. On perusal, I am of the view that the credit of 16,00,000 shares of the Company on March 31, 2014 was a credit of shares on account of closure of *loan against shares* facility, and the said shares had been purchased by the Noticee earlier on September 17, 2013 and October 01, 2014, which were disclosed by the Noticee. Therefore, the credit of 16,00,000 shares on March 31, 2014 did not entail any disclosures to be made under Regulation 13(1) of the PIT Regulations as well as Regulation 29(1) read with 29(3) of the SAST Regulations.

21. In view of the aforesaid, it is established that the Noticee was not required to make any disclosure in respect of the impugned transactions. Therefore, I am of the view that violations of Regulations 13(1), 13(4A) of the PIT Regulations and Regulation 29(1) read with 29(3) of the SAST Regulations do not stand established.

Issue No. II If yes, whether the failure, on the part of the Noticee would attract monetary penalty under Section 15A (b) of the SEBI Act?

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Issue No. III If yes, what would be the monetary penalty that can be imposed upon the Noticee taking into consideration the factors stipulated in Section 15J of the SEBI Act read with Rule 5 (2) of the Adjudication Rules?

22. Since there was no failure on the part of the Noticee in making disclosures, levy of monetary penalty is not warranted in this case. Therefore, Issues No. II & III do not require any further examination.

ORDER

23. Accordingly, taking into account the observations made in the paragraphs hereinabove and in exercise of powers conferred upon me under Section 15 of the SEBI Act read with Rule 5 of the Adjudication Rules, I am of the view that no penalty is warranted to be imposed upon the Noticee in the instant matter and the case / SCN is disposed of accordingly.

24. Copies of this Adjudication Order are being sent to the Noticee and also to SEBI in terms of Rule 6 of the Adjudication Rules.

Date : February 27, 2019

Place : Mumbai

(Maninder Cheema)

Adjudicating Officer