

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

Rushabh Jitendra Shah (PAN No.: ABAPS7515F)
Minesh Devendra Shah (PAN No.: AAFPS1834H)

In the matter of Aadi industries

CIN No.: U25203MH1994PLC206053

BACKGROUND OF THE CASE

1. Securities and Exchange Board of India ("SEBI") conducted examination in the scrip of Aadi Industries Ltd. (Aadi / company), a company listed at Bombay Stock Exchange Limited('BSE'), during the period of January 01, 2013 to December 31, 2014 (examination period). During the period of examination it was observed that promoters Directors of the company namely; Rushabh Jitendra Shah (PAN No.: ABAPS7515F) and Minesh Devendra Shah (PAN No.: AAFPS1834H) failed to make necessary disclosures under regulation 13(1), 13(3) and 13(5) of SEBI (Prohibition of Insider Trading) Regulations, 1992 (hereinafter referred to as the 'PIT Regulations') and Regulation 29(1), 29(2) and 29(3) of SEBI (Substantial Acquisition of Shares and Takeovers) Regulations, 2011 (SAST Regulations) for the transactions carried out during examination period.

APPOINTMENT OF ADJUDICATING OFFICER

2. Adjudicating Officer was appointed on April 23, 2018 under section 15I of Securities and Exchange Board of India Act, 1992 (SEBI Act, 1992) and under Rule 3 of Securities and Exchange Board of India (Procedure for Holding Inquiry and Imposing Penalties by Adjudicating Officer) Rules, 1995 (Adjudication Rules) to inquire into and adjudge under section 15(A)(b) in respect of Rushabh Jitendra Shah (The Noticee no. 1) the alleged violations of Regulation 13(4), 13(4A) read with 13(5) and violation of Model Code of Conduct prescribed by Regulation 12(1) (Schedule I Part A, para 4.2 of SEBI(Prohibition of Insider Trading Regulation, 1992 (SEBI PIT Regulation, 1992) and Regulation 29(2) read with 29(3) of SEBI (Substantial Acquisition of Shares and Takeover) Regulations, 2011 (SEBI SAST Regulations, 2011) and in respect of Minesh Shah (The Noticee no. 2)(collectively referred as Noticees) the alleged violation of Regulation 13(1), 13(3) read with 13(5) of SEBI(PIT) Regulations, 1992 and Regulation 29(1) and 29(2) read with 29(3) of SEBI (SAST) Regulations, 2011 while dealing in the scrip of Aadi Industries Limited.

SHOW CAUSE NOTICE, WRITTEN SUBMISSIONS, PERSONAL HEARING, ADDITIONAL WRITTEN SUBMISSIONS

3. A Show Cause Notice (SCN) dated June 04, 2018 was issued by the AO under Rule 4(1) of the SEBI (Procedure for Holding Inquiry and Imposing Penalties by Adjudicating Officer) Rules, 1995 (AO Rules) in the matter to the Noticees. Subsequently, a Hearing notice dated June 25, 2018 under Rule 4(3) of AO rules were issued to the Noticees affording them opportunity of

personal hearing on July 18, 2018. The Noticee No. 1 vide his letter dated July 10, 2018, submitted his reply to the aforesaid SCN, wherein the Noticee admitted said defaults with respect to disclosures under PIT and SAST regulations.

4. Thereafter, on the scheduled date of hearing the Authorized Representatives (ARs) of the Noticees viz. Ms. Krupa Joisar reiterated their earlier submissions made vide letter dated July 10, 2018 and also submitted that the Noticees are in the process of filing Settlement application under SEBI (Settlement of Administrative and Civil Proceedings) Regulations, 2014 for the alleged violations as mentioned in the SCN. In view of the same, the Noticees were given time till July 23, 2018 to file settlement applications and sending a due confirmation in the regard to the office of Adjudicating officer.
5. However, since the same was not received till September 15, 2018, the Noticee was contacted on mobile no. 9869441118 and once again reminded to send requisite intimation in this regard. The Noticee telephonically once again admitted the charges alleged in the SCN and reiterated its stand that they are to file settlement application.
6. However, since no further submissions were received by the entities till September 30, 2018, the Noticees were once again contacted on mobile no. 9869441118, advising to file their replies in the matter within a week, failing which, the matter shall be proceeded ex-parte.
7. Subsequently, vide e-mail dated October 09, 2018, Noticee no. 1 mailed scanned copies of the settlement application, which Noticees claimed to have filed with SEBI under SEBI (Settlement of Administrative and Civil Proceedings) Regulations, 2014. It was however observed that the scanned copy of the settlement application emailed by the Noticee, did not carry any acknowledgement proof of filing the aforesaid application with SEBI. Also, it was confirmed by the operational department of SEBI that no settlement application was filed by the Noticees in the matter, as claimed by them.
8. Therefore, vide another e-mail December 20, 2018, the Noticees were once again informed that the operational department of SEBI has not received any settlement application from the Noticees. Vide such mail, the Noticees were also advised to file their submissions before January 15, 2019, failing which, the proceedings shall be proceeded and order in the matter shall be passed in the matter.
9. Simultaneously, vide e-mail dated January 08, 2019 and January 10, 2019, enquiries were made with respective department to ascertain whether the Noticees had filed any settlement proceedings in the matter. The Operational Departments vide e-mail dated January 09, 2019 at 10.39 AM and January 10, 2019 at 04. 41 PM respectively, confirmed that no such application was received by SEBI in the instant matter, by the Noticees.
10. Coincidentally vide e-mail dated January 10, 2019 at 2:10 PM, the Noticees forwarded same set of unacknowledged scanned copies of settlement application, based on which it was earlier also claimed by the Noticee, vide their mail dated October 09, 2018, that they had filed settlement application with SEBI.
11. In view of above, again vide mail dated January 11, 2019, operational department of SEBI was enquired about settlement application filed by the Noticees in the matter. In response, the operational department of SEBI vide e-mail dated January 11, 2019, informed that *"it has received a settlement application from Mr. Rushabh Shah in the matter of Aadi Industries Limited on January 11, 2019 (at 3.35 pm)."*

12. Subsequently, vide e-mail dated January 22, 2019 and March 18, 2019, it was informed by operational department that *"we are in receipt of settlement application in the present matter and the same was returned to the applicant"*. Details of the settlement application filed by the Noticee in the present matter are as below;

Name of the Noticee	Date of receipt of settlement application	Status of the application
Rushabh Jitendra Shah	January 11, 2019	Returned vide letter no. SEBI/HO/EFD-2/CSD/OW/P/2019/2106/1 dated January 21, 2019 on ground of not accompanied with application fees as specified under Regulation 3(2) of the Settlement Regulations
Rushabh Jitendra Shah	January 28, 2019	Returned vide letter no. SEBI/HO/EFD-2/CSD/OW/P/2019/3084/1 dated January 31, 2019 on ground of not accompanied with application fees. The applicant was advised to submit the revised application in terms of SEBI (Settlement Proceedings) Regulations, 2018, within fifteen days from the date of letter along with application for condonation of delay and copy of SCN dated June 04, 2018.

13. However, Operation Department did not receive any settlement application filed by the Noticee; Minesh Shah, in the matter, till this time. Further, vide e-mail dated March 20, 2019, the operational department, SEBI once again informed that it had received a settlement application dated March 18, 2019 received on March 20, 2019 from the Noticee; Rushabh Jitendra Shah.
14. Subsequently, vide letter dated March 27, 2019, the Noticee; Rushabh Shah was informed by the operational Department, SEBI that *"the said settlement application has been filed beyond the stipulated time of 15 days."* Therefore, by virtue of Regulation 3(6) of the SEBI (Settlement proceedings) Regulations, 2018, which reads as *"the applicant whose application has been returned under sub-regulation (5) may, within fifteen days from the date of communication from the board, submit the complete and revised application that conforms to the requirements of these regulations."* the Noticee's settlement application along with documents was returned to the Noticee.
15. It was once again confirmed by operational Department vide e-mail dated March 20, 2019 and March 27, 2019 that no settlement application was filed by the Noticee; N Minesh Shah.

16. Therefore, it is observed that the Noticees despite of giving several reminders and opportunities, neither filed the settlement application within the stipulated time and manner nor submitted any substantial reply in the matter regardless of having clear knowledge and information, in this regard. It is further noted that the Noticees claimed to file settlement application under SEBI (Settlement proceedings) Regulations, 2018. Here, attention may be drawn towards regulation 4 of SEBI (Settlement proceedings) Regulations, 2018, (came into force on January 01, 2019) which says that;
- 4(1) *“An application in respect of any specified proceeding pending before the Board shall not be considered if it is made after sixty days from the date of service of the notice to show cause or supplementary notice(s) to show cause, whichever is later.*
- (2) *Notwithstanding anything contained in sub-regulation (1), the Board may consider the application, if satisfied that there was sufficient cause for not filing it within the specified period and it is accompanied with non-refundable fees as specified in Part-B of the Schedule-I:*
- Provided that, where the application is filed after sixty calendar days from the expiry of the period specified in sub-regulation (1), the settlement amount determined in accordance with Schedule-II of these regulations shall be increased by twenty five percent:*
- Provided further that, no such delayed application shall be considered if the application is filed after one hundred and twenty calendar days from the expiry of the period specified in sub-regulation (1) or after the first hearing, whichever is earlier.”*
17. From above, it is clear that the settlement application filed under SEBI (Settlement proceedings) Regulations, 2018, shall not be considered after sixty days from the date of service of the notice to show cause or supplementary notice(s) to show cause, whichever is later. It is further noted that the delayed application for settlement can be filed even after expiry of sixty calendar days but not beyond one hundred and twenty days from the expiry of the period specified in sub-regulation (1) or after the first hearing, whichever is earlier, provided the Noticee has made an application as stipulated under the regulations for condonation of delay, within the stipulated time as mentioned in the regulations. However, it is noted that in the instant matter no such application of condonation of delay has been filed by the Noticees within the stipulated period i.e. within one hundred and eighty days from from the date of service of the notice to show cause or supplementary notice(s) to show cause, whichever is later or after the first hearing in the matter, despite of clear directions in this regard.
18. Moreover, the aforesaid regulation clearly says that no such delayed application shall be considered if the application is filed after one hundred and twenty calendar days from the expiry of the period specified in sub-regulation (1) i.e. sixty days or after the first hearing, whichever is earlier. It is further noted that the Noticees were served SCN on June 07, 2018 and were granted opportunity of personal hearing in the matter on July 18, 2018. Therefore, it is clear that settlement application, if any, had to be filed by the Noticees not beyond expiry of one hundred and eighty days from June 07, 2018 i.e. December 07, 2018 in terms of regulation 4 of SEBI (Settlement proceedings) Regulations, 2018.
19. From above, it is clear that despite of clear advice and directions sent to the Noticees in the instant proceedings on several occasions, the Noticees failed to establish the fact that they have filed / in the process of filing settlement application under SEBI (Settlement of Administrative and Civil Proceedings) Regulations, 2014, as stipulated under SEBI rules and regulations, the proceedings is now proceeded from the stage where they were pending with the AO.

20. Also, the Noticees vide e-mail December 20, 2018 were notified that in case no progress is reported as on January 15, 2019, the current proceedings shall be continued from the stage where they are pending. Even after the lapse of the given time the entities have not come forward to report any progress in the matter, Given that the reply of the Noticees are on records, the hearing opportunity has been availed by the Noticees and that the settlement applications has been returned to the applicants, which they have not yet filed after rectification despite lapse of considerable time. Therefore, from above it appears that the Noticees have been stalling the instant proceedings.
21. Given all of the above where it is clear that the noticees were provided enough opportunities to avail of the processes, the matter is now being proceeded forward based on the information available on records.

CONSIDERATION OF ISSUES

22. Based on the analysis of the SCN, the replies of the Noticees and the material provided by the Noticees in their submissions available on records, the following issues arise for consideration in the present case:
- i. **Whether Noticee 1 has violated Regulation 13(4), 13(4A) read with 13(5) and Model Code of Conduct prescribed by Regulation 12(1) (Schedule I Part A, para 4.2 of SEBI PIT Regulation and Regulation 29(2) read with 29(3) of SAST Regulations and Noticee 2 has violated Regulation 13(1), 13(3) read with 13(5) of SEBI(PIT) Regulations, 1992 and Regulation 29(1) and 29(2) read with 29(3) of SEBI (SAST) Regulations, 2011?**
 - ii. **Whether the Noticees are liable for monetary penalty under Sections 15A(b) and 15HB of the SEBI Act 1992?**
 - iii. **If so, what quantum of monetary penalty should be imposed on the Noticees taking into consideration the factors mentioned in Section 15J of the SEBI Act?**
23. The relevant provisions of law for which compliance is being examined is as under:

SAST REGULATIONS, 2011

Disclosure of acquisition and disposal.

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 share holding and voting rights in such target company in such form as may be specified.*

(2) *Any person, who together with persons acting in concert with him, holds shares or voting rights entitling them to five per cent or more of the shares or voting rights in a target company, shall disclose the number of shares or voting rights held and change in shareholding or voting rights, even if such change results in shareholding falling below five per cent, if there has been change in such holdings from the last disclosure made under sub-regulation (1) or under this sub-regulation; and such change exceeds two per cent of total shareholding or voting rights in the 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.

PIT REGULATIONS

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

13. (1) Any person who holds more than 5% shares or voting rights in any listed company shall disclose to the company, 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.
- 13(3) Any person who holds more than 5% shares for voting rights in any listed company shall disclose to the company the number of shares or voting rights held and change in shareholding or voting rights, even if such change results in shareholding falling below 5%, if there has been change in such holdings from the last disclosure made under sub-regulation (1) or under this sub-regulation; and such change exceeds 2% of total shareholding or voting rights in the company.
- 13(5) The disclosure mentioned 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.

SCHEDULE I

[Under regulation 12(1)]

PART A

MODEL CODE OF CONDUCT FOR PREVENTION OF

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.

Issue No. I: Whether Noticee 1 has violated Regulation 13(4), 13(4A) read with 13(5) and Model Code of Conduct prescribed by Regulation 12(1) (Schedule I Part A, para 4.2 of SEBI PIT Regulation and Regulation 29(2) read with 29(3) of SAST Regulations and Noticee 2 has violated Regulation 13(1), 13(3) read with 13(5) of SEBI(PIT) Regulations, 1992 and Regulation 29(1) and 29(2) read with 29(3) of SEBI (SAST) Regulations, 2011?

24. It is observed that Central Depository Services Ltd. (CDSL) vide e-mail dated September 08, 2017, provided details of statement of transaction of the demat accounts of Rushabh Jitendra Shah and Minesh Shah. The details of transfer of shares in respect of Rushabh Jitendra Shah vis-a-vis the alleged violation during the examination period is as under (as provided by CDSL):

Transaction Statement of Rushabh Jitendra Shah - Noticee 1						
Date	Dcr Indc	Qty Traded	Cumulative Holding	Holding as % of Share Capital	PIT Violation	SAST Violation
Holding as on 31 Dec 2012			2039060	20.39		
09/01/2013	D	1000000	1039060	10.39	Reg 13(4), (4A) r.w. 13 (5)	Reg 29 (2) r.w. 29(3)
11/01/2013	C	1200	1040260	10.4	Para 4.2 of Part A of Model code of conduct	NA
14/01/2013	C	1001	1041261	10.41	NA	NA
15/01/2013	C	500	1041761	10.42	NA	NA
18/01/2013	C	600	1042361	10.42	NA	NA
21/01/2013	C	2000	1044361	10.44	NA	NA
22/01/2013	C	2000	1046361	10.46	NA	NA
23/01/2013	C	325	1046686	10.47	NA	NA
28/01/2013	C	300	1046986	10.47	NA	NA
12/02/2013	C	58838	1105824	11.06	Reg 13(4), (4A) r.w. 13 (5)	NA
13/02/2013	C	6250	1112074	11.12	NA	NA
14/02/2013	C	200	1112274	11.12	NA	NA
15/02/2013	C	31	1112305	11.12	NA	NA
18/02/2013	C	240	1112545	11.13	NA	NA
06/03/2013	C	1000	1113545	11.14	NA	NA
07/03/2013	C	300	1113845	11.14	NA	NA
11/03/2013	C	601	1114446	11.14	NA	NA
13/03/2013	C	5000	1119446	11.19	NA	NA
14/03/2013	C	1000	1120446	11.2	NA	NA
15/03/2013	C	1000	1121446	11.21	NA	NA
18/03/2013	C	200	1121646	11.22	NA	NA
19/03/2013	C	1000	1122646	11.23	NA	NA
20/03/2013	C	6513	1129159	11.29	NA	NA
21/03/2013	C	62480	1191639	11.92	Reg 13(4), (4A) r.w. 13 (5)	NA
26/03/2013	C	1000000	2191639	21.92	Reg 13(4), (4A) r.w. 13 (5)	Reg 29 (2) r.w. 29(3)
05/04/2013	D	1000000	1191639	11.92	Reg 13(4), (4A) r.w. 13 (5). Para 4.2 of Part A of Model code of conduct	Reg 29 (2) r.w. 29(3)
05/04/2013	C	6500	1198139	11.98	NA	NA
08/04/2013	C	2100	1200239	12	Para 4.2 of Part A of Model code of conduct	NA
09/04/2013	C	12482	1212721	12.13	NA	NA
23/04/2013	C	11003	1223724	12.24	Reg 13(4), (4A) r.w. 13 (5)	NA
13/05/2013	C	500	1224224	12.24	NA	NA
14/05/2013	C	10	1224234	12.24	NA	NA
16/05/2013	C	10	1224244	12.24	NA	NA
17/05/2013	C	50	1224294	12.24	NA	NA
28/05/2013	C	40	1224334	12.24	NA	NA
29/05/2013	C	50	1224384	12.24	NA	NA
31/05/2013	C	300	1224684	12.25	NA	NA

Transaction Statement of Rushabh Jitendra Shah - Noticee 1						
Date	Drcr Indc	Qty Traded	Cumulative Holding	Holding as % of Share Capital	PIT Violation	SAST Violation
10/06/2013	C	21390	1246074	12.46	NA	NA
11/06/2013	C	3801	1249875	12.5	Reg 13(4), (4A) r.w. 13 (5)	NA
13/06/2013	C	4000	1253875	12.54	NA	NA
14/06/2013	C	200	1254075	12.54	NA	NA
18/06/2013	C	32599	1286674	12.87	Reg 13(4), (4A) r.w. 13 (5)	NA
25/06/2013	C	1948	1288622	12.89	NA	NA
26/06/2013	C	25	1288647	12.89	NA	NA
27/06/2013	C	1000000	2288647	22.89	Reg 13(4), (4A) r.w. 13 (5)	Reg 29 (2) r.w. 29(3)
28/06/2013	C	75990	2364637	23.65	Reg 13(4), (4A) r.w. 13 (5)	NA
01/07/2013	C	145357	2509994	25.1	Reg 13(4), (4A) r.w. 13 (5)	Reg 29 (2) r.w. 29(3)
04/07/2013	C	544	2510538	25.11	NA	NA
06/07/2013	D	1000000	1510538	15.11	Reg 13(4), (4A) r.w. 13 (5). Para 4.2 of Part A of Model code of conduct	Reg 29 (2) r.w. 29(3)
08/07/2013	C	180	1510718	15.11	Para 4.2 of Part A of Model code of conduct	NA
12/07/2013	C	47500	1558218	15.58	Reg 13(4), (4A) r.w. 13 (5)	NA
18/07/2013	C	100	1558318	15.58	NA	NA
22/07/2013	C	10	1558328	15.58	NA	NA
16/08/2013	C	31662	1589990	15.9	Reg 13(4), (4A) r.w. 13 (5)	NA
27/08/2013	C	10330	1600320	16	NA	NA
13/09/2013	C	22400	1622720	16.23	Reg 13(4), (4A) r.w. 13 (5)	NA
14/09/2013	C	25581	1648301	16.48	Reg 13(4), (4A) r.w. 13 (5)	NA
16/09/2013	C	5010	1653311	16.53	NA	NA
23/09/2013	C	10	1653321	16.53	NA	NA
24/09/2013	C	69452	1722773	17.23	Reg 13(4), (4A) r.w. 13 (5)	Reg 29 (2) r.w. 29(3)
25/09/2013	C	300000	2022773	20.23	Reg 13(4), (4A) r.w. 13 (5).	NA
25/09/2013	D	400000	1622773	16.23	Para 4.2 of Part A of Model code of conduct	NA
26/09/2013	C	1000000	2622773	26.23	Reg 13(4), (4A) r.w. 13 (5). Model Para 4.2 of Part A of Model code of conduct	Reg 29 (2) r.w. 29(3)
27/09/2013	C	8760	2631533	26.32	NA	NA
08/10/2013	C	21000	2652533	26.53	Reg 13(4), (4A) r.w. 13 (5)	NA
11/10/2013	C	500	2653033	26.53	NA	NA
19/10/2013	D	1000000	1653033	16.53	Reg 13(4), (4A) r.w. 13 (5). Para 4.2 of Part A of Model code of conduct	Reg 29 (2) r.w. 29(3)
29/10/2013	C	22666	1675699	16.76	Para 4.2 of Part A of Model code of conduct	NA
06/11/2013	C	11000	1686699	16.87	Reg 13(4), (4A) r.w. 13 (5)	NA
08/11/2013	C	40000	1726699	17.27	Reg 13(4), (4A) r.w. 13 (5)	NA
03/12/2013	C	48111	1774810	17.75	Reg 13(4), (4A) r.w. 13 (5)	NA
11/12/2013	C	54654	1829464	18.29	Reg 13(4), (4A) r.w. 13 (5)	NA
16/12/2013	C	227691	2057155	20.57	NA	Reg 29 (2) r.w. 29(3)
31/12/2013	C	650000	2707155	27.07	Reg 13(4), (4A) r.w. 13 (5)	Reg 29 (2) r.w. 29(3)

Transaction Statement of Rushabh Jitendra Shah - Noticee 1						
Date	Drcr Indc	Qty Traded	Cumulative Holding	Holding as % of Share Capital	PIT Violation	SAST Violation
06/01/2014	D	650000	2057155	20.57	Reg 13(4), (4A) r.w. 13 (5).Para 4.2 of Part A of Model code of conduct	NA
06/03/2014	C	17316	2074471	20.74	NA	Reg 29 (2) r.w. 29(3)
13/03/2014	C	400	2074871	20.75	Para 4.2 of Part A of Model code of conduct	NA
14/03/2014	C	1600	2076471	20.76	NA	NA
18/03/2014	C	370	2076841	20.77	NA	NA
19/03/2014	C	472	2077313	20.77	NA	NA
20/03/2014	C	2130	2079443	20.79	NA	NA
21/03/2014	C	285	2079728	20.8	NA	NA
22/03/2014	D	140257	1939471	19.39	Reg 13(4), (4A) r.w. 13 (5). Para 4.2 of Part A of Model code of conduct	NA
24/03/2014	C	400	1939871	19.4	Para 4.2 of Part A of Model code of conduct	NA
25/03/2014	C	315	1940186	19.4	NA	NA
25/03/2014	D	715	1939471	19.39	Para 4.2 of Part A of Model code of conduct	NA
26/03/2014	D	86916	1852555	18.53	Reg 13(4), (4A) r.w. 13 (5)	Reg 29 (2) r.w. 29(3)
29/03/2014	D	55972	1796583	17.97	NA	NA
29/03/2014	C	55972	1852555	18.53	Para 4.2 of Part A of Model code of conduct	NA
02/04/2014	C	633875	2486430	24.86	Reg 13(4), (4A) r.w. 13 (5)	Reg 29 (2) r.w. 29(3)
22/04/2014	C	86916	2573346	25.73	Reg 13(4), (4A) r.w. 13 (5)	NA
22/04/2014	D	633875	1939471	19.39	Reg 13(4), (4A) r.w. 13 (5).Para 4.2 of Part A of Model code of conduct	Reg 29 (2) r.w. 29(3)
28/04/2014	C	85000	2024471	20.24	Reg 13(4), (4A) r.w. 13 (5).Para 4.2 of Part A of Model code of conduct	NA
29/04/2014	C	55972	2080443	20.8	Reg 13(4), (4A) r.w. 13 (5)	NA
24/06/2014	D	86916	1993527	19.94	Reg 13(4), (4A) r.w. 13 (5).Para 4.2 of Part A of Model code of conduct	NA
27/06/2014	D	100000	1893527	18.94	Reg 13(4), (4A) r.w. 13 (5)	NA
27/06/2014	C	841875	2735402	27.35	Para 4.2 of Part A of Model code of conduct	Reg 29 (2) r.w. 29(3)
28/06/2014	D	140972	2594430	25.94	Reg 13(4), (4A) r.w. 13 (5).Para 4.2 of Part A of Model code of conduct	NA
30/06/2014	C	1	2594431	25.94	Para 4.2 of Part A of Model code of conduct	NA
30/06/2014	D	108002	2486429	24.86	Reg 13(4), (4A) r.w. 13 (5)	Reg 29 (2) r.w. 29(3)

25. Further, the details of transfer of shares in respect of Minesh Shah vis-a-vis the alleged violation is as under(as provided by CDSL):

Transaction Statement of Minesh Devendra Shah - Noticee 2						
Date	Drcr Indc	Qty Traded	Cumulative Holding	Holding as % of Share Capital	PIT Violation	SAST Violation
Holding as on 24 November 2011			0	0	NA	NA
25/11/2011	C	300000	300000	3	NA	NA
26/11/2011	D	300000	0	0	NA	NA
13/12/2011	C	21566	21566	0.22	NA	NA
14/02/2012	C	700000	721566	7.22	Reg 13 (1)	Reg 29(1) r.w 29(3)
30/03/2012	D	700000	21566	0.22	Reg 13 (3) r.w. 13 (5)	Reg 29(2) r.w 29(3)
10/04/2012	C	700000	721566	7.22	Reg 13 (1)	Reg 29(1) r.w 29(3)
30/06/2012	D	700000	21566	0.22	Reg 13 (3) r.w. 13 (5)	Reg 29(2) r.w 29(3)

02/07/2012	C	700000	721566	7.22	Reg 13 (1)	Reg 29(1) r.w 29(3)
28/09/2012	D	700000	21566	0.22	Reg 13 (3) r.w. 13 (5)	Reg 29(2) r.w 29(3)
08/10/2012	C	1000000	1021566	10.22	Reg 13 (1)	Reg 29(1) r.w 29(1)
28/12/2012	D	1000000	21566	0.22	Reg 13 (3) r.w. 13 (5)	Reg 29(2) r.w 29(3)
09/01/2013	C	1000000	1021566	10.22	Reg 13 (1)	Reg 29(1) r.w 29(3)
26/03/2013	D	1000000	21566	0.22	Reg 13 (3) r.w. 13 (5)	Reg 29(2) r.w 29(3)
05/04/2013	C	1000000	1021566	10.22	Reg 13 (1)	Reg 29(1) r.w 29(3)
27/06/2013	D	1000000	21566	0.22	Reg 13 (3) r.w. 13 (5)	Reg 29(2) r.w 29(3)
06/07/2013	C	1000000	1021566	10.22	Reg 13 (1)	Reg 29(1) r.w 29(3)
26/09/2013	D	1000000	21566	0.22	Reg 13 (3) r.w. 13 (5)	Reg 29(2) r.w 29(3)
19/10/2013	C	1000000	1021566	10.22	Reg 13 (1)	Reg 29(1) r.w 29(3)
31/12/2013	D	650000	371566	3.72	Reg 13 (3) r.w. 13 (5)	Reg 29(2) r.w 29(3)
06/01/2014	C	650000	1021566	10.22	Reg 13 (1)	Reg 29(1) r.w 29(3)
02/04/2014	D	633875	387691	3.88	Reg 13 (3) r.w. 13 (5)	Reg 29(2) r.w 29(3)
22/04/2014	C	633875	1021566	10.22	Reg 13 (1)	Reg 29(1) r.w 29(3)
19/06/2014	C	208000	1229566	12.3	Reg 13 (3) r.w. 13 (5)	Reg 29(2) r.w 29(3)
27/06/2014	D	841875	387691	3.88	Reg 13 (3) r.w. 13 (5)	Reg 29(2) r.w 29(3)

26. From the transaction statement of Minesh shah and Rushabh shah (Promoter Directors of the Company), it is observed that Notice no. 2 during the period of examination, executed off-market transactions and acquired more than 5% of share capital of the target company during each of the quarter period with effect from January 2012.
27. By virtue of Regulation 29(1) SAST Regulations and 13(1) of PIT Regulations, 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, 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 the stock exchanges and the Target Company.
28. It is further observed that Rushabh Shah during the period from January 01, 2013 to December 31, 2014, had executed various on-market and off-market transactions. Further, It is observed that SEBI vide e-mail dated November 05, 2014 had sought information from BSE whether the Noticees made disclosures to the Exchange, as required under SAST Regulations and PIT Regulations
29. Subsequently, BSE vide e-mail dated November 12, 2014 informed that *“as per Exchange record, no disclosures were received under Regulation 13 of SEBI PIT Regulations in the scrip of Aadi industries from any of the entities during the examination period”*
30. Moreover, the Noticees vide their e-mail dated February 27, 2015, have submitted that *“the default in non-submission of various declaration with stock Exchange is purely due to ignorance of law and without any mala fide intentions.”*
31. Subsequently, vide letter dated July 10, 2018, the Noticee no. 1 has submitted that *“I agree that I have inadvertently missed out on compliances of disclosure during the said period and I was not guided with applicable compliances”* Therefore, aforesaid submissions on part of the Noticee amount to admission.
32. Thereafter, vide mail dated July 27, 2018, the Noticee had submitted scanned copies of disclosures made to BSE by Mr. Rushabh Shah and Minesh Shah for change in their shareholding pattern for Financial years 2012-13, 2013-14 and 2014-15 under Regulation 13(1), 13(3), 13(4A) of SEBI (prohibition of Insider Trading) Regulation, 1992 and Regulation 29(1), 29(2) of SEBI (Substantial Acquisition of shares and Takeovers) Regulation, 2011.
33. However, in this regard, it is observed that the documents relied upon by the Noticee do not prove the receipt of the disclosure by the BSE for the purpose of dissemination thereof to public.

In this case, there is no acknowledgement from the BSE on the disclosures documents made by the Noticee. And these documents appear to be prepared to show a case of compliance where in fact there was no compliance of any of the disclosure norms as is evident from the exchange website.

34. In this regard, it is relevant to mention that Hon'ble Calcutta High Court in the matter of Arun Kumar Bajauria vs SEBI in writ petition no. 331 of 2001 decided on March 27, 2001, wherein it was held that it was for the appellant to establish by cogent material on record that it had sent the compliance report to BSE and that those had been received by it.
35. Here, it is pertinent to mention that in the matter of Kalindee Rail Nirman (Engineers) Limited vs SEBI decided on July 19, 2001, Hon'ble SAT held that -
"... As observed by the Calcutta High Court, the agency through which the document is sent acts as the agent of the sender and if a dispute were to arise whether the said documents has been received by the addressee or not, the onus would be on the sender to establish the fact by clear and cogent evidence in this regard. Admittedly, the appellant has not placed on record any acknowledgement received from BSE in regard to the mails that were allegedly sent containing the compliance reports. On the other hand, we have on record a letter from BSE specifically stating that it had not received the compliance reports for the aforesaid quarters from the appellant..."
36. Moreover, as per the data available on BSE website, the Noticee, till the date of passing of this order, has not made mandatory disclosures under PIT and SAST regulations for the relevant period.
37. In light of above, it is clear that submissions of the Noticee for the alleged violation of non-disclosures under PIT and SAST Regulations, do not come clear on their compliance with the disclosure norms.
38. However, to deal with Noticees contention that *"the default in non-submission of various declaration with stock Exchange is purely due to ignorance of law and without any malafide intentions."*, reliance is placed on the summary of principles as mentioned by the Hon'ble Bombay High Court in the matter of SEBI vs. Cabot International Capital Corporation (2004) 51 SCL 307 (BOM.), which read as follows: -
"Mens rea is not essential element for imposing penalty for breach of civil obligations or liabilities"
".....The SEBI Act and the Regulations, arc intended to regulate the Security Market and the related aspects, the imposition of penalty, in the given, facts and circumstances of the case, cannot be tested on the ground of "no mens rea, no penalty". For breaches of provisions of SEBI Act and Regulations, according to us, which are civil in nature, mens rea is not essential. On particular facts and circumstances of the case, proper exercise or judicial discretion is a must, but not on a foundation that mens rea is an essential to impose penalty in each and every breach of provisions of the SEBI Act....."
39. It is further observed that by virtue of para 4.2 of Model Code of Conduct prescribed by Regulation 12(1) PIT regulations, 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. However, from the transaction statement of Rushabh Shah (as provided by CDSL), it is noted that he had taken opposite position within six months of his previous transaction during the period of examination, which leads to violation of provision of Model Code of Conduct.
40. It is, therefore, concluded that Noticees had failed to disclose their shareholding to BSE, and failed to comply with the model code of conduct as prescribed under the PIT Regs . Therefore, Noticee no. 1 violated Regulation 13(4), 13(4A) read with 13(5) and Model Code of Conduct prescribed by Regulation 12(1) Schedule I Part A, para 4.2 of SEBI PIT Regulation and Regulation 29(2) read with 29(3) of SAST Regulations and Noticee 2 has violated Regulation 13(1), 13(3) read with 13(5)

of SEBI(PTT) Regulations, 1992 and Regulation 29(1) and 29(2) read with 29(3) of SEBI (SAST) Regulations, 2011.

Issue No. II: Whether the Noticees are liable for monetary penalty under Sections 15A(b) and 15HB of the SEBI Act 1992?

41. The aforesaid violations on the part of the Noticees makes the Noticees liable for penalty under Sections 15A(b) and 15HB of the SEBI Act 1992, as applicable, which reads as follows:

Penalty for failure to furnish information, return, etc.

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

(a).....

(b) to file any return or furnish any information, books or other documents within the time specified therefor in the regulations, fails to file return or furnish the same within the time specified therefor in the regulations, he shall be liable to ¹[a penalty]²[which shall not be less than one lakh rupees but which may extend to one lakh rupees for each day during which such failure continues subject to a maximum of one crore rupees]];

(c).....

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 shall not be less than one lakh rupees but which may extend to one crore rupees.*

42. As regards the Noticee, it is clear that it is liable for imposition of penalty as is drawn from the Hon'ble Supreme Court of India Order in the matter of SEBI Vs. Shri Ram Mutual Fund [2006] 68 SCL 216(SC) has also held that:

"In our considered opinion, penalty is attracted as soon as the contravention of the statutory obligation as contemplated by the Act and the Regulations is established and hence the intention of the parties committing such violation becomes wholly irrelevant..."

ISSUE III: If so, how much penalty should be imposed on the Noticee taking into consideration the factors mentioned in section 15J of the SEBI Act?

43. 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 group of investors as a result of the default;

(c) the repetitive nature of the default.

¹ Substituted for "a penalty not exceeding five thousand rupees for every day during which such failure continues", by the SEBI (Amendment) Act, 2002, w.e.f. 29-10-2002.

² Substituted for the words "of one lakh rupees for each day during which such failure continues or one crore rupees whichever is less" by the Securities Laws (Amendment) Act, 2014, w.e.f. 08-09-2014.

3[Explanation.—For the removal of doubts, it is clarified that the power of an adjudicating officer to adjudge the quantum of penalty under sections 15A to 15E, clauses (b) and (c) of section 15F, 15G, 15H and 15HA shall be and shall always be deemed to have been exercised under the provisions of this section.]⁴

44. The material available on record has not quantified the amount of disproportionate gain or unfair advantage made by the Noticees and the loss suffered by the investors as a result. Also there is no material made available on record to assess the amount of loss caused to investors or the amount of disproportionate gain or unfair advantage made by Noticees.
45. As regards Noticees, it is seen that the non-compliance continues till date. It is clear that the act of the Noticee is repetitive in nature.
46. It is noted that the details with respect to promoter shareholding would generally get captured in the shareholding pattern under the quarterly and annual reports of the company. In light of above facts, it has been determined that an appropriate penalty needs to be imposed on the Noticees.

ORDER

47. Having considered all the facts and circumstances of the case, the material available on record, the factors mentioned in Section 15J of the SEBI Act and in exercise of the powers conferred under Section 15I of the SEBI Act read with Rule 5 of the Adjudication Rules, a penalty of Rs. 20,00,000/- (Twenty Lakh Only) is being imposed on Noticee 1 under the provisions of Section 15A(b) for violation of Regulation 13(4), 13(4A) read with 13(5) and Rs.5,00,000/- (Five Lakh Only) under the provisions of Section 15HB of the SEBI Act for violation of Model Code of Conduct prescribed by Regulation 12(1) (Schedule I Part A, para 4.2 of SEBI PIT Regulation)
48. And a penalty of Rs.5,00,000/- (Five Lakh Only) is being imposed on Noticee 2 under the provisions of Section 15A(b) of the SEBI Act for violation of the Regulation 13(1), 13(3) read with 13(5) of SEBI(PIT) Regulations, 1992 and Regulation 29(1) and 29(2) read with 29(3) of SEBI (SAST) Regulations, 2011.
49. The above Noticees shall remit / pay the said amount of penalty within 45 days of receipt of this order either by way of Demand Draft in favour of “SEBI - Penalties Remittable to Government of India”, payable at Mumbai, or through e-payment facility into Bank Account the details of which are given below;

Account No. for remittance of penalties levied by Adjudication Officer	
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

50. The above Noticee shall forward said Demand Draft or the details / confirmation of penalty so paid through e-payment to the Chief General Manager of Enforcement Department of

³ Inserted by Part VIII of Chapter VI of the Finance Act, 2017 vide Gazette Notification No. 7, Extraordinary Part II Section 1 dated March 31, 2017. This shall come into force from April 26, 2017.

SEBI (EFD-DRA-IV). The Format for forwarding details/ confirmations of e-payments made to SEBI shall be in the form as provided At Annexure A of Press Release No. 131/2016 dated August 09, 2016 shown at the SEBI Website which is produced as under;

1. Case Name :
 2. Name of Payee:
 3. Date of payment:
 4. Amount Paid:
 5. Transaction No:
 6. Bank Details in which payment is made:
 7. Payment is made for: (like penalties/disgorgement/recovery/Settlement amount and legal charges along with order details)
51. In terms of rule 6 of the Adjudication Rules, copies of this order are sent to the Noticee and also to the SEBI.

Date: April 30, 2019
Place: Mumbai

Jeevan Sonparote
Adjudicating Officer