

BEFORE THE ADJUDICATING OFFICER
SECURITIES AND EXCHANGE BOARD OF INDIA

[ADJUDICATION ORDER Ref No.: Order/AP/VS/2020-21/8800]

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) RULES, 1995.

In respect of:

Ms. Geeta Narayanan
(PAN: AHDPK1360K)
B-207, Swapnaghar CHS,
Chakala Link Road, Nr Suresh Hotel,
Andheri East,
Mumbai-400099

In the matter of **SRK Industries Limited**

1. SRK Industries Limited (hereinafter referred to as 'SRK'), is a company listed on Bombay Stock Exchange Limited (BSE). Securities and Exchange Board of India ('SEBI') had conducted an investigation in the matter of trading in the scrip of the SRK by its promoter Ms. Geeta Narayanan (hereinafter referred to as 'the Noticee'), to ascertain whether there was any violation of the provisions of SEBI (Prohibition of Insider Trading) Regulation, 1992 (hereinafter referred to as 'the PIT Regulations') during the period March 01, 2010 to December 31, 2014 (hereinafter referred to as 'investigation period').
2. SEBI has observed that on October 18, 2012 the Noticee had sold 60,000 shares of SRK. It is noted that the transaction value of 60,000 shares based on closing price on the date of transaction is calculated as ₹3,39,000/-. The Noticee was required to make requisite disclosure to SRK and to BSE under section 13(4A) of the PIT Regulations, since the change in shareholding exceed 25,000 shares.
3. SRK vide its email dated October 10, 2019 provided the list of promoters/ promoter group, shareholding of the Promoters for the period from March 2010 to March 2014 and requisite disclosures made by them to SRK and BSE. SRK vide above mail submitted that there is no data available with it regarding the disclosure made by the Noticee.

4. BSE vide email dated August 30, 2019 provided the list of all disclosures received and made by the promoters under PIT Regulations to SRK and then subsequently by SRK to BSE, wherein there is no mention of the disclosure of above transaction dated October 18, 2012 of the Noticee.
5. Based upon findings of the investigation, competent authority in SEBI *prima facie* felt satisfied that there are sufficient grounds to inquire and adjudicate upon the aforesaid violation of provisions of the PIT Regulations 1992, read with regulation 12 of PIT Regulations, 2015 by the Noticee. By a *communication-order* dated February 04, 2020, the undersigned has been appointed as Adjudicating Officer to inquire into and adjudge under section 15A (b) of the SEBI Act for the alleged violations of aforesaid PIT Regulations, by the Noticee. The relevant provisions of the PIT Regulations charged in this case against the Noticee are reproduced as follows:

PIT Regulation, 1992

Continual disclosure.

13 (4A) Any person who is a promoter or part of promoter group of a listed company, shall disclose to the company and the stock exchange where the securities are listed in Form D, the total number of shares or voting rights held and change in shareholding or voting rights, if there has been a change in such holdings of such person from the last disclosure made under Listing Agreement or under sub-regulation (2A) or under this sub-regulation, and the change exceeds ₹5 lakh in value or 25,000 shares or 1% of total shareholding or voting rights, whichever is lower.

(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.

PIT Regulation, 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;

(3) After the repeal of Securities and Exchange Board of India (Prohibition of Insider Trading) Regulations, 1992, any reference thereto in any other regulations made, guidelines or circulars issued thereunder by the Board shall be deemed to be a reference to the corresponding provisions of these regulations.

6. After the receipt of records, the notice to show cause no. EAD-2/AP/VS/6504/4/2020 dated February 18, 2020 (SCN) was issued to the Noticee in terms of rule 4(1) of the SEBI (Procedure for Holding Inquiry and Imposing Penalties by Adjudication Officer) Rules, 1995 (hereinafter referred to as 'Adjudication Rules') read with section 15I of the SEBI Act. By the SCN, the Noticee was called upon to show cause as to why an inquiry should not be held against him in terms of rule 4 of the Adjudication Rules and penalty be not imposed under Section 15A (b) of the SEBI Act for the aforesaid alleged violations. The SCN was duly served upon the Noticee. The Noticee vide email dated March 06, 2020, *inter alia* submitted her reply that "...the violation/procedural lapse is due to lack of knowledge of the procedure and may please be condoned and proceedings initiated against me may please be dropped".
7. Thereafter, in terms of rule 4(3) of the Adjudication Rules and in the interest of natural justice, undersigned granted an opportunity of personal hearing to the Noticee on August 12, 2020. The Noticee did not avail the opportunity of personal hearing, however, due to ongoing pandemic environment and in terms of rule 4(3) of the Adjudication Rules, undersigned granted another opportunity of personal hearing to the Noticee on August 21, 2020. The Noticee again failed to avail the opportunity of personal hearing.
8. I have perused the allegations levelled against the Noticee in the SCN, her written representation dated March 06, 2020 and materials relied upon by SEBI and proceeded to examine the facts and circumstances and the material available on record. The Noticee has admitted sale of 60,000 shares of SRK in this case. It is undisputed fact that the Noticee is one of the promoters of SRK. It is also admitted position that the disclosure obligations in this case was triggered on account of change in shareholding of the Noticee as promoter of SRK. The only question that remains to be answered in this case is as to whether the Noticee has made disclosure in terms of the provisions of regulation 13(4A) read with regulation 13(5) of

the PIT Regulations, 1992. On careful perusal of regulation 13(4A) it is noted that in the facts and circumstances of this case, the provisions obligated the Noticee to make disclosures in Form D to the SRK and BSE. Such disclosures were to be made within 2 days of occurrence of the event. In this case, admittedly the Noticee had not made disclosures to SRK with regard to her impugned sales.

9. In view of the above, I hold that the Noticee has failed to make disclosures required under regulation 13(4A) of PIT Regulations, 1992, for sale of 60,000 shares of SRK on October 18, 2012 to SRK and BSE. The said disclosure was to be made in 2 days from the occurrence of the event. It is relevant to mention that in the matter of **Appeal No. 66 of 2003 -Milan Mahendra Securities Pvt. Ltd. vs. SEBI**—the Hon'ble SAT, vide its order dated April 15, 2005 held that, *"the purpose of these disclosures is to bring about transparency in the transactions and assist the Regulator to effectively monitor the transactions in the market."* In this case, the Noticee being promoter of the company had failed to make complete and timely information to public and regulators. In the facts and circumstances of this case, I am of the view that such defaults attract the levy of penalty as prescribed under Section 15A(b) of the SEBI Act which reads as follows:

Penalties and Adjudication

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 or who furnishes or files false, incorrect or incomplete information, return, report, books or other documents, he shall be liable to a penalty 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.

10. For the purpose of adjudging the quantum of penalty it is relevant to mention that under section 15I of the SEBI Act imposition of penalty is linked to the subjective satisfaction of the Adjudicating Officer. The words in the section that *"he may impose such penalty"* are of considerable significance, especially in view of the guidelines provided by the legislature in section 15J of the SEBI Act. Further, while adjudging the quantum of penalty the adjudicating officer has discretion and such discretion should be exercised having due regard to the factors specified in section 15J. The factors stipulated in Section 15J, which reads as follows:-

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

While adjudging quantum of penalty under section 15-I, the adjudicating officer shall have due regard to the following factors, namely: -

- (a) the amount of disproportionate gain or unfair advantage, wherever quantifiable, made as a result of the default;*
- (b) the amount of loss caused to an investor or group of investor/ +s as a result of the default;*
- (c) the repetitive nature of the default.*

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.

11. Having regard to the factors listed in section 15J, it is noted from the material available on record, that the Noticee being promoter of SRK had not made the requisite disclosures under regulation 13(4A) of the PIT Regulations to SRK and BSE. I note that SRK's email dated October 10, 2019 and BSE's email dated August 30, 2019 confirmed that the Noticee has not made requisite disclosures to SRK and BSE, respectively. I observed that the violation is not repetitive in nature. I also note that the violations pertain to a period which is more than 7 years old i.e., of 2012. Further, during the relevant period the Company was under suspension and as such there was no trading activity on the exchange. As such these facts could be mitigating factors. From the material available on record, any quantifiable gain or unfair advantage accrued to the Noticee or the extent of loss suffered by the investors as a result of the default in this case cannot be computed.
12. Taking into consideration all the facts and circumstances of the case including the aforesaid 15J factors, in exercise of the powers conferred upon me under section 15I of the SEBI Act read with rule 5 of the Adjudication Rules, I hereby impose a monetary penalty of ₹1,00,000/- (Rupees One Lakh only) upon Noticee viz. Ms. Geeta Narayanan under section 15A(b) of the SEBI Act. In my view, the said penalty is commensurate with the violation committed by the Noticee in this case.
13. The Noticee shall remit / pay the said amount of penalty within 45 days of receipt of this order in either of the way of demand draft in favour of "SEBI - Penalties Remittable to Government

of India”, payable at Mumbai, or by following the path at SEBI website www.sebi.gov.in, ENFORCEMENT > Orders > Orders of AO > PAY NOW; OR by using the web link <https://siportal.sebi.gov.in/intermediary/AOPaymentGateway.html>. In case of any difficulties in payment of penalties, the Noticees may contact the support at portalhelp@sebi.gov.in

14. The Demand Draft or details and confirmation of e-payment made in the format as given in table below shall be sent to "The Division Chief, EFD-DRA-4, Securities and Exchange Board of India, SEBI Bhavan, Plot No. C- 4 A, "G" Block, Bandra Kurla Complex, Bandra (E), Mumbai - 400 051." and also to e-mail id:- tad@sebi.gov.in

1	Case Name	
2	Name of the 'Payer/Noticee'	
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)	

15. In the event of failure to pay the said amount of penalty within 45 days of the receipt of this Order, recovery proceedings may be initiated under section 28A of the SEBI Act, 1992 for realization of the said amount of penalty along with interest thereon, *inter alia*, by attachment and sale of movable and immovable properties.
16. In terms of rule 6 of the Adjudication Rules, copies of this order are sent to the Noticee and also to SEBI.

Date: August 31, 2020

Place: Mumbai

Amit Pradhan
Adjudicating Officer