

BEFORE THE ADJUDICATING OFFICER
SECURITIES AND EXCHANGE BOARD OF INDIA
[ADJUDICATION ORDER NO. EAD/ AO-NP/ JR/ 49 /2017]

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

In respect of:

Dinesh Seetha [PAN AAFPS9628H]

Urmila Seetha [PAN AAPPS6119K]

**In the matter of Trading activities of certain entities in the scrip of Dinesh Allorga
Limited (now known as Hemo Organic Limited)**

FACTS OF THE CASE IN BRIEF

1. Securities and Exchange Board of India (hereinafter referred to as “**SEBI**”), examined the trading activities in the shares of Dinesh Allorga Limited (now known as Hemo Organic Limited) (hereinafter referred to as “**company**”) from August 10, 2011 to September 13, 2011. It was observed that the shares of the company were bought and sold and there was change in the holding of the shares and/ or the change exceeded more than 2% of the share capital of the company on several occasions. However no disclosure was made to that effect under SEBI (Prohibition of Insider Trading) Regulations, 1992 (hereinafter referred to as “**PIT Regulations**”) by the Seetha (hereinafter referred to as “**Noticee 1**”) and Urmila Seetha (hereinafter referred

to as “**Noticee 2**”) in quarter ending September 30, 2011. The shares of the company is listed in BSE Ltd. (hereinafter referred to as “BSE”).

APPOINTMENT OF ADJUDICATING OFFICER

2. Mr. Prasad Jagdale was appointed as Adjudicating Officer vide order dated June 11, 2015 under section 15 I of SEBI Act read with rule 3 of SEBI (Procedure for Holding Inquiry and Imposing Penalties by Adjudicating Officer) Rules, 1995 (hereinafter referred to as ‘**Rules**’) to inquire into and adjudge the alleged violations of PIT Regulations committed by the Noticees.
3. Subsequent to the transfer of Mr. Prasad Jagdale, the undersigned was appointed as the Adjudicating Officer vide order dated December 14, 2016.

SHOW CAUSE NOTICE, REPLY AND PERSONAL HEARING

4. Show Cause Notice/s dated January 21, 2016 (hereinafter referred to as “SCN”) were issued to the Noticees under rule 4(1) of SEBI (Procedure for Holding Inquiry and Imposing Penalties by Adjudicating Officer) Rules, 1995 to show cause as to why an inquiry should not be initiated against him and penalty be not imposed under section 15A(b) of Securities and Exchange Board of India Act, 1992 (hereinafter referred to as “**SEBI Act**”) for his failure to comply with the provisions of PIT Regulations.
5. Investigation observed that, Noticee 1 and Noticee 2 held 5,00,000 shares (14.43% of total share capital) each prior to their sell trades during investigation period. From the analysis of trade data and demat transactions for the said Noticees, it is observed that the dematerialized shares of Noticee 1 and Noticee 2 were sold on BSE during investigation period. The Noticees were required to make the requisite disclosure under PIT Regulations with respect to the change in their shareholding. The details of the change in share holdings of the Noticees are as below:

Dinesh Seetha

Date of transaction	Sell qty	Cumulative sale	Holding after transaction	Disclosure required under Regulations
Opening balance as on 10.08.2011			500000 (14.43%)	NA
10.08.2011	51000	51000 (1.47%)	449000 (12.95%)	NA
11.08.2011	99000	150000 (4.33%)	350000 (10.09%)	13 (3) read with 13 (5) of SEBI (PIT) Regulations, 1992 since change in holding is more than 2%
12.08.2011	95000	245000 (7.07%)	255000 (7.357%)	13 (3) read with 13 (5) of SEBI (PIT) Regulations, 1992 since change in holding is more than 2%
16.08.2011	85000	330000 (9.52%)	170000 (4.9%)	13 (3) read with 13 (5) of SEBI (PIT) Regulations, 1992 since change in holding is more than 2%
30.08.2011	150000	480000 (13.85%)	20000 (0.57%)	NA
13.09.2011	20000	500000 (14.43%)	NIL	NA

Urmila Dinesh Seetha

Date of transaction	Sell qty	Cumulative sale	Holding after transaction	Disclosure required under Regulations, 1992
Opening balance as on 10.08.2011			500000 (14.43%)	NA
11.08.2011	70000	70000 (2.02%)	430000 (12.41%)	13 (3) read with 13 (5) of SEBI (PIT) Regulations, 1992 since change in holding is more than 2%
12.08.2011	90000	160000 (4.62%)	340000 (9.80%)	13 (3) read with 13 (5) of SEBI (PIT) Regulations, 1992 since change in holding is more than 2%
16.08.2011	90000	250000 (7.21%)	250000 (7.21 %)	13 (3) read with 13 (5) of SEBI (PIT) Regulations, 1992 since change in holding is more than 2%
30.08.2011	150000	400000 (11.54%)	100000 (2.88%)	13 (3) read with 13 (5) of SEBI (PIT) Regulations, 1992 since change in holding is more than 2%
13.09.2011	89700	489700 (14.13%)	10300 (0.29%)	NA

6. The Noticees did not submit any reply to the SCN. In the interest of natural justice and in order to conduct an inquiry in terms of rule 4(3) of the Rules, the Noticees were granted an opportunity of personal hearing on February 26, 2016 vide notice dated February 9, 2016. No one appeared on the day of hearing. Another opportunity of personal hearing was given to the Noticees on March 10, 2016. However, no one appeared on the scheduled date of hearing.

7. Further opportunity of personal hearing/s were given to the Noticee on April 26, 2017 and May 29, 2017. Once again, no one appeared on the date of hearing.
8. Enough opportunity was given to the Noticee to represent its case by way of reply to SCN and also by appearance for personal hearing. I am constrained to proceed with the matter on the basis of the material available on record.

CONSIDERATION OF ISSUES, EVIDENCE AND FINDINGS

9. I have carefully perused the charges levelled against the Noticees in their respective SCNs, their respective Replies and the material / documents available on record. In the instant matter, the following issues arise for consideration and determination:-
 - (a) Whether Noticee 1 and Noticee 2 have violated the provisions of regulation 13(3) read with regulation 13(5) of PIT Regulations;
 - (b) Do the violations, if any, on the part of the Noticees attract monetary penalty under Section 15A(b) for the alleged violation by the said Noticees?; and,
 - (c) If so, what would be the quantum of monetary penalty that can be imposed on the Noticees after taking into consideration the factors mentioned in Section 15J of the SEBI Act?
10. Before proceeding further, I would like to refer to the relevant provisions of the SEBI Act.

Continual disclosure.

(3) Any person who holds more than 5% shares for voting rights in any listed company shall disclose to the company in Form C 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.

(5) The disclosure mentioned in sub-regulations (3) and (4) 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.

FINDINGS:

11. I find that the Noticee 1 had sold total 5,00,000 shares between August 10, 2011 to September 13, 2011 (quarter ending September 2011) through 7 transactions. Of these 7 transactions, in 3 transactions, the change of his shareholding was more than 2%. Similarly, Noticee 2 had sold 4,89,700 shares between August 11, 2011 to September 13, 2011 (quarter ending September 2011) through 5 transactions. Of these 5 transactions, in 4 transactions, the change of shareholding is more than 2%. Noticee 1, vide letter dated February 21, 2014 and Noticee 2, vide letter dated February 21, 2014 had confirmed to the company that they had not made any disclosure to the company.

12. The Noticees, neither made the relevant disclosures to the company nor did they appear in the adjudication proceedings to explain the non-compliance. It can be presumed that the Noticees are admitting the charges leveled against them. In this regard, I would like to rely upon the findings of the Hon'ble Securities Appellate Tribunal (hereinafter referred to as "**SAT**") in the matter of Classic Credit Limited Vs. SEBI (Appeal No. 68 of 2003 order dated December 8, 2006 reported on January 8, 2007) regarding the significance of filing the reply to the SCN, in which it stated that *"the appellant did not file any reply to the second show cause notice. This being so, it has to be presumed that the charges alleged against them in the show cause notice were admitted by them"*.

13. I therefore find that the Noticee has violated regulation 13(3) read with 13(5) of PIT Regulations. Their act is liable for a penalty under Section 15 A(b) of SEBI Act which read as follows:

15A. Penalty for failure to furnish information, return, etc. - *If any person, who is required under this Act or any rules or regulations made thereunder, -*

(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 [a penalty of one lakh rupees for each day during which such failure continues or one crore rupees, whichever is less]

14. The Hon'ble Supreme Court of India in the matter of *SEBI Vs. Shri Ram Mutual Fund* [2006] 68 SCL 216(SC) 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..."*.

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

Section 15J - *Factors to be taken into account by the adjudicating officer while adjudging quantum of penalty under section 15-I, the adjudicating officer shall have due regard to the following factors, namely:-*

(a) the amount of disproportionate gain or unfair advantage, wherever quantifiable, made as a result of the default;

(b) the amount of loss caused to an investor or group of investors as a result of the default;

(c) the repetitive nature of the default.

16.I find that the investigation did not bring out the disproportionate gain or unfair advantages to the Noticees and loss caused to investors as a result of non-disclosure of change of shareholding. However, the Noticees did not make the relevant disclosure on more than one occasion. This indicates the repetitive and willful nature of their offence.

ORDER

17. In view of the above, after considering all the facts and circumstances of the case and the factors mentioned in the provisions of Section 15-J of the SEBI Act, I, in exercise of the powers conferred upon me under Section 15-I(2) of the SEBI Act read with Rule 5 of the SEBI Adjudication Rules, conclude that the proceedings against the Noticees viz. Dinesh Seetha and Urmila Seetha stand established in terms of the provisions of the SEBI Act. Hence, in view of the charges established under the provisions of the SEBI Act, I, hereby impose monetary penalty on the said two Noticees as per the following Table:-

Name of the Noticee	Penalty imposed
Dinesh Seetha	₹1,50,000/- (Rupees One Lakh and Fifty Thousand Only)
Urmila Seetha	₹2,00,000/- (Rupees Two Lakh Only)

18. The Noticees shall remit / pay the said amounts of penalties **separately** within 45 (forty five) days of receipt of this order either by way of Demand Draft (DD) in favour of “SEBI - Penalties Remittable to Government of India”, payable at Mumbai and 1) the said DD should be forwarded to the Division Chief, Enforcement Department (EFD), Division of Regulatory Action - III [**EFD-DRA-III**] SEBI Bhavan, Plot No.C4-A, ' G' Block, Bandra Kurla Complex (BKC), Bandra (East), Mumbai – 400 051 OR 2)

through e-payment facility into Bank Account, the details whereof are given as below :-

Account No. for remittance of penalty(ies) 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

19. The Noticees shall forward the said Demand Drafts or the details / confirmation of penalty so paid through e-payment to the Division Chief of the aforesaid Enforcement Department (EFD) of SEBI.

20. 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 reproduced 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)	

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

Date : June 22, 2017
Place : Mumbai

NAGENDRAA PARAKH
CHIEF GENERAL MANAGER &
ADJUDICATING OFFICER