

**BEFORE THE ADJUDICATING OFFICER
SECURITIES AND EXCHANGE BOARD OF INDIA
(ADJUDICATION ORDER NO: AO/SG-DP/EAD/96/2018)**

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

In respect of:

**Sacheta Metals Limited
(PAN- AACCS8742C)**

Sacheta Udyog Nagar,
Opp College, Mahiyal,
Talod, Gujarat.
PIN – 383215

In the matter of Sacheta Metals Limited

FACTS OF THE CASE

1. A department of SEBI (hereinafter referred to as 'ISD') examined trading in the scrip of Sacheta Metals Limited (hereinafter referred to as 'Noticee'/'SML'), a company listed on the BSE Limited (hereinafter referred to as 'BSE'), for the period 01.01.2016 to 13.10.2016 (hereinafter referred to as 'Period of Examination'). Upon a query, the Noticee *vide* its letter dated 26.10.2016 had informed ISD that it had received disclosures under Regulation 7(2)(a) of SEBI (Prohibition of Insider Trading) Regulations, 2015 (hereinafter referred to as 'PIT Regulations') from its 3 promoters and had disclosed to BSE, in the 'format for disclosure under Regulation 29(2) of SEBI (SAST) Regulations, 2011 in compliance with Regulation 7(2)(b) of PIT Regulations'. However, it was observed that the Noticee had not submitted disclosures under Regulation 7(2)(b) of PIT Regulations to BSE.
2. In view of the above, it was alleged that the Noticee, upon receiving four disclosures under Regulation 7(2)(a) of PIT Regulations from its 3 promoters,

had not submitted the required disclosures under Regulation 7(2)(b) of PIT Regulations to BSE .

APPOINTMENT OF ADJUDICATING OFFICER

3. The undersigned was appointed as Adjudicating Officer *vide* order dated 05.01.2017 under Section 15-I(1) of SEBI Act & Rule 3 of SEBI (Procedure for Holding Inquiry and Imposing Penalties by Adjudicating Officer) Rules, 1995 (hereinafter referred to as ' Adjudication Rules') to inquire into and adjudge the alleged violation of provisions of Regulations 7(2)(b) of PIT Regulations by the Noticee under Section 15A(b) of SEBI Act and proceedings were received on 19.05.2017.

SHOW CAUSE NOTICE, REPLY AND HEARING

4. A Show Cause Notice dated 13.10.2017 (hereinafter referred to as 'SCN') was issued by the undersigned to the Noticee under the provisions of Rule 4 of the Adjudication Rules calling upon the Noticee to show cause as to why an inquiry should not be held against it for the aforesaid alleged violations of provisions of 7(2)(b) of PIT Regulations and why penalty, if any, should not be imposed on it under the provisions of section 15A(b) of the SEBI Act.
5. *Vide* its letter dated 26.10.2017, the Noticee made the following submissions:

“With reference to your letter dated 13.10.2017 received on 18.10.2017 we would like to inform your Honour that we have submitted all disclosures under regulation 29(2) of SEBI (SAST) Regulations, 2011 as well as under Regulations 7(2) of PIT Regulations 2015. However It is alleged that the Noticee (the Company) has not submitted only 4 disclosure in Form 'C' under Regulation 7(2) of the PIT Regulations 2015 in respect of the following transactions:

Sr. No	Date of transaction	Name of the Promoter	Date of receipt of disclosure from the Promoter by the Noticee under Regulation 7(2) (a) of PIT Regulations
1	04.02.2016	Satishkumar Keshavlal Shah	05.02.2016
2	02.03.2016	Satishkumar Keshavlal Shah	03.03.2016
3	21.04.2016	Chetnaben Satishkumar Shah	22.04.2016
4	27.04.2016	Ankit Satishkumar Shah	28.04.2016

In this connection we would like to inform Your Honour that the Company is regularly disclosing, as and when transaction took place, under Regulation 29(2) of SEBI (SAST) Regulations, 2011 and also under Regulation 7(2)(b) of PIT Regulations, 2015 and the same was also confirmed in our letter dated 26.10.2016, wherein you will find copies of the disclosures in Form 'C' under Regulation 7(2) of the PIT Regulations 2015 simultaneously with our disclosures for those transactions under Regulation 29(2) of the SEBI (SAST) Regulations 2011.

However if inadvertently missed to attached by us, we are attaching herewith acknowledged disclosures by BSE under Regulation 29(2) of SEBI (SAST) Regulations, 2011 and copy of Form C Regulation 7(2)(b) of PIT Regulations, 2015 for above mentioned four transactions.

As there was no mala fide intention on our part we request you to set aside above mentioned notice.

We hope above information will meet with your requirement however if your Honour want any explanations or any information in this regard we will definitely attend your office as per time and date suitable to you.

We are also submitting said disclosure i.e. Form C for above mentioned transactions to BSE also”.

Along with the reply, Noticee enclosed copies of its letters dated 03.03.16, 28.04.16 and 22.04.16 with copies of disclosures addressed to BSE, bearing

subject 'Disclosure under Regulation 29(2) of SEBI(SAST) Regulations,2011'.

6. Further, *vide* its letter dated 30.10.2017, Noticee submitted as under –

“.....

Over and above we are hereby attaching acknowledge copy of submission to BSE of Disclosure under Regulation 7(2) of PIT Regulations, 2015 for the four transaction for which the alleged violation of provision was made.”

Along with the reply, Noticee enclosed a copy of its letter dated 26.10.2017 addressed to BSE bearing subject 'Updation of database for disclosure under Regulations 29(2) of SEBI (SAST) Regulations,2011 as well as under Regulations 7(2) of PIT Regulations 2015 to SEBI' and copies of the disclosures made to BSE *vide* letters dated 05.02.2016, 22.04.16,28.04.16, and 03.03.16 bearing subject 'Disclosure under Regulation 29(2) of SEBI(SAST) Regulations, 2011'.

7. In the interest of natural justice and in order to conduct an inquiry in terms of Rule 4 (3) of the Adjudication Rules, the Noticee was granted an opportunity of personal hearing on 21.12.2017 at SEBI NCL Office, Mumbai *vide* notice of hearing dated 05.12.2017.
8. *Vide* letter dated 12.12.2017, acknowledging the receipt of notice of hearing dated 05.12.2017, the Noticee confirmed that it will attend the scheduled hearing dated 21.12.2017.
9. On the date of hearing Mr. Satishkumar K Shah, Managing Director of the Noticee and Mr. Abbasali R Sunasara, Company Secretary of the Noticee, authorized representatives (AR) of the Noticee, appeared on behalf of the Noticee. At the time of the hearing, the AO explained the purpose of the

hearing and the charges/offences levelled against the Noticee. During the hearing, the AR stated as under :

"We, AR, on behalf of the Noticee reiterate its earlier submissions dated 26.10.2017 and 30.10.2017. In addition, we hereby submit our written submission dated 21.12.2017 and request time up to 26.12.2017 to submit documentary evidence in support of our claim in the matter".

10. AO acceded the request of the Noticee and allowed time as requested. The hearing proceedings were concluded therewith.

11. The letter dated 21.12.2017 submitted during the course of hearing by the Noticee reads as under –

"...there was no mensrea for not compliance of provision under regulation 7(2) (b) of SEBI (PIT) Regulations, 2015, if our intention was such that not to disclosed as that four transactions took placed and to take benefit from the market dealing then we also would not have disclosed to the Stock Exchange under regulations 29(2) of SEBI(SAST) regulations, 2011.

We would also like to further state that, we understand the spirit and nature of the Law and always in compliance with the Regulation 7(2) (a) and (b) of the SEBI (PIT) Regulations and our intention is not to harm or fraudulent to Security market, we are not in the practice of manipulative, fraudulent and unfair trade practices to Security Market nor we indulging in an act which creates false or misleading appearance of trading in the securities market.

In this connection we would like to inform Your Honour that the Company is regularly disclosing, as an when transaction took place, under Regulation 29(2) of SEBI (SAST) Regulations, 2011 and also under Regulation 7(2)(b) of PIT Regulations, 2015 and the same was also confirmed in our letter dated 26.10.2016, wherein you would find copies of the disclosures in Form 'C' under Regulation 7(2) of the PIT Regulations 2015 simultaneously with our disclosures for those

transactions under Regulation 29(2) of the SEBI (SAST) Regulations 2011.

However it might be possible that inadvertently missed to attached by us, we are again attaching herewith acknowledged disclosures by BSE under Regulation 29(2) of SEBI (SAST) Regulations, 2011 and copy of Form C Regulation 7(2)(b) of PIT Regulations, 2015 for above mentioned four transactions.

As there was no malafied intention on our part and we are always in the pursuance of co-operation to healthy prospect of Security Market along with market growth we request you to set aside above mentioned notice. We have already submitted said disclosure i.e. Form C for above mentioned transactions to BSE also..."

12. Further, pursuant to hearing dated 21.12.2017, Noticee vide its letter dated 26.12.2017 made following submission –

"...As per our submission, they (BSE) had updated data base for above 4 disclosures. We are attaching herewith copy of updated data in the site. So, now, we request you, please do needful for the same & oblige us.

We would further state that we had also submitted the said disclosure to BSE in time & also on 26.10.2017 and we have also received the acknowledgement from the BSE for the same which we are attaching herewith the said letter.

And again after the hearing we have re - submitted the copy of 7 (2) SEBI PIT - regulation 2015 in FORM C & under regulation 29(2) SEBI (SAST) Regulations 2011 to BSE on 22.12.2017 we are enclosing the acknowledged copy of the same along with this letter.

In this connection we are in continuous taking follow up with BSE for updating the same in their records that we have submitted both the copies in BSE & they may kindly update their records accordingly.

We accept that during our first submission of disclosures we had submitted both the copies of under Regulations 29(2) of SEBI (SAST) regulations, 2011 & Regulation 7(2) of SEBI (PIT) Regulations, 2015 in

Form C but we have only mentioned submission of 29 (2) of SEBI (SAST) regulations , 2011 in the covering letter.

Sir this was done unintentionally & we had no mala fide intention to hide the details or no intention of not disclosing the details to BSE & we have not abused nor we have penetrated the stock market.

We are once again informing you sir that we have submitted both of under Regulations 29(2) of SEBI (SAST) regulations, 2011 & Regulation 7(2) of SEBI (PIT) Regulations, 2015 in Form C.

we have submitted the acknowledgement copies of the same during our first submission , again of 26-10-2017 & even on 22-12-2017 & we are enclosing you the copies of the same for your reference.

So in the conclude we would like to state that taking into consideration of above please look into the matter & kindly forgive us for our unintentional mistake which we had made by disclosing only Regulations 29(2) of SEBI (SAST) regulations, 2011 in our letter even though we had submitted both the copies together..."

Along with the reply, the Noticee enclosed copies of five letters all dated 22.12.2017 from the Noticee addressed to BSE all bearing subject 'Updation of database for disclosure under Regulations 7(2) of PIT Regulations 2015', a copy of printout dated 22.12.2017 as obtained from BSE website indicating disclosure under Regulations 7(2) of PIT Regulations 2015 by the Noticee and reported to BSE on 26.10.2017, a copy of the letter dated 26.10.2017 from the Noticee addressed to BSE bearing subject 'Updation of database for disclosure under Regulations 29(2) of SEBI (SAST) Regulations, 2011 as well as under Regulations 7(2) of PIT Regulations 2015 to SEBI', copies of the letters dated 05.02.2016, 03.03.16 22.04.16 and 28.04.16 all from the Noticee addressed to BSE bearing subject 'Disclosure under Regulation 29(2) of SEBI(SAST) Regulations, 2011' and copies of the letters dated 05.02.2016, 03.03.16, 22.04.16 and 28.04.16, all from the Noticee addressed to BSE bearing subject 'Disclosures under SEBI Regulations'.

ISSUES FOR CONSIDERATION

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

- I. Whether the Noticee has violated the provisions of Regulation 7(2)(b) of PIT Regulations?
- II. If the answer to I is in affirmative, then whether the Noticee is liable for monetary penalty under Section 15 A(b) of the SEBI Act?
- III. If the answer to II is in affirmative, then what quantum of monetary penalty should be imposed on the Noticee?

FINDINGS

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

ISSUE I: Whether the Noticee has violated the provisions of Regulation 7(2)(b) of PIT Regulations?

15. The allegation against the Noticee is that Noticee, upon receiving four disclosures under Regulation 7(2)(a) of PIT Regulations from the promoters in respect of four transactions mentioned in table at para 5 of this order, had not submitted the required disclosures under Regulation 7(2)(b) of PIT Regulations to BSE .

16. The text of Regulation 7(2)(b) of PIT Regulations reads as under -

7. (2) *Continual Disclosures.*

(a)

(b). *Every company shall notify the particulars of such trading to the stock exchange on which the securities are listed within two trading days of receipt of the disclosure or from becoming aware of such information.*

Explanation. — It is clarified for the avoidance of doubts that the disclosure of the incremental transactions after any disclosure under this sub-regulation, shall be made when the transactions effected after the prior disclosure cross the threshold specified in clause (a) of sub-regulation (2).

17. The Noticee *vide* its letter dated 26.10.2016 addressed to ISD (a copy of which was provided to the Noticee with SCN) has admitted that it had received said four disclosures under Regulation 7(2)(a) of PIT Regulations from 3 promoters on the dates mentioned in table at para 5 of this order.
18. I note that the Noticee has claimed *vide* its submissions before me that it has regularly disclosed to stock exchange, as and when transaction took place, under Regulation 7(2)(b) of PIT Regulations. In support of the said claim it has produced before me copies of the disclosures addressed to BSE *vide* its letters dated 05.02.2016, 22.04.16, 28.04.16, and 03.03.16 bearing subject 'Disclosure under Regulation 29(2) of SEBI (SAST) Regulations, 2011'. It has also produced before me another set of copies of its letters dated 05.02.2016, 22.04.16, 28.04.16, and 03.03.16 bearing subject 'Disclosures under SEBI Regulations' addressed to BSE. The Noticee has also submitted before me a copy of printout dated 22.12.2017, as obtained from BSE website indicating disclosure under 'Regulations 7(2) of PIT Regulations 2015' by Noticee and reported to BSE on 26.10.2017.
19. On perusal of aforesaid letters dated 05.02.2016, 22.04.16, 28.04.16 and 03.03.16 bearing subject 'Disclosure under Regulation 29(2) of SEBI (SAST) Regulations, 2011', I note that these letters bear acknowledgment date of BSE as 08.02.2016, 25.04.2015, 04.05.2016 and 08.03.2016 respectively. Attached with these copies of letters, the Noticee has furnished before me copies of 2 sets of disclosures both under Regulation 29(2) of SEBI(SAST) Regulations and 'Regulation 7(2) of PIT Regulations' claiming that the disclosures under 7(2)(b) of PIT Regulations were also made by it to BSE. I, however, note that these letters bearing BSE inward stamp as above read as, "We are enclosing herewith disclosure under Regulation 29(2) of SEBI

(Substantial Acquisition of Shares and Takeovers) Regulations, 2011, received from Promoter director.....” and the words “Encl: as stated” is appearing at the bottom of each of these letters. Further, from the copy of the Report dated 16.05.2016 of BSE (a copy of which was provided to the Noticee along with SCN), I note that BSE has observed that “ no disclosures as required under the regulations of SEBI(Prohibition of Insider Trading) Regulations 2015 have been filed with the exchange with respect to the transaction of promoter...”. In view of the above and contents of these letters, the claim of the Noticee that disclosures under Regulation 7(2) (b) of PIT Regulations were made by it to BSE vide these letters is not acceptable.

Additionally, upon perusal of another set of letters dated 05.02.2016, 22.04.16, 28.04.16 and 03.03.16 bearing subject ‘Disclosures under SEBI Regulations’, I note that the Noticee has submitted “.... please find attached herewith Disclosures under Regulation 7(2) of SEBI (PIT) Regulation in “Form C” and under Regulation 29(2) of SEBI (Substantial Acquisition of shares and Takeovers) Regulations, 2011 as received from....”. However, no evidence demonstrating receipt of these letters by BSE has been produced before me by the Noticee. In absence of any evidence that disclosures under Regulation 7(2)(b) of PIT Regulations were received by BSE and also in view of confirmation of BSE as brought in preceding paragraph, I am not inclined to accept the contention of the Noticee in this regard.

As regards the printout dated 22.12.2017, submitted by the Noticee before me, I Note that the disclosures under Regulation 7(2) (b) of PIT Regulations for the aforesaid transactions were filed by the Noticee with BSE on 26.10.2017 i.e. after issuance of SCN.

There is one more reason as to why I am not inclined to accept the claim of the Noticee that it filed disclosures under PIT Regulations under its letter dated 22.04.2016. On perusal of its letter dated 22.04.2016 addressed to BSE

bearing subject 'Disclosure under Regulation 29(2) of SEBI (SAST) Regulations, 2011', I note that it has acknowledgement of BSE with date stamp of BSE as 25.04.2015 (*i.e.* a year before of Noticee's letter dated 22.04.2016). The Noticee has produced before me this letter acknowledged by BSE on 25.04.2015 claiming that it has filed the disclosure under Regulation 7(2)(b) of PIT Regulations *vide* its letter dated 22.04.2016. I, however, note that PIT Regulations were notified on 15.01.2015 and came into effect from 15.05.2015. Thus, the Noticee enclosing the disclosure under PIT Regulations along with covering letter of SAST Disclosures bearing acknowledgment of BSE as 25.04.2015 *i.e.* before the PIT Regulations came into effect does not support the claim of the Noticee and hence I am not inclined to accept the same.

20. In view of my findings recorded in preceding paragraphs, I find that upon receiving the disclosures in respect of 4 transactions under Regulation 7(2) (a) of PIT Regulations from the promoters, the Noticee had not submitted the required disclosures in terms of Regulation 7(2) (b) of PIT Regulations to BSE.

21. As regards Noticee's contention that its intention was not to harm the securities market and there was no *mens rea* in non-compliance, I note the observation made by SAT in the matter of Akriti Global Traders Ltd. Vs. SEBI, decided on 30.09.2014, that "*... Argument of appellant that the delay was unintentional and that the appellant has not gained from such delay and therefore penalty ought not to have been imposed is without any merit, because, firstly, penal liability arises as soon as provisions under the regulations are violated and that penal liability is neither dependent upon intention of parties nor gains accrued from such delay..*". In view of the same, I am not inclined to accept said contention of the Noticee.

22. In view of my findings recorded in preceding paragraphs, I conclude that Noticee has violated the provisions of Regulation 7(2)(b) of PIT Regulations.

ISSUE II: If the answer to I is in affirmative, then whether the Noticee is liable for monetary penalty under Section 15 A(b) of the SEBI Act?

23. The text of the section 15A(b) reads as follows:

15A If any person, who is required under this Act or any rules or regulations made there under, -

(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 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;

(c)....

From the conclusion arrived at para 22 above, it is further concluded that the Noticee is liable for monetary penalty under Section 15A (b) of the SEBI Act.

ISSUE III: If the answer to II is in affirmative, then what quantum of monetary penalty should be imposed on the Noticee?

24. 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.

25. The material available on record has not quantified the amount of disproportionate gain or unfair advantage, if any, made by the Noticee and the loss, if any, suffered by the investors as a result of the Noticee's failures. From the documents available on record, it is noted that no prior default is on record.

26. In view of the abovementioned conclusion, after considering the factors under Section 15J of the SEBI Act, I hereby impose a penalty of Rs 4,00,000/- (Rupees Four Lakh only) on the Noticee under Section 15A (b) of the Securities and Exchange Board of India Act, 1992 for violating provisions of Regulation 7(2)(b) of SEBI (Prohibition of Insider Trading) Regulations, 2015, which is appropriate in the facts and circumstances of the case.

ORDER

27. 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 Rs 4,00,000/- (Rupees Four Lakh only) on Sacheta Metals Limited in terms of the provisions of Sections 15A(b) of the Securities and Exchange Board of India Act, 1992 for violating provisions of Regulation 7(2)(b) of SEBI (Prohibition of Insider Trading) Regulations, 2015.

28. The Noticee shall remit / pay the said amount of penalty within 45 days of receipt of this order either through e-payment facility into 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.

29. The Noticee 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

30. 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 each of this order is being sent to Sacheta Metals Limited, Sacheta Udyog Nagar, Opp College, Mahiyal, Talod, Gujarat. PIN – 383215 and also to the Securities and Exchange Board of India, Mumbai.

Date: 16.01.2018
Place: Mumbai

Suresh Gupta
Adjudicating Officer