

**BEFORE THE ADJUDICATING OFFICER**  
**SECURITIES AND EXCHANGE BOARD OF INDIA**  
**[ADJUDICATION ORDER NO. Order/PM/AB/2019-20/7319]**

**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  
**Shri Sumesh Parasrampur**  
**(PAN: AABPP7217P)**

In the matter of  
**Multi Commodity Exchange of India Limited**

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**FACTS OF THE CASE IN BRIEF**

1. Securities and Exchange Board of India (“**SEBI**”) conducted investigation in the scrip of Multi Commodity Exchange of India Limited (hereinafter referred to as “**Company/MCX**”) for the period of April 27, 2012 to July 31, 2013 and it was observed that Shri Sumesh Parasrampur (“**Noticee**”) had sold shares of MCX and had failed to make necessary disclosures under the SEBI(Prevention of Insider Trading) Regulations, 1992 (“**PIT Regulations**”).

**APPOINTMENT OF ADJUDICATING OFFICER**

2. The undersigned was appointed as Adjudicating Officer under section 15I of the Securities and Exchange Board of India Act, 1992 (hereinafter referred to as “**SEBI Act**”) read with rule 3 of SEBI (Procedure for Holding Inquiry and Imposing Penalty) Rules, 1995 (hereinafter referred to as the ‘**Adjudication Rules**’) to inquire into and adjudge under section 15A(b) of the SEBI Act the alleged violations of provisions of Regulation

13(4) r/w 13(5) of PIT Regulations and Section 15HB of the SEBI Act, 1992, the alleged violation of Clause 3.3.1 of Model Code of Conduct for Prevention of Insider Trading for Listed Companies specified under Schedule I of Part A read with Regulations 12(1) of PIT Regulations, 1992 by the Noticee.

### **SHOW CAUSE NOTICE, REPLY AND PERSONAL HEARING**

3. A Show Cause Notice dated December 14, 2017 (hereinafter referred to as “**SCN**”) was issued to the Noticee under Rule 4 of the Adjudication Rules to show cause as to why an inquiry should not be initiated and penalty be not imposed under section 15A(b) of the SEBI Act, 1992 for the alleged violations specified in the SCN.
4. Vide letter dated December 27, 2017, the Noticee sought inspection of documents. Considering the nature of alleged violations the inspection request was not acceded to. Subsequently, the Noticee vide letters dated September 17, 2018 and January 3, 2019 replied to the SCN. The summary of submissions is as follows:
  - a. The Noticee became an “Officer” only w.e.f. November 3, 2012 when the Code of Conduct for prevention of Insider Trading (“**Code of Conduct**”) formulated by MCX was amended on November 3, 2012 wherein his designation was explicitly covered under the ambit of “officer”.
  - b. Thus, the transactions done prior to November 3, 2013 were not required to be disclosed. The delay in disclosure of the trades done on November 9, 2012 and November 12, 2012 is just one or two days and no harm is caused to investors because of that.

- c. Further, the trades of Noticee's Father, Shri Sajjankumar Parasrampurua were done in June and July, 2012 when the Noticee was not an "Officer" and hence the Code of Conduct was not applicable on him.
  - d. Alternatively, the trading of the father of the Noticee is independent of the Noticee and the same is clear from the records relating to trading. Thus, the Noticee's father is not dependent on the Noticee and has independent and separate source of income. The Noticee was not even aware of the securities market dealings of his father and was in no position to make any disclosure.
  - e. As regards, the pre-clearance required to be taken, the Noticee was under the impression that the limit of 5,000 shares is applicable on dealing/ transaction of buy and sell each and not cumulative of both.
5. An opportunity of personal hearing was granted to the Noticee on August 21, 2018 in accordance with Rule 4(3) of the AO Rules. The Noticee did not appear on the said date due to issue relating to inspection. Another hearing was scheduled on January 4, 2019 which was attended by the Noticee and his advocate. The Noticee was also given opportunity to file additional submissions by February 16, 2020 by e-mail dated February 6, 2020. However, no additional submissions were filed by the Noticee.

### **CONSIDERATION OF ISSUES AND FINDINGS**

6. I have carefully perused the reply to the SCN and the submissions of the Noticee and the documents available on record. The issues that arise for consideration in the present case are :

- I. Whether the Noticee was covered under the ambit of “Officer” as specified in Reg. 13(4) of the PIT Regulations?
  - II. Whether the Noticee failed to make any disclosure as envisaged in Reg. 13(4) of the PIT Regulations? and
  - III. Does the violation, if any, attract monetary penalty under section 15A(b) of SEBI Act?
  - IV. Whether the Noticee was required to take pre-clearance for trading done by his father in the scrip of MCX?
  - V. Whether the Noticee failed to take pre-clearance for trading done by his father in the scrip of MCX?
  - VI. Does the violation, if any, attract monetary penalty under section 15HB of SEBI Act?
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- I. Whether the Noticee was covered under the ambit of “Officer” as specified in Reg. 13(4) of the PIT Regulations?**
  - II. Whether the Noticee failed to make any disclosure as envisaged in Reg. 13(4) of the PIT Regulations?**
  - III. Does the violation, if any, attract monetary penalty under section 15A(b) of SEBI Act?**
7. Before moving forward, it is pertinent to refer to the relevant provisions of PIT Regulations which reads as under:-

***PIT REGULATIONS***

***Continual Disclosure***

**13(4)** *Any person who is a director or officer 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 and his dependents (as defined by the company) from the last disclosure made under sub-regulation (2) or under this subregulation, and the change exceeds Rs. 5 lakh in value or 25,000 shares or 1% of total shareholding or voting rights, whichever is lower.*

8. It is seen from the Investigation Report (hereinafter referred to as “IR”) and the relevant documents that the Noticee sold shares of MCX in excess of Rs. 5 Lakh on 4 days during the investigation period viz. on September 14, 2012, September 18, 2012, November 9, 2012 and November 12, 2012. As per the SCN, no disclosures under Reg. 13(4) have been made for sale of shares done on September 14, 2012 and September 18, 2012 and delayed filing was made for transactions done on a November 9, 2012(2 days) and November 12, 2012(1 day).
9. It is observed from the IR that the Noticee was an “officer” as mentioned by the Code of Conduct of MCX. On perusal of the Code of Conduct it is observed that the definition of the term Officer had been modified on November 3, 2012 as submitted by the Noticee.
10. It can thus be concluded from the amendments to the Code of Conduct that the Noticee became the “Officer” as per code of conduct only on November 3, 2012 and was not covered under the ambit of Reg. 13(4) prior to the said date. Hence, no disclosures were required for the sale of shares done on September 14, 2012 and September 18, 2012.
11. As regards, the sale of shares done on November 9, 2012 and November 12, 2012, it is clear that the Noticee was covered under the term officer and he was supposed to make the disclosures in the prescribed format within 2 working days of sale of shares.

12. It is observed from the IR and documents available on record that the disclosures were made by the Noticee with a delay of 1 and 2 days. Thus, there is a delay of in making the disclosures which has also been admitted by the Noticee.

13. However, in the given facts and circumstances, it appears that the delay in disclosure was inadvertent and has not caused any harm to investors. Thus, the said delay doesn't warrant any imposition of penalty on the Noticee.

**IV. Whether the Noticee was required to take pre-clearance for trading done by his father in the scrip of MCX?**

**V. Whether the Noticee failed to take pre-clearance for trading done by his father in the scrip of MCX?**

**VI. Does the violation, if any, attract monetary penalty under section 15HB of SEBI Act?**

14. The next issue for consideration is about pre-clearance required to be taken by the Noticee for the trading done by himself or his dependents. Since the mandate of pre-clearance and the applicability has been decided by the Code of Conduct, it would be important to mention the relevant clause of Code of Conduct:

***9. Restriction on trading in Shares of the Company***

*All Officers and designated employees of the Company shall be subject to trading restrictions as enumerated below:*

*a)....*

***b) Pre-Clearance of Trades***

*(i) All directors/officers/designated employees and their dependents who intend to deal in the securities of the company exceeding the minimum threshold limit of 5,000 shares in a calendar month shall obtain pre-clearance of the transaction(s) from the compliance officer before entering into the transaction as per the pre-dealing procedure as described hereunder.*

15. As concluded in the preceding paragraphs the Noticee became an officer only on November 3, 2012. However, it is pertinent to note that the requirement for pre-clearance is applicable to the officers as well as designated employees. As per the definition of designated employees given in the Code of Conduct, all employees from the level of Senior Vice President and above were considered designated employees. The Code of Conduct was revised in November 3, 2012 and January 3, 2013 wherein various designations were covered under the term officer including the designation held by the Noticee and all the Senior Vice Presidents.
16. The Model Code of Conduct prescribed by SEBI which is the basis of Code of Conduct of MCX and the PIT Regulations deals with Officers and Designated employees. The liberty is given to the Company to designate certain positions as designated employees who may or may not be required to make all disclosures but are required to follow various provisions of the Model Code of Conduct.
17. In the instant case, the Noticee was holding the position of Director – Business Development and this position can be considered very senior. As stated earlier, the designation of the Noticee was included as an Officer on November 3, 2012, thereby indicating that the designation of

the Noticee was covered under the realm of designated employee prior to the inclusion in the definition of Officer.

18. The next contention submitted by the Noticee is that his father was not financially dependent on him and in support of this argument he has submitted the income tax returns and trading details of his father. On prima facie examination of the same, it appears that the father of the Noticee had some source of income. However, the definition of Dependent, at the relevant time, as given in the code of conduct only mentions that spouse, dependent parents and dependent children along with any relative who is financially dependent on the Officer/Designated Employee. Interestingly, the definition of relative under the clause includes, Father, Mother, Son, Daughter, etc.

19. Thus, it appears that the Code of Conduct of MCX distinguished between the term “dependent” and “financially dependent”. Further, as per Noticee’s own declaration to MCX his father was dependent on him and the details of dependents have been shared by MCX with SEBI. Thus, it might be case that the Noticee’s father even with his income was dependent on the Noticee. It is to be noted that once the Noticee has declared that his father is dependent on him, it is not open to plead that the transactions of his father are not covered within the ambit of Code of Conduct. Thus, it can be concluded that the trading of the Noticee and his father required pre-clearance under the Code of Conduct.

20. The trading of the Noticee’s father which allegedly required pre-clearance is as follows:

| Date       | Buy Qty | Buy value | Sell Qty | Sell Value |
|------------|---------|-----------|----------|------------|
| 20.06.2012 | 3,000   | 30,76,400 | 1,000    | 10,15,294  |
| 21.06.2012 | -       | -         | 2,000    | 20,22,075  |
| 22.06.2012 | 2,000   | 21,00,215 | -        | -          |



| Date                | Buy Qty      | Buy value        | Sell Qty     | Sell Value       |
|---------------------|--------------|------------------|--------------|------------------|
| 27.06.2012          | -            | -                | 2,000        | 20,54,549        |
| <b>Total (June)</b> | <b>5,000</b> | <b>51,76,615</b> | <b>5,000</b> | <b>50,91,918</b> |
| 02.07.2012          | 1,000        | 10,63,860        | -            | -                |
| 06.07.2012          | -            | -                | 1,000        | 10,84,901        |
| <b>Total (July)</b> | <b>1,000</b> | <b>10,63,860</b> | <b>1,000</b> | <b>10,84,901</b> |

21. It can be seen from the trading details that the Noticee's father transacted for 10,000 shares in month of June and 2,000 shares in the month of July. As stated earlier, the Code of Conduct required pre-clearance for any trading intended to be more than 5,000 shares. Thus, it is clear that the pre-clearance for aforesaid trading done by the father of Noticee in the month of June should have been obtained.

22. It is also observed that the Noticee was well aware that the pre-clearance was required for trading by his dependents and it is clear from his submissions dated September 17, 2018 wherein he has submitted that he was not aware the cumulative trading is counted for the threshold of 5,000 shares. Thus, the Noticee by failing to take pre-clearance for trading of his father violated Code of Conduct of MCX read with Regulation 12(1) of PIT Regulations.

23. The aforesaid violation makes the Noticee liable for penalty under Section 15HB of the SEBI Act, which read as under:

***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 may extend to one crore rupees.*

24. While determining the quantum of penalty under Section 15HA of the SEBI Act, the following factors stipulated in Section 15J of the SEBI Act, have to be given due regard:

- 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.

25. The Indian Securities market works on the principle of fair and timely disclosures. The PIT Regulations mandate that a code of conduct shall be formed so as to monitor trading by persons who would be normally having access to price sensitive information. The purpose of taking pre-clearance is to ensure that no person should take undue benefit of any information asymmetry. Although, it couldn't be proved that the Noticee or his father have traded on the basis of any unpublished price sensitive information or have made any disproportionate gain or have caused any loss to investors, but the failure to obtain pre-clearance shows scant regard for the laws framed by the Company and SEBI.

**ORDER**

26. After taking into consideration all the facts and circumstances of the case, in exercise of powers conferred upon me under Section 15I (2) of the SEBI Act read with Rule 5 of the Adjudication Rules, I hereby impose a penalty of Rs. 5,00,000/- (Rupees Five Lakhs only) upon the Noticee, under Section 15HB of the SEBI Act for violation of Regulation 12(1) of the PIT Regulations.

27. The Noticee 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 by using the web link  
<https://siportal.sebi.gov.in/intermediary/AOPaymentGateway.html>

28. The Noticee shall forward said Demand Draft to the Enforcement Department – Division of Regulatory Action – III of SEBI. The Noticee shall provide the following details while forwarding the Demand Draft:

- I. Name and PAN of the entity (Noticee)
- II. Name of the case / matter
- III. Purpose of Payment – Payment of penalty under AO proceedings
- IV. Bank Name and Account Number
- V. Transaction Number

29. In terms of rule 6 of the Adjudication Rules, copies of this order are sent to Noticee and also to the Securities and Exchange Board of India.

**Date: March 20, 2020**  
**Place: Mumbai**

**Prasanta Mahapatra**  
**Adjudicating Officer**