

**BEFORE THE ADJUDICATING OFFICER**  
**SECURITIES AND EXCHANGE BOARD OF INDIA**  
**[ADJUDICATION ORDER NO. EAD/PM-NK/AO/57/2017-18]**

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**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**

**Tushar Ramchandra Rane (PAN: AJCPR9314H)**

**In the matter of**

**Trading activities of certain entities in the scrip of Tilak Finance Limited**

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**FACTS OF THE CASE IN BRIEF**

1. Securities and Exchange Board of India (hereinafter referred to as “SEBI”) conducted an investigation in the matter relating to the Trading activities of certain entities in the scrip of Tilak Finance Limited (herein after referred to as 'TFL' or 'the Company') during the period April 25, 2013 to March 06, 2014 (hereinafter referred to as ‘investigation period’/‘period of investigation’). Investigation observed that Mr. Tushar Ramchandra Rane (PAN: AJCPR9314H) (hereinafter referred to as the Noticee) was one of the directors of TFL and had bought 74,931 shares during the investigation period. Investigation observed with the aforesaid buying of shares by the Noticee, his shareholding in the company (TFL) had changed by more than 25000 shares on 14/10/2013 and 28/02/2014. Investigation revealed that he failed to make the requisite disclosures to the company TFL and to the Stock Exchange (s) where the securities of the company are listed within two working days as stipulated under Regulation 13 (4)

read with Regulation 13 (5) of SEBI (Prohibition of Insider Trading) Regulations, 1992 (hereinafter referred to as **SEBI (PIT) Regulations, 1992**).

2. The details of change in his shareholding are tabulated below:

<b>Shares acquired by Mr. Tushar Ramchandra Rane PAN: AJCPR9314H (Noticee)</b>							
<b>Sl. No.</b>	<b>Date</b>	<b>Opening balance</b>	<b>% shareholding</b>	<b>No. of shares bought</b>	<b>Cumulative buy quantity</b>	<b>Closing balance</b>	<b>% shareholding</b>
1.	23/09/2013	419900	0.33%	12000	12000	431900	0.34%
2.	11/10/2013	431900	0.34%	6450	18450	438350	0.34%
<b>3.</b>	<b>14/10/2013</b>	<b>438350</b>	<b>0.34%</b>	<b>8850</b>	<b>27300</b>	<b>447200</b>	<b>0.35%</b>
4.	15/10/2013	447200	0.35%	4600	31900	451800	0.35%
5.	20/11/2013	451800	0.35%	2154	34054	453954	0.35%
6.	21/11/2013	453954	0.35%	12	34066	453966	0.35%
7.	29/11/2013	453966	0.35%	584	34650	454550	0.35%
8.	03/02/2014	454550	0.35%	1297	35947	455847	0.35%
9.	04/02/2014	455847	0.35%	55	36002	455902	0.35%
10.	05/02/2014	455902	0.35%	20	36022	455922	0.35%
11.	06/02/2014	455922	0.35%	416	36438	456338	0.36%
12.	10/02/2014	456338	0.36%	743	37181	457081	0.36%
13.	22/02/2014	457081	0.36%	4000	41181	461081	0.36%
14.	25/02/2014	461081	0.36%	1500	42681	462581	0.36%
<b>15.</b>	<b>28/02/2014</b>	<b>462581</b>	<b>0.36%</b>	<b>10000</b>	<b>52681</b>	<b>472581</b>	<b>0.37%</b>
16.	03/03/2014	472581	0.37%	5250	57931	477831	0.37%
17.	04/03/2014	477831	0.37%	3500	61431	481331	0.37%
18.	05/03/2014	481331	0.37%	5000	66431	486331	0.38%
19.	06/03/2014	486331	0.38%	3500	69931	489831	0.38%
20.	07/03/2014	489831	0.38%	5000	74931	494831	0.39%

## **APPOINTMENT OF ADJUDICATING OFFICER**

3. The undersigned was appointed as the 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 by

Adjudicating Officer) Rules, 1995 (hereinafter referred to as the 'Adjudication Rules') to inquire into and adjudge under section 15A(b) of the SEBI Act for the alleged violations of provisions of Regulation 13(4) read with Regulation 13(5) of SEBI (PIT) Regulations, 1992 and Regulation 12(2) of SEBI (Prohibition of Insider Trading) Regulations, 2015 (hereinafter referred to as "SEBI (PIT) Regulations, 2015").

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

4. A Show Cause Notice no. EAD/AO-PM/NK/22611/2017 dated September 18, 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. It was alleged in the SCN that Noticee violated Regulation 13(4) read with Regulation 13(5) of SEBI (PIT) Regulations, 1992. Copies of the documents relied upon in the SCN were provided to the Noticee along with the SCN.
5. Vide letters dated October 18, 2017 and February 21, 2018, Noticee filed its reply to the SCN and also requested for an opportunity of personal hearing. Noticee was given an opportunity of personal hearing on February 27, 2018. The Noticee along with one of his relative attended the personal hearing on February 27, 2018. They reiterated the submissions made in their reply to the SCN and sought time until March 9, 2018 to file additional written submissions in the matter, which was acceded to. However, Noticee despite being given sufficient time to file the additional submissions, has not filed any additional submission in the matter.
6. The summary of submissions vide letter dated October 18, 2017 are as follows:
  - ***In the aforesaid letter written by H.R. Sharma & Associates, Advocate, High court on behalf of its client Mr. Tushar Ramchandra Rane submits that the Noticee was not a director of the said company (Tilak Finance Limited) and was not aware about the said company and the allegations as well and that the allegations made in the SCN are false and frivolous.***

- *That his client was shocked and surprised to see the SCN. He submitted that his client was a simple and innocent man hardly earning for livelihood. He is uneducated and cannot do such things and was not aware about the share market at all as alleged in the SCN.*
- *He further stated that it appears to his client that someone has misused his name and made him false director in the company and misused for doing fraud transaction in his name. Further, that his client was working for one Mr. Giriraj Kishore Agrawal having office at E-109, Crystal Plaza New Link Road Andheri (West) Mumbai, who was expert in share market. He further stated that the above person had taken his client's and his client's wife signatures on various papers and that he may have misused them for trading in his client's name.*
- *Further, that his client is a poor Marathi man and it is not possible for him to do such irregularities as mentioned in the SCN since he does not know anything about share market. It is criminal matter which requires investigation against the said person which has done the same in the name of fictitious person and someone is misusing and trading in such a way. Further, that his client says that his employer, Mr. Giriraj Kishore Agarwal is engaged and involved in such irregularity, therefore it is required to trap him in said case and criminal case as per SEBI Law.*
- *Further that his client other than the above does not know anything alleged in the letter (SCN) about share transaction and company mentioned therein. Further, that his client has neither received any such email mentioned in the letter (SCN) nor he is aware about the same. Further, that now his client has come to know that he has been deceived by the said person who has played mischief with him and his wife (Sheetal Kadam). During the said alleged period his client and his wife were working with the said person in his office and that they were getting salary from the said person. During that time the said person may have taken his signature on various papers and misused these papers and made him director of said company. The said person has also misused signature of his client's wife and traded shares in her name for which SEBI has*

*taken action against his wife and falsely implicated in false case. Wife of his client is also innocent and that both of them have been deceived by the said person and his associate. Further that his client now realises that why he was keeping so much confidence in him. Whatever the said person and his people suggested to sign, he signed in good faith which was misused by said person.*

7. The summary of submissions vide letter dated February 21, 2018 are as follows:

- *The noticee submitted that he was not a director of the said company (Tilak Finance Limited) and was not aware about the said company and the allegations as well and that the allegations made in the SCN are false and frivolous.*
- *He stated that he was shocked and surprised to see the SCN. He submitted that he simple and innocent man and was not aware about the share market at all. He further stated that it appears to him that Mr. Pradeep Dhanuka having address at K.D. Empire, Ramdev Park, Near L.R Tiwari College, Mira Road, Mira Bhayandar, Maharashtra 401107 & Mr. Giriraj Kishore Agrawal (hereinafter referred to as employers) having office at E-109, Crystal Plaza New Link Road Andheri (West) Mumbai, for whom he and his wife (Tisha Tushar Rane) had worked in the past have misused his name in respect of the alleged transactions. He further stated that his employers (Mr. Pradeep Dhanuka and Mr. Giriraj Kishore Agarwal) had taken his and his wife's signatures on various piece of papers and later seems to have misused them for trading and others.*
- *He further stated that his wife was working for Mr. Pradeep Dhanuka & Mr. Giriraj Kishore Agarwal earlier in 2003 and that she was paid Rs. 2500/- per month as salary. He further submitted that he is not much educated and worked as a driver during the period 2004 to 2012 with them (Mr. Pradeep Dhanuka & Mr. Giriraj Kishore Agarwal) and that he was paid a salary of Rs. 6000/- per month. During this period they had opened a demat account in his name and was given some money and that he agreed for that due to family financial problems.*
- *He further submitted that on his resistance to open a Demat account, they had consoled him by saying that there will not be any issue in this regard, and that they would take care of any issues in this regard. Further, he stated that he*

*would have lost his job, had he not signed and opened a demat account and that he was left with no other option but to sign the documents and opening of demat account.*

- *He further submitted that soon after, he started receiving letters and documents at his home. He once opened a letter and saw some transaction in his bank account and when asked them (Mr. Pradeep Dhanuka and Mr. Giriraj Kishore Agarwal) about this, they told him not to open them again and that the letters/documents would be collected by their person.*
- *He further submitted that in the year 2012, he got another job as a driver and till date he is still working with them.*
- *The Noticee further submits that after he received the SCN, he gave one copy to Mr: Pradeep Dhanuka and when he talked about the SCN he was told not to worry and that the aforesaid conversation has been recorded by him which shall be submitted to this office along with some other submissions by March 9, 2018.*
- *The noticee submitted that on receipt of the SEBI Notice dated February 7, 2018 he went to Dahisar police station and requested them for help and complained against Mr. Pradeep Dhanuka and Mr. Giriraj Kishore Agrawal. Further, he went to meet Mr. Pradeep Dhanuka at his residence and he told to meet Mr. Giriraj Kishore Agarwal at Oshiwara, Andheri and told him not worry and that they will handle the matter. Further, he states that he has the call recordings of the alleged conversation between Mr. Pradeep Dhanuka and Mr. Giriraj Kishore Agarwal wherein both are allegedly putting the ball in each other's court.*
- *The Noticee further, submits that on 3rd November, 2017, he went to Mr. Giriraj Agrawal's office at Oshiwara along with his wife for the same mater and was allegedly offered some amount money. Subsequently his wife's brother called Mr. Pradeep Dhanuka and told him that Mr. Giriraj Agrawal said that all planning was done by him (Mr. Pradeep Dhanuka). The Noticee submits that he has the call recordings and video recordings of their conversation.*
- *The Noticee submitted he is a very poor Maharashtra Man and has studied only till 10th pass and does not understand much English and about share market trading. That he works as driver and has to take care of his parents and*

*family and that he has been made scapegoat by these thieving Marwaris (Mr. Pradeep Dhanuka and Mr. Giriraj Kishore Agarwal).*

- *The Noticee submitted that he will submit the bank statements of his saving salary account, pay slip and Bank statement of his new company which he joined in 2012, Phone recordings of conversation between Mr. Praddep N Dhanuka And Mr. Giriraj Kishore Agrawal, Video Recording of Mr. Pradeep Dhanuka And Mr. Giriraj Kihore Agrawl, Police compliant copy Against Mr. Pradeep Dhanuka & Mr. Giriraj Kishore Agrawal, EOW Complaint Copy Against Mr. Pradeep Dhanuka & Mr. Giriraj Kishore Agrawal*
- *The Noticee further submitted that due to all this, he is facing a lot of mental, physical and financial crisis and that he is just stuck in all this for no reason and no fault on his part.*

## **CONSIDERATION OF ISSUES AND FINDINGS**

8. I have perused the written submissions of the Noticee and the documents available on record. The issues that arise for consideration in the present case are:
  - 1) Whether the Noticee has violated Regulation 13(4) read with Regulation 13(5) of SEBI (PIT) Regulations, 1992? and
  - 2) Does the violation, if any, attract monetary penalty under section 15A(b) of SEBI Act, 1992?
9. Before moving forward, it is pertinent to refer to the relevant provisions of SEBI (PIT) Regulations, 1992 which reads as under:-

### **SEBI (PIT) Regulations, 1992**

#### **“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 sub regulation, and the change exceeds Rs. 5 lakh in value or 25,000 shares or 1% of total shareholding or voting rights, whichever is lower.*

*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.”*

**Issue 1) - Whether the Noticee has violated Regulation 13(4) read with Regulation 13(5) of SEBI (PIT) Regulations, 1992**

10. Regulation 13(4) read with 13(5) of SEBI (PIT) Regulations, 1992 inter alia requires disclosure in Form D to the company and to the Stock Exchange by any person who is a Director or Officer of a listed company / promoter or part of promoter group, of 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 which exceeds Rs. 5 lakhs in value or 25,000 shares or 1% of total shareholding or voting rights, whichever is lower; and such disclosure has to be made within two working days of acquisition or sale of shares or voting rights, as the case may be.
11. Upon perusal of the documents available on record, I find that the Noticee has submitted that he was neither aware of the company (TFL) nor that he was a Director of the said company. Further, he has also submitted that he is not much educated and does not understand the share market and share transactions and that he worked as driver to earn his living.
12. I further find from his submissions in Para 6 and 7 above that he and his wife were working as driver and office assistant respectively for some Mr. Pradeep Dhanuka & Mr. Giriraj Kishore Agarwal (hereinafter referred to as “employers”). His employers had obtained his signatures on blank papers along with some other documents such as Id proof, address proof etc. Further, his employers convinced him to open a demat account and also



appointed him a Director in TFL by offering him some extra money other than his regular salary, which he agreed to meet his family financial problems.

13. I further, find that the Noticee in his submissions has stated that after the above he handed over all the documents received at his address in connection with the above and was assured by his employers that they would look into all the matters related the above and that he need not worry. Further, he stated that all that was alleged in the SCN was done by his employers in his name and that he relied upon them in good faith and upon their assurance.
14. I find from his submissions that he claimed that he had video and voice recordings of his conversation with his employers and between his employers themselves, which he during the personal hearing before me, agreed to submit along with the additional submission by March 9, 2018.
15. However, I find that the Noticee has not submitted any supporting documents / evidence in support of his claim as above and also regarding the misuse of his name by his so called employers. Further, the Noticee has also not submitted any additional submissions including video and voice recordings as claimed during the personal hearing before me.
16. I also note that the Noticee, as per his own admission in Para 6 and 7 above, was aware about the transactions in his bank account and demat account. Further, that he was being paid some amount in lieu of allowing his employers to use his bank account and his demat account.
17. Further, I find that the Noticee's reply to be full of contradictions. For example; the Noticee says that he was neither aware about the company, TFL, nor was he aware of the fact that he was a Director in the said company. However, in the later part of the same reply he states that Mr. Pradeep Dhanuka and Mr. Giriraj Kishore Agarwal (employers) had appointed him director in TFL. Similarly, the Noticee at one point of his submission states that his employers had taken his signatures on various piece of papers and that the same might have been misused to open demat account, bank account etc. However, at another point in the same submission he states that he was given some money in lieu of opening of demat account which he had agreed due to his financial problems. At another point he states that he was convinced by them that they would take care of any issues arising with

regard to his demat account and the transactions therein. I also note that the Noticee in his reply dated October 18, 2017 has stated that his wife's name was Sheetal Kadam whereas in his reply dated February 21, 2018 he has mentioned his wife's name as Tisha Tushar Rane. I also note that at one point in his reply dated February 21, 2018 he states that after opening of demat and bank account he started receiving documents at his address and that he had opened one of the letters and on opening the letter noticed some transactions in his bank account. Further, he had enquired regarding the same with Mr. Pradeep Dhanuka to which he was told not to open any of the documents in future and just hand them over to him (Mr. Pradeep Dhanuka) which he did. At another point in his reply he states that he quit his job with Mr. Pradeep Dhanuka and joined another company in 2012 and is working there since then till date. He further stated that he will provide his bank statement and salary slip as evidence with respect to his financial transactions, which he did not provide.

18. I find from his submission that after he received the SCN dated September 18, 2017 in the present matter, he informed and forwarded a copy of the same to Mr. Pradeep Dhanuka. As per his own admission he was assured by Mr. Pradeep Dhanuka that he will take care of the matter. He also states that he was offered some money by Mr. Giriraj Kishore Agarwal.
19. In view of the discussions in Paras 11 to 18, I am of the view that the Noticee has deliberately allowed his name, demat account and bank account to be used by his employers in complete knowledge of the repercussions of his act. This is also corroborated from the fact that the Noticee was aware of his acts and their consequences which is evident from his resistance to open the demat account and opening of the letter and asking about the transactions in his bank account and claiming ignorance with regard to the same and shifting the onus of the transactions on his employers seems to be just an afterthought.
20. I find from the documents available on record that during the investigation, the Noticee vide email dated February 2, 2017 was asked to confirm whether disclosures in respect of his acquisitions/change in shareholding, as required under SEBI (SAST) Regulations 2011 and SEBI (PIT) Regulations 1992, were made to the company and to the exchange.

It is observed that the Noticee vide email dated February 6, 2017 replied confirming that he had not made any disclosures as mentioned above, either to the exchange or to the company. Further, that the non-disclosure was due to his lack of knowledge of the SEBI regulations and that such 'mistake' would not be repeated in future.

21. It is noteworthy here to mention that the Noticee had at no point of time during the investigation or any time earlier or even later, prior to the issuance of SCN in the present Adjudication Proceedings had raised any concern with respect to the transactions and his issues concerning his accounts and the transactions therein being managed by Mr. Pradeep Dhanuka and Mr. Giriraj Kishore Agarwal. I find from the documents available on record that there were several email communication with the Noticee during investigation and in none of the emails the Noticee has referred even remotely to any irregularity or name lending or fraudulent activity being carried out in his name, given the fact he in his submissions has accepted that he was aware of the activities in his bank and demat account by Mr. Pradeep Dhanuka and Mr. Giriraj Kishore Agarwal.
22. In the instant matter, I find from the documents available on record that there was change in the shareholding of the Noticee in the TFL of which he was a director, in excess of 25000 shares on two occasion, on October 14, 2013 and February 28, 2014 during the investigation period. The details of change in shareholding due to acquisition are as per the table given in Para 2 above.

Therefore, the Noticee being a Director in TFL was required to disclose the above change in his shareholding in TFL as on October 14, 2013 and February 28, 2014 in accordance with Regulation 13(4) read with Regulation 13 (5) of the SEBI (PIT) Regulations, 1992.

23. For the purpose of SEBI (PIT) Regulations, what is relevant is acquisition/disposal of shares and once acquisition/disposal of shares exceeds the limits prescribed therein, the provisions of SEBI (PIT) Regulations are triggered. Ultimately, the fact remains that there was change in the shareholding of the Noticee and such change exceeded benchmark limit of 25,000 shares on two occasions during the investigation period. The Noticee ought to have made the requisite disclosures to the company and the stock exchanges within two days as stipulated under Regulations 13(4) read with Regulation 13(5) of SEBI (PIT) Regulations, 1992. Admittedly, the disclosures were neither made to the stock

exchanges, nor to the company, TFL. I am of the view that when mandatory time period is stipulated for doing a particular activity, compliance /non-compliance of the same after that period would constitute default in compliance. Timeliness is the essence of disclosure under the SEBI (PIT) Regulations, 1992 and delayed disclosure/non-disclosure would not serve the purpose for which the obligation is cast in these Regulations.

24. In view of the aforesaid discussion, I find that the Noticee failed to make the requisite disclosures to the stock exchanges and to the company as stipulated under Regulation 13(4) read with Regulation 13(5) of SEBI (PIT) Regulations, 1992 about change in their shareholding exceeding 25,000 shares of TFL on two occasions.

**Issue 2) - Does the violation, if any, attract monetary penalty under section 15A (b) of SEBI Act?**

25. By not making the disclosures, the Noticee failed to comply with their mandatory statutory obligation. In this context, reliance is placed upon the order of the Hon'ble Supreme Court of India in the matter of **Chairman, SEBI vs. Shriram Mutual Fund** {[2006] 5 SCC 361} wherein it was held that *"In our view, the penalty is attracted as soon as contravention of the statutory obligations as contemplated by the Act is established and, therefore, the intention of the parties committing such violation becomes immaterial. .... Hence, we are of the view that once the contravention is established, then the penalty has to follow and only the quantum of penalty is discretionary."*
26. As the violation of Regulation 13(4) read with Regulation 13(5) of PIT Regulations, 1992 is established, the Noticee is liable for monetary penalty under section 15A(b) of SEBI Act, 1992 which, at the time of violation, read as under:

**"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,-**

(a) .....;

**Before 08.09.2014;** (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;*

**With Effect from 08.09.2014;** *(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;"*

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

*"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."*

28. The amount of disproportionate gain or unfair advantage to the Noticee or loss caused to investors as a result of the default is not quantified in the material available on record. Considering that there has been no disclosure by the Noticee on two occasions, the same are treated as repetitive. It is important to note that the details of the shareholding of the promoters/Directors and changes thereto is an important element for the proper functioning of the securities market and proper and timely disclosure thereof to the company and stock exchanges etc. are of significant importance from the standpoint of investors. The purpose of these disclosures is to bring about transparency in the transactions of Directors/Promoters and assist the Regulator to effectively monitor the transactions in the market. Hon'ble SAT in the case of **M/s. Coimbatore Flavors & Fragrances Ltd. & Ors. vs SEBI (Appeal No. 209 of 2014 order dated August 11, 2014)**, as regards the importance of disclosure, observed "*Undoubtedly, the purpose of*

*these disclosures is to bring about more transparency in the affairs of the companies. True and timely disclosures by a company or its promoters are very essential from two angles. Firstly; investors can take a more informed decision to invest or not to invest in a particular scrip secondly; the Regulator can properly monitor the transactions in the capital market to effectively regulate the same."*

29. It is contended by the Noticee that the non-compliance was unintentional due to lack of knowledge about SEBI Regulations. In this regard, I note that Hon'ble SAT, through various judgments, has consistently observed that these factors are not valid grounds for not complying with the mandatory disclosure obligations under the SEBI (PIT) Regulations. However, they are nevertheless treated as mitigating factors while arriving at the quantum of penalty.
30. Hon'ble SAT in the matter of **Akriti Global Traders Limited vs. SEBI** (Appeal No. 78 of 2014 order dated September 30, 2014), observed 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*".
31. In the matter of **Virendrakumar Jayantilal Patel vs. SEBI** (Appeal No. 299 of 2014 order dated October 14, 2014), observed that "*..... obligation to make disclosures within the stipulated time is a mandatory obligation and penalty is imposed for not complying with the mandatory obligation. Similarly argument that the failure to make disclosures within the stipulated time, was unintentional, technical or inadvertent and that no gain or unfair advantage has accrued to the appellant, is also without any merit, because, all these factors are mitigating factors and these factors do not obliterate the obligation to make disclosures.*"
32. In this regard, Hon'ble Supreme Court of India in the matter of **Shriram Mutual Fund** refereed supra had observed that "*... imputing mens rea into the provisions of Chapter VIA is against the plain language of the statute and frustrates entire purpose and object*

*of introducing Chapter VIA to give teeth to the SEBI to secure strict compliance of the Act and the Regulations.”*

33. In view of all of the above I am of considered view that the Noticee has violated the provisions of Regulation 13(4) read with Regulation 13(5) of SEBI (PIT) Regulations, 1992 and that it is a fit case for imposition of penalty for violation of the aforesaid Regulations.

#### **ORDER**

34. After taking into consideration the nature and gravity of charges established, the facts and circumstances of the case and the mitigating factors as enumerated above, I, in exercise of the powers conferred upon me under Section 15I (2) of the SEBI Act, 1992 read with Rule 5 of the Adjudication Rules, hereby impose a monetary penalty of Rs. 2,00,000/- (Rupees Two Lakhs Only) on the Noticee i.e. Mr. Tushar Ramchandra Rane under section 15A(b) of SEBI Act, 1992 for violation of Regulations 13(4) read with Regulation 13(5) of PIT Regulations, 1992 and Regulation 12(2) of PIT Regulations, 2015.
35. 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 through e-payment facility into Bank Account the details of which are given below:

*Account No. for remittance of penalties levied by Adjudication Officer*

<b>Bank Name</b>	<b>State Bank of India</b>
<b>Branch</b>	<b>Bandra - Kurla Complex</b>
<b>RTGS Code</b>	<b>SBIN0004380</b>
<b>Beneficiary Name</b>	<b>SEBI – Penalties Remittable To Government of India</b>
<b>Beneficiary A/c No</b>	<b>31465271959</b>

36. The Noticee shall forward said Demand Draft or the details / confirmation of penalty so paid through e-payment to the Deputy General Manager, DRA- III, Enforcement Department, SEBI, Mumbai as per the following format.

Case Name	
Name of Payee	
Date of payment	
Amount Paid	
Transaction No	
Bank Details in which payment is made	
Payment is made for (like penalties/ disgorgement/recovery/Settlement amount and legal charges along with order details)	
Penalty	

37. In terms of rule 6 of the Adjudication Rules, copies of this order are sent to the Noticee and also to SEBI.

**Date: March 23, 2018**  
**Place: Mumbai**

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