

SECURITIES AND EXCHANGE BOARD OF INDIA
[ADJUDICATION ORDER NO. AK/AO- 7-11 /2017]

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

M/s. Falcon Tyres Limited (PAN: AAACF7258E), **Mr. Pawan Kumar Ruia** (PAN: ACNPR3823K), **Mr. S Ravi** (PAN: ADEPR0817K), **Mr. Sunil Bhansali** (PAN: AKRPB5641H), and **Mr. MC Bhansali** (PAN: ACUPB0719P)

In the matter of

Falcon Tyres Limited

FACTS OF THE CASE

1. Falcon Tyres Limited (hereinafter referred to as the '**Company/ 'FTL'**') is a company registered under the Companies Act. During the investigation period i.e. June 01, 2009 to September 30, 2009, Mr. Pawan Kumar Ruia was the Chairman and Promoter Director of the company, Mr. Sunil Bhansali was the Executive Director of the company, Mr. S. Ravi was the Non-Executive Director of the company and Mr. M. C. Bhansali was the Company Secretary cum Compliance Officer of the company. Mr. Pawan Kumar Ruia, Mr. Sunil Bhansali, Mr. S. Ravi, Mr. M. C. Bhansali and the company itself are (hereinafter collectively referred to as the '**Noticees'**').
2. During the investigation period, Securities and Exchange Board of India (hereinafter referred to as '**SEBI'**') vide letter dated October 25, 2010 had sought various information from the company such as the details of the promoters/ directors of the company, their names, addresses, details of demat accounts, corporate announcements made by the company, minutes of the Board meeting held during the period from January 01, 2009 to September 30, 2009, a copy of Code of Internal Procedure and Conduct and Code of Corporate Disclosure Practices of the company in accordance with SEBI (Prohibition of Insider Trading) Regulations, 1992 (hereinafter referred to as '**PIT Regulations, 1992'**'), the time of closing and opening of trading window with respect to the above announcements and the

details of disclosures made to the company and to the stock exchanges under PIT Regulations, 1992 and SEBI (Substantial Acquisition of Shares and Takeovers) Regulations, 1997 (hereinafter referred to as '**Takeover Regulations, 1997**').

3. Vide letter dated March 30, 2011, the company submitted the above information sought by SEBI. From the submission of the company dated March 30, 2011, SEBI observed that there was no trading window system in the Company as directors/employees "do not trade in the company's securities." Further, on perusal of the copy of the Code of Conduct forwarded by the Company, SEBI observed that the company had forwarded a copy of the Code of Conduct and Ethics, instead of a copy of the Code of Internal Procedure & Conduct and Code of Corporate Disclosure Practices in accordance with the PIT Regulations, 1992.
4. SEBI vide letter dated March 06, 2013 *inter alia* brought the same to the notice of the company including the prima facie presumption arrived at in view of the above that the company did not have a Code of Internal Procedure and Conduct and Code of Corporate Disclosure Practices in place in accordance with PIT Regulations, 1992. Vide the aforesaid letter, it was also *inter alia* brought to the notice of the company that the fact that there is no trading window system in the company and directors/ employees do not trade in the company's securities, as stated in company's reply dated March 30, 2011, had also been taken note of. The company's comments, if any, on the same were specifically called for latest by March 08, 2013.
5. The Company vide letter dated March 12, 2013 in response *inter alia* submitted as follows:
"We are having a Code of Internal Procedure and Conduct and Code of Corporate Disclosure Practice in terms of the SEBI (Prohibition of Insider Trading) Regulation 1992. However, our directors/ employees do not trade in the Company's securities." No copy of such Code of Internal Procedure and Conduct and Code of Corporate Disclosure Practices in accordance with PIT Regulations, 1992, claimed to be in place, was provided by the Company along with the said reply. Also, the reply did not elicit any comment with regard to the fact of there being no trading window system in the company, taken on record by the Investigation of SEBI and specifically brought to the notice of the company.
6. In view of the above, investigation alleged that the Company did not have any trading window system. Further, since only a copy of the Code of Conduct and Ethics was furnished, investigation observed

that the Company had not framed and adopted the Code of Internal Procedure and Conduct as near thereto Model Code of Conduct in terms of Regulation 12 (1), Schedule I, Part A of PIT Regulations, 1992. It was, hence, alleged that the Noticees have violated regulation 12(1) read with Clause 1.2 under Part A of Schedule I of the PIT Regulations, 1992. Also further that the above violations make the Noticees liable for monetary penalty under Section 15HB of SEBI Act, 1992. Vide Order dated February 26, 2014, it was held that the Noticees had violated the aforesaid Regulation and had accordingly imposed a penalty of Rs.1,00,00,000/- (Rupees One Crore Only) on the Noticees to be paid jointly and severally.

7. The said Order dated February 26, 2014 was appealed against before the Hon'ble Securities Appellate Tribunal (hereinafter referred to as '**SAT**') by the Noticees. The Hon'ble SAT vide its Order dated February 11, 2016 set aside the Adjudication Order dated February 26, 2014 and restored the matter to the file of Adjudicating Officer for passing fresh order on merits and in accordance with law. The Hon'ble SAT left it open to SEBI to issue supplementary show cause notice, if deemed necessary and thereafter hear the appellants & pass appropriate order in accordance with law.

APPOINTMENT OF ADJUDICATING OFFICER

8. Ms. Barnali Mukherjee was appointed as the Adjudicating Officer vide Order dated April 17, 2013 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 '**SEBI Rules**').
9. Consequent upon transfer of Ms. Barnali Mukherjee, the undersigned was appointed as the Adjudicating Officer on August 08, 2013 to inquire into and adjudge under Section 15 HB of the SEBI Act, for the alleged violation of the provision of regulations 12 (1) read with Clause 1.2 under Part A of Schedule I of the PIT Regulations, 1992.
10. Pursuant to the Order of the Hon'ble SAT dated February 11, 2016, the matter was restored to the undersigned for passing fresh order on merits and in accordance with law.

SHOW CAUSE NOTICE, REPLY AND PERSONAL HEARING

11. A Show Cause Notice (hereinafter referred to as '**SCN**') Ref. No. EAD-6/BM/RSL/10981/2013, EAD-6/BM/RSL/10982/2013, EAD-6/BM/RSL/10984/2013, EAD-6/BM/RSL/10985/2013, EAD-6/BM/RSL/10987/2013 dated May 08, 2013 were issued to the Noticees under rule 4(1) of SEBI Rules communicating the alleged violation of PIT Regulations, 1992. The Noticees were also called upon to show cause as to why an inquiry should not be initiated against it and penalty be not imposed under Section 15HB of the SEBI Act for the alleged violations.
12. It is noted here that the Company and Mr. S Ravi had authorized Mr. M.C. Bhansali, Company Secretary to offer submission/replies on behalf of them in the current proceeding. Further, Mr. Sunil Bhansali had also authorized Mr. M.C. Bhansali to offer submission/replies on behalf of him and Mr. Pawan Kumar Ruia. Hence, the submissions made by Mr. M.C. Bhansali on behalf of the company are considered to be on behalf of the Noticees.
13. The Noticees vide letter dated May 20, 2013 had denied the allegations levied against them in the SCN dated May 08, 2013 and had sought inspection of (a) all the original documentation/data etc. relied upon in the SCN; (b) the original documents/data etc. relied upon during the investigation period.
14. The Noticees vide letter dated May 29, 2013 and June 03, 2013 were informed that they could avail inspection of documents on any working day during the office hours from June 03 to June 21, 2013, with three working days advance intimation. The Noticees were further informed that the original of all the documents relied upon by SEBI and provided as Annexure to the SCN shall be open for inspection.
15. Pending inspection, the company vide letter dated June 14, 2013 on behalf of the Noticees, while denying all allegations made against the Noticees, had *inter alia* stated as follows:
 - 15.1 *That they had inadvertently written that there was no trading window system in the Company, as directors/employees of the Company do not trade in the Company's securities. However the correct and factual position is that the Company did in fact have*

*a trading window system and that has been duly mentioned in clause 6 of the 'Code of Conduct for Prevention of Insider Trading in Shares' of the Company (hereinafter referred to as '**the Code of Conduct**'). It was further stated that as per clause 6 of the Code of Conduct, a designated employee and his dependent family members shall trade in the securities of the Company only during a specific time period called 'Trading Window' to be specified by the Company. Further, that the term 'designated employee' as used in the Code of Conduct includes all Directors, Chief Vigilance Officer, all Executive Directors, the Chief General Managers/General Managers/ Head of Departments of the Company.*

15.2 That vide letter dated March 06, 2013, SEBI had asked for company's comments on the Code of Conduct, to which the company vide letter dated March 12, 2013 had submitted that they were having the code of Internal Procedure and Conduct and Code of Corporate Disclosure Practice in terms of PIT Regulations, 1992, however, their directors/ employees did not trade in the company's securities. It was submitted that the Code of Conduct has been made pursuant to Regulation 12 (1) of SEBI PIT Regulations, 1992 and in accordance with the Model Code of Conduct as per Schedule 1 part A of the SEBI PIT Regulations, 1992 and Clause 49 of the Listing Agreement with the stock exchanges. Further, that their non-independent directors and compliance officer who are in charge of the company had adopted the Code of Conduct in accordance with Model Code of Conduct as per the Schedule 1 part A of the SEBI PIT Regulations, 1992. Also, that as per the Code of Conduct of the Company, the Directors, Chief Vigilance Officer, all Executive Directors, the Chief General Managers/General Managers/Head of Departments of the Company and their dependent family members have to conduct all their dealing in the Company's securities during a valid trading window and not deal in any transaction involving the purchase or sale of the Company's securities during the periods when the trading window is closed, or, during any other period as may be specified by the Company from time to time;

15.3 That the Code of Conduct adopted by the company has not been diluted in any manner and is as near to the Model Code of Conduct and in complete compliance with the provision of Regulation 12(1) of PIT Regulations, 1992.

16. Vide their aforesaid submission dated June 14, 2013, a copy of the aforesaid Code of Conduct made in terms of PIT Regulations, 1992 was annexed for the first time. The company on behalf of the Noticees submitted further that a supplementary reply would be filed after inspection of all original documents referred to and relied upon by SEBI.
17. Inspection of documents were provided to the Noticees on June 19, 2013 and the following documents were inspected by the Noticees:
 - 17.1 Copy of the appointment letter of Ms. Barnali Mukherjee as Adjudicating Officer;
 - 17.2 Copy of the SEBI letter dated October 24, 2010;
 - 17.3 Company's reply in original dated March 30, 2011;
 - 17.4 Copy of the SEBI letter dated March 06, 2013; and
 - 17.5 Company's reply in original dated March 12, 2013.
18. After the inspection of documents, the company vide letter dated June 25, 2013 on behalf of the Noticees *inter alia* stated that they were only provided with an inspection of documents/ data relied upon by SEBI in the show cause notice and that they were not provided with inspection of any of the documents/ data relied upon by SEBI during the investigation period. Further, that the original letter dated April 23, 2013 appointing Ms. Barnali Mukherjee as the Adjudicating Officer in the matter was not provided and only a photocopy of the same was provided.
19. Vide email dated September 17, 2013, the Noticees were informed that the inspection of all the relevant documents relied upon by SEBI in the SCN dated May 08, 2013 was availed of by the Noticees on June 19, 2013 and they were advised to send the list of documents sought by them for further inspection. The Noticees were also informed that the inspection of the original appointment order of the Adjudicating Officer would be provided on the day of the personal hearing.
20. Since, no response was received from the Company Secretary of the Company to the email dated September 17, 2013, in the interest of natural justice and in terms of rule 4(3) of the SEBI Rules, the Noticees were granted an opportunity of hearing on October 11, 2013 vide notice dated September 24, 2013 and the said notice was duly acknowledged by the Noticees. Accordingly on October 11, 2013, Mr. Kedar Agarwal, Ms. Rohini Karol and Mr. Viplaw Kashyap, Authorized Representatives of the Noticees (hereinafter referred to as '**ARs**') appeared on behalf of the Noticees and further

sought to inspect the original documents/data relied upon by SEBI during the investigation period. During the personal hearing, the original appointment letter of the Adjudicating Officer Ms. Anita Kenkare was inspected and a copy of the same was provided to the ARs.

21. Vide letter dated November 12, 2013, the Noticees were informed to take up inspection on any working day during the office hours from December 09 to 13, 2013, with three working days advance intimation. The Noticees vide email dated November 20, 2013 were again advised to send a list of documents sought by them for inspection.
22. The company on behalf of the Noticees vide email and letter dated November 22, 2013 sought the following documents for inspection:
 - 22.1 *Source of information, data on which SEBI relied upon and the outcome along with the data of the investigation of trading pattern in the Investigation Period, along with the other documentation and information relied upon by SEBI during the investigation period with respect to the investigation of trading pattern of the Company;*
 - 22.2 *Documents, source and Information relied upon by SEBI for observing net profit of the Company in its quarterly and annual results for the period between March 31, 2009 to September 30, 2010;*
 - 22.3 *Documents and the source of information that the promoter of the company had purchased 6,59,660 equity shares of the company from public under open offer;*
 - 22.4 *Documents, source and information pertaining to increase of shareholding of the promoter in the Company in the quarter ending June 30, 2009 and decrease in quarter ending December 31, 2009;*
 - 22.5 *Any other document, information, writing, transcripts, correspondences, emails, telephonic records relied upon by SEBI during the investigation period.*
23. The ARs appeared on behalf of the Noticees for the inspection on December 12, 2013 and the following documents were shown and inspected by the ARs:
 - 23.1 Documents/ source relied upon by SEBI for observing net profit of the Company in its quarterly and annual results for the period between March 31, 2009 to September 30, 2010;

- 23.2 Documents/ Source of information that the promoter of the company had purchased 6,59,660 equity shares of the company from the public under the open offer;
- 23.3 Documents/ Source of information pertaining to increase of shareholding of the promoter in the company for the quarter ended June 30, 2009 and decrease in the quarter ending December 31, 2009.
24. The company vide letter dated December 12, 2013 on behalf of the Noticees *inter alia* submitted that the inspection as held on December 12, 2013 of the original documents, as requested, was incomplete as all documentation and information that was relied upon by SEBI during the investigation period with respect to the investigation of trading pattern was not provided to be inspected.
25. Vide hearing notice dated December 17, 2013, the Noticees were informed that the inspection of all evidence/documents relied upon while framing charges in the SCN dated May 08, 2013 have already been provided for inspection on June 19, 2013 and December 12, 2013. Vide the said hearing notice, it was further also informed that no allegation has been made with regard to the trading pattern of the company in the SCN and the same does not form a part of the allegation against the Noticees. The Noticees were given another opportunity of hearing on January 17, 2014.
26. Vide letter dated January 06, 2014, the Noticees while reiterating what was stated in their earlier submissions *inter alia* further stated as follows:
- 26.1 *that at the time of inspection on December 12, 2013, the ARs were not provided with inspection of documentation, data, information and source of such data/ information that was relied upon by SEBI during the investigation period with respect to the investigation of trading pattern, therefore once again the inspection of all the original documents was not complete. Further, that they had requested vide their letter dated December 12, 2013 to allow the ARs an inspection of all the original documents relied upon by SEBI during the investigation period, in order to complete the process of inspection and enable the company to make further submission in the matter;*

- 26.2 *That they deny all allegations made against the Company. Further that they are in complete compliance with the provisions of Regulation 12(1) of the SEBI PIT Regulations, 1992, as the Code of Conduct for Prevention of Insider Trading which the company had adopted in its meeting of the Board of Directors held on December 16, 2008, is entirely based on the Model Code of Conduct for prevention of Insider Trading for a listed company as mentioned in Schedule I Part A of the SEBI PIT Regulations, 1992.*
27. On January 17, 2014, the ARs appeared for personal hearing on behalf of the Noticees. During the hearing, the ARs were informed that the inspection of all the documents relied upon while framing the allegations in the SCN dated May 08, 2013 was availed by the Company on June 19, 2013 and December 12, 2013. It was further brought to the notice of ARs during the hearing that the SCN does not make any allegations against the Company or any of the other Noticees based on the trading pattern of the Company, and further that no reliance has been placed on the trading pattern of the company while making allegations against the Noticees.
28. The ARs reiterated the submissions made vide its earlier letters with respect to the allegations in the SCN and submitted that the statement earlier made by the company that 'there is no trading window system in the company, as directors, employees do not trade in the company's securities' was a typographical and an inadvertent error, and the actual fact is that there is a trading window system in the company, but, directors, employees do not trade in the company's securities. In view of the said submission, clarification was sought at hearing as to whether the said typographical and inadvertent error on the Noticees part was informed to Investigation of SEBI. The ARs replied that only after receipt of SCN they realized the error on their part and hence accordingly communicated and clarified vide their reply dated June 14, 2013 to the SCN. At the hearing, the ARs were *inter alia* advised to submit the following information/ documents:
- 28.1 *Details as to when the model code in terms of Regulation 12 (1) of PIT Regulations, 1992 as submitted vide letter dated June 14, 2013 came into effect;*
- 28.2 *Details (i.e date, minutes etc) of the Board of Directors meeting in which the aforesaid Model Code of Conduct was approved and why the same were not made available;*
- 28.3 *Details as to when the compliance officer was appointed along with the copy of the appointment letter and the details of the authority i.e. name, designation etc. of the authority appointing him;*

- 28.4 *Details of every occasion when the trading window was closed and subsequently opened during the period June 01 to September 30, 2009 along with the reason for such closure;*
- 28.5 *Instances of pre-clearance of trades sought by any of the directors/ officers/ designated employees of the company and their dependants as defined by the company, who intended to deal in securities of the company, as well as pre-clearances granted/ rejected, if any, along with the name and designation of the authority who took such action;*
- 28.6 *Details of initial/ continual/half-yearly/annual disclosures made by directors/ officers/ designated employees of the company during June 01 to September 30, 2009;*
- 28.7 *Details of penalty imposed by the company, if any, on any employee/ officer/ director of the company for contravention of Code of Conduct in the past;*
- 28.8 Instances of information provided to SEBI, if any, by the company/ compliance officer, regarding violation of PIT Regulations, 1992 anytime in the past, other than the correspondences exchanged during the investigation period.

The ARs stated that they will submit the said information/ documents by January 31, 2014.

- 29. Vide email and letter dated January 31, 2014, extension of time by one week was sought by the Noticees to submit the aforesaid information/ documents. In response, vide email dated February 03, 2014, it was communicated that the response may be submitted by February 07, 2014 and that no further extension of time would be granted in the matter. Since no reply was received thereafter again upto February 09, 2014, vide email dated February 10, 2014, it was communicated that in view of the fact that no submissions were received from the Noticees, it is presumed that the Noticees have no further submissions to make and the matter would be proceeded with on the basis of evidence available on record. Subsequent to the same, vide email dated February 10, 2014 the Noticees informed that the delay was due to technical issues in their system and assured to submit a detailed reply by February 11, 2014. Vide email dated February 11, 2014, a letter dated February 07, 2014 was attached from the company on behalf of the Noticees which *inter alia* stated as follows:

- 29.1 *That the company had vide a meeting of the Board of Directors held on December 16, 2008, adopted the Model Code of Conduct for Prevention of Insider Trading in shares of the company in terms of Regulation 12 of SEBI PIT Regulations, 1992. A copy of the agenda*

- and minutes of the meeting of the Board of Directors dated December 16, 2008 approving and adopting the Code of Conduct were also attached;*
- 29.2 *That in response to SEBI's letter dated October 25, 2010 seeking a copy of Code of Internal Procedure and Conduct and Code of Corporate Disclosure Practice in accordance with SEBI PIT Regulations, 1992, vide letter dated March 30, 2011, inadvertently a copy of the Code of Conduct and Ethics made pursuant to clause 49 of the Listing Agreement was sent;*
- 29.3 *That the error came to their notice only when the same was pointed out by SEBI vide letter dated March 06, 2013. Hence, vide letter dated March 12, 2013, it was clarified/ confirmed that company did have a Code of Internal Procedure and Conduct and Code of Corporate Disclosure Practice, however, enclosing a copy was again inadvertently missed out;*
- 29.4 *That they had appointed Mr. M.C. Bhansali as the Company Secretary in accordance with the provisions of Section 383A of the Companies Act on December 30, 2008 with effect from January 01, 2009 and that the Board of Directors vide their meeting held on January 20, 2009 had approved the appointment of Mr. M.C. Bhansali as the Company Secretary and Compliance Officer. A copy of the minutes of the meeting of the Board of Directors dated January 20, 2009 and a copy of the appointment letter dated December 30, 2009 were also attached;*
- 29.5 *That during the investigation period from June 01, 2009 to September 30, 2009, the trading window was closed for directors/ officers/ designated employees of the company and their dependant family members from July 25, 2009 to July 31, 2009 and from August 02, 2009 to August 09, 2009 and was opened for trading only upon the expiry of twenty four hours after the information was made public;*
- 29.6 *That none of their directors/ officers/ employees trade in the securities of the company and none of the directors/ officers/ designated employees or any of their dependants including spouse, children, parents and any other family members had traded in the securities of the company when the trading window was closed;*
- 29.7 *That there were no instances of pre clearance of trades sought by any of the directors/ officers/ designated employees of the company and their dependants as defined by the company;*
- 29.8 *That the directors, officers and employees of the company have always been in compliance with the provisions of the Code of Conduct adopted by the company as per the SEBI PIT*

Regulations, 1992 and no enquiry or penalty has been imposed on any director/ officer/ employee for contravention of the Code of Conduct any time in the past;

29.9 *That SEBI has not taken any action against the Noticees under the provisions of SEBI PIT Regulations, 1992, Takeover Regulations 1997 and 2011 at any time in the past.*

30. Subsequent to the remand of the matter, an opportunity for personal hearing was granted to the Company on August 25, 2016, September 28, 2016 and October 21, 2016 vide hearing Notices dated July 07, 2016, August 26, 2016 and September 29, 2016 respectively, however, the company did not appear for hearing. A copy of the hearing notice dated September 29, 2016 was also sent to the Advocates who represented the Noticees in the matter before the Hon'ble SAT, however, neither was there any response from the advocates or the Noticees. Further, an opportunity of hearing was given on February 28, 2017 vide hearing notice dated February 02, 2017 to the Noticees (other than the company), however, neither was there any response, nor, did the Noticees appear for hearing. The hearing notices were delivered. In view of the same, I presume that the Noticees have no further submissions to make in the matter. Accordingly, I proceed in the matter on the basis of the material available on record, including the replies and submissions made at the earlier hearings.

CONSIDERATION OF ISSUES

31. I have carefully perused the written submissions of the Noticees and the documents available on record. It is observed that the allegation against the Noticees is that they have failed to adopt/comply the Model Code of Conduct as specified under Part A of Schedule I of PIT Regulations, 1992.

32. The issues that, therefore, arise for consideration in the present case are:

- 32.1 Whether the Noticees have violated the provision of Regulations 12 (1) read with Clause 1.2 under Part A of Schedule I of the PIT Regulations, 1992?
- 32.2 Does the violation, if any, attract monetary penalty under Section 15 HB of SEBI Act?
- 32.3 If so, what would be the monetary penalty that can be imposed taking into consideration the factors mentioned in Section 15J of SEBI Act?

FINDINGS

33. Before moving forward, it is pertinent to refer to the provisions of Regulations 12 (1) read with Clause 1.2 under Part A of Schedule I of the PIT Regulations, 1992, which reads as under:

POLICY ON DISCLOSURES AND INTERNAL PROCEDURE FOR PREVENTION OF INSIDER TRADING

Code of internal procedures and conduct for listed companies and other entities.

12. (1) All listed companies and organisations associated with securities markets including :

- (a) the intermediaries as mentioned in section 12 of the Act, asset management company and trustees of mutual funds ;*
- (b) the self-regulatory organisations recognised or authorised by the Board;*
- (c) the recognised stock exchanges and clearing house or corporations;*
- (d) the public financial institutions as defined in section 4A of the Companies Act, 1956; and*
- (e) the professional firms such as auditors, accountancy firms, law firms, analysts, consultants, etc., assisting or advising listed companies, shall frame a code of internal procedures and conduct as near thereto the Model Code specified in Schedule I of these Regulations without diluting it in any manner and ensure compliance of the same.*

INSIDER TRADING FOR LISTED COMPANIES

1.0 Compliance Officer

1.1

1.2 The compliance officer shall be responsible for setting forth policies, procedures, monitoring adherence to the rules for the preservation of "Price Sensitive Information", pre-clearing of designated employees' and their dependents' trades (directly or through respective department heads as decided by the company), monitoring of trades and the implementation of the code of conduct under the overall supervision of the Board of the listed company.

Explanation : For the purpose of this Schedule, the term 'designated employee' shall include :—

- (i) officers comprising the top three tiers of the company management;*
- (ii) the employees designated by the company to whom these trading restrictions shall be applicable, keeping in mind the objectives of this code of conduct.*

34. Before going to the facts of the matter, I would like to address the repeated contention of the Noticees that they were not provided with an inspection of documentation, data, information and source of such data and information that was relied upon by SEBI during the investigation period with respect to the investigation of trading pattern. The Noticees have maintained that, therefore, the inspection of all the original documents was not complete.
35. In the matter, I would prefer to once again reiterate what was informed to the ARs at the time of hearing on January 17, 2013. It was communicated to the ARs at the time of hearing that the inspection of all the documents relied upon while framing the allegations in the SCN dated May 08, 2013 was availed by the Noticees on June 19, 2013 and December 12, 2013. The SCN does not make any allegations against the Company or any of the other Noticees based on the trading pattern of the Company and no reliance is placed on the trading pattern of the company while making allegations against the Noticees.
36. In this context, it becomes necessary to quote the judgment of the **Hon'ble Securities Appellate Tribunal**, in the case of **Mayrose Capfin Private Limited V/s. Securities and Exchange Board of India (Appeal No. 20 of 2012) dated March 30, 2012**. The Hon'ble SAT has observed in the matter that *"The principles of natural justice require that the inquiry officer should make available such document and material to the delinquent on which reliance is being placed in the inquiry. It is not necessary for the inquiry officer to make available all the material that might have been collected during the course of investigation, but, has not been relied upon for proving charge against the delinquent. No prejudice can, therefore, be said to have been caused to the appellant on this count"*.
37. I further find that in **Chandrama Tiwari vs. Union of India (AIR 1988 SC 117)**, the **Hon'ble Supreme Court** has also observed that *"It is not necessary that each and every document must be supplied to the delinquent government servant facing charges; instead only material and relevant documents are necessary to be supplied to him. If a document even though mentioned in the Memo of charges is not relevant to the charges or if it is not referred to or relied upon by the enquiry officer or the punishing authority in holding the charges proved against the government servant, no exception can be taken to the validity of the proceedings or the order passed on the ground of non-supply of the copy of the order. If a document is not used against the party charged, the ground of violation of principles of natural justice cannot be successfully raised. Violation of the principles of natural justice arises only when a document, a copy of which may not have been supplied to the party*

charged, is used in recording findings of guilt against him." In view of the above, I find that the principle of natural justice has been met with.

38. With the same in place, I will now move to the facts of the case. I note that SEBI had during the process of investigation advised the company vide letter dated October 25, 2010 to furnish by November 11, 2010 certain information pertaining to the period of investigation i.e. June 01, 2009 to September 30, 2009. The same *inter alia* included the copies of agenda as well as the minutes of the Board meetings held during the period January 01, 2009 to September 30, 2009, the time of closing and opening of the trading window, if any, with respect to the corporate announcements made by the company during the period January 01, 2009 to September 30, 2009, and, a copy of Code of Internal Procedure and Conduct and Code of Corporate Disclosure Practices in accordance with PIT Regulations, 1992 being followed by the company.
39. I find that the company furnished the information sought in response to SEBI's aforesaid letter, vide its letter dated March 30, 2011 i.e. after five months from the date of the letter. As regards the closing and opening of the trading window, it was informed therein that there was no trading window system in the company as Directors/ Employees do not trade in the company's securities. Further, as regards the copy of Code of Internal Procedure & Conduct and Code of Corporate Disclosure Practices in accordance with the PIT Regulations, 1992, the same was stated to be enclosed. The said letter, I find was signed by Mr. M.C.Bhansali, Company Secretary cum Compliance Officer of the Company. It was noted that what was claimed to be a copy of the Code of Internal Procedure & Conduct and Code of Corporate Disclosure Practices in accordance with PIT Regulations, 1992 was actually a copy of the Code of Conduct and Ethics.
40. I find that SEBI vide letter dated March 06, 2013 *inter alia* brought the same to the notice of the company including the prima facie presumption arrived at in view of the above that the company did not have a Code of Internal Procedure & Conduct and Code of Corporate Disclosure Practices in accordance with PIT Regulations, 1992. Vide the aforesaid letter, it was also *inter alia* brought to the notice of the company that the fact that there is no trading window system in the company and directors/ employees do not trade in the company's security, as stated in company's reply dated March 30, 2011, has been taken note of. The company's comments, if any, on the same were specifically called for latest by March 08, 2013.

41. I find that in response to the same, the company vide letter dated March 12, 2013 *inter alia* merely claimed that they were having a Code of Internal Procedure & Conduct and Code of Corporate Disclosure Practices in terms of the PIT Regulations, 1992, however, their Directors/ Employees do not trade in the securities of the company. I further find that despite SEBI's earlier letter seeking a copy of the Code of Internal Procedure and Conduct and Code of Corporate Disclosure Practices in accordance with PIT Regulations, 1992 being followed by the company, the company even at this stage, did not find it necessary to forward the correct approved copy to SEBI, in case there existed such a Code in terms of the PIT Regulations, 1992, different from the one earlier forwarded to SEBI vide its letter dated March 30, 2011. Further, I find that even at this stage, the company did not refute or comment otherwise on the fact regarding there being no trading window system in the company, taken on record by SEBI.
42. Thus, I note from the above that even after two and half years from SEBI seeking the information from the company, the company did not provide a copy of the Code of Internal Procedure & Conduct and Code of Corporate Disclosure Practices in accordance with the PIT Regulations, 1992 to SEBI. Also, despite specifically bringing to the notice of the company that SEBI had taken note of the fact that the company did not have trading window system in the company and directors/ employees do not trade in the company's security, the company did not refute or comment otherwise on the same.
43. I, thus, note that it was only vide letter dated June 14, 2013, in response to the SCN issued to the Noticees that the company for the first time submitted a Code of Conduct for Prevention of Insider Trading in shares of the company claimed to be made pursuant to Regulation 12(1) of PIT Regulations, 1992, as amended. However, it was observed that the date from which the Code in the aforesaid document had come into effect was not mentioned therein. Neither any details such as date, minutes etc. of the Board of Directors meeting in which the aforesaid document had been approved were provided. Further, I note that vide the aforesaid letter dated June 14, 2013, the company claimed that the correct and factual position with respect to the trading window was that it did, in fact, have a trading window system, and that had been duly mentioned in clause 6 of the Code of Conduct for Prevention of Insider Trading. The statement made vide its earlier letter dated March 30, 2011 that there was no trading window system in the company as directors/ employees

of the company did not trade in the company's securities was stated to be an inadvertent mistake at this stage.

44. Vide its subsequent letter dated January 06, 2014, the company stated that it had adopted the Code of Conduct in complete compliance with the provisions of Regulation 12(1) of the PIT Regulations, 1992 in its meeting of the Board of Directors held on December 16, 2008. However, it was observed again that the company did not provide a copy of the relevant Board minutes approving the same.
45. **Hence at the hearing held on January 17, 2014, it was *inter alia* specifically inquired with the ARs as to why the minutes of the Board of Directors meeting in which the aforesaid Model Code of Conduct was approved were not made available. The ARs were also advised to provide a copy of the same.**
46. **Vide letter dated February 07, 2014 (emailed on February 11, 2014), Mr. M.C. Bhansali, Company Secretary & Compliance Officer of the Company on behalf of the Noticees, in response to the queries put forth at the hearing, *inter alia* provided a copy of the Agenda and the Minutes of the meeting of the Board of Directors dated December 16, 2008 approving and adopting the Code of Conduct.**
47. With a view to prevent misuse of UPSI, the Model Code of Conduct under the PIT Regulations, 1992 prescribes that all directors/ officers and designated employees of the company shall be subject to trading restrictions and the company is required to specify a trading period to be called the 'trading window' for trading in company's securities. Such trading window is to be closed from the date of notice given to stock exchanges for convening the meeting of the board of directors of the company to consider declaration of financial results, dividends, rights issue etc. and is to be opened 24 hours after the information is made public. As per Regulation 12(1) read with Clause 1.2 under Part A of Schedule I of the PIT Regulations, 1992, the compliance officer is *inter alia* responsible for setting forth policies, procedures, monitoring adherence to the rules for the preservation of "Price Sensitive Information", pre-clearing of designated employees' and their dependents' trades, monitoring of trades and the implementation of the code of conduct, under the overall supervision of the Board of the listed company.

48. I find that the Code of Conduct of FTL, as approved in the meeting of Board of Directors held on December 16, 2008 states that the designated employees and their dependant family members shall trade in shares of the company only during a specific trading period called 'trading window' to be specified by the company. It also outlines the occasions when the trading window would remain closed. Further vide letter dated February 07, 2014, the Company has stated that during the period from June 01, 2009 to September 30, 2009, the trading window was closed as per details below and was opened for trading only upon the expiry of twenty four hours after the information was made public:

S. No.	Reason for closing the trading window	Dates on which the trading window was closed
1	Declaration of unaudited financial result for the quarter ended on June 30, 2009 and split of equity shares of face value of Rs. 10 each into Rs. 5 and issuance of bonus shares in the ratio of 2:1 in the meeting of the Board of Directors held on July 30, 2009	July 25, 2009 to July 31, 2009 including both the dates
2	Recommendation of interim dividend of Rs. 2.50 per equity share of the Company in the meeting of the Board of Directors held on August 08, 2009	August 02, 2009 to August 09, 2009 including both the dates

49. However, from a perusal of the Bombay Stock Exchange Ltd. (hereinafter referred to as 'BSE') website, no such notice of closure of trading window appears to have been sent by the company to the stock Exchanges BSE, where the shares of the company were listed. I further find that BSE vide circular Ref: DCS/COMP/14/2013-14 dated February 03, 2014 had advised all listed companies to *inter alia* disclose to the Exchange the applicable trading window period along with price sensitive information and ensure compliance with the same. However from a perusal of BSE website, I do not find any such disclosure of trading window period having been made by company FTL to BSE, even after the issue of circular by BSE specifically advising all listed companies to make such disclosure to the Exchange. ***Thus, I find that the Code of Conduct as approved in the Board of Directors meeting held on December 16, 2008 did make provision for trading window period and also listed out occasions when such trading window would be closed, in line with the Model Code of Conduct under the PIT Regulations, 1992. However, I am unable to understand why even after specific instructions from BSE to disclose to the Exchange the applicable trading window period, no such disclosure was made by the Company to BSE.***

50. Further, on a perusal of FTL's Code of Conduct, I find that **Para 4 and 5** of the said **Code of Conduct** reads as follows:

PARA 4 OF THE CODE OF CONDUCT OF FTL

"4. PRESERVATION OF PRICE SENSITIVE INFORMATION

No person shall either on his own behalf or on behalf of any other person, deal in FTL Securities when in possession of any unpublished price sensitive information.

No person shall communicate, counsel or procure directly or indirectly any unpublished price sensitive information to any person who while in possession of such unpublished price sensitive information shall not deal in FTL Securities.

Designated Employees shall maintain the confidentiality of all Price Sensitive Information. They shall not pass on such information to any person directly or indirectly by way of making a recommendation for the purchase or sale of the FTL Securities.

Unpublished Price Sensitive Information is to be handled on a "need to know" basis i.e. Unpublished Price Sensitive Information should be disclosed only to those within the Company who need the information to discharge their duty and whose possession of such information will not give rise to a conflict of interest or appearance of misuse of the information.

If, in the performance of duties, it becomes necessary for the Employee to disclose any price sensitive information to any person outside the Company eg. Advisors, Auditors, Consultants, Merchant Bankers, Share Transfer Agent etc., the Employee shall inform the Compliance Officer of the Price Sensitive Information proposed to be disclosed and shall ensure that the concerned Advisor, Auditor, Consultant, Merchant Banker, Share Transfer Agent etc., executes an Agreement with the Company in such format as may be prescribed by the Company.

Files containing confidential information shall be kept secure. Computer files must have adequate security of login and password etc."

PARA 5 OF THE CODE OF CONDUCT OF FTL

"5. PREVENTION OF MISUSE OF PRICE SENSITIVE INFORMATION

All Designated Employees/ their Dependent Family Members shall maintain the confidentiality of all the Price Sensitive Information coming into their possession or control.

To comply with this confidentiality obligation, all the officers and other Designated Employees shall inter alia:

- i. Pass on Price Sensitive Information to any persons Directly or Indirectly by way of making a recommendation for the purchase or sale of securities of the company; or***
- ii. Disclose Price Sensitive Information to their family members, friends, business associates or any other individual; or***
- iii. Price Sensitive Information in public places; or***
- iv. Disclose Price Sensitive Information to any other employee who does not need to know the information for discharging his or her professional duties; or***
- v. Recommend to anyone that they may undertake dealing in securities of the company while being in possession, control or knowledge of Price Sensitive Information; or***

vi. Be seen or perceived to be dealing in securities of the company on the basis of unpublished Price Sensitive Information.

Provided that nothing contained above shall be applicable to any communication required in the ordinary course of business or profession or employment or under any law."

51. I find it pertinent to mention here that Regulation 3 of the PIT Regulations, 1992 prohibits an insider from dealing in securities of a company when in possession of unpublished price sensitive information (hereinafter referred to as 'UPSI') or communicating UPSI to any person. **In accordance with the Model Code of Conduct for Prevention of Insider Trading for listed companies prescribed under Regulation 12(1) of PIT Regulations, 1992, the directors and employees are required to maintain confidentiality of all price sensitive information and not pass on such information to any person directly or indirectly by way of making a recommendation for the purchase or sale of securities.**
52. However, based on documents placed before me, I note that on one hand Para 4 of the Code of Conduct of FTL as approved by the Board of Directors in its meeting held on December 16, 2008, outlines measures for preservation of price sensitive information on the lines stated in the Model Code of Conduct under the PIT Regulations, 1992. However on the other hand, in the immediate following Para, I note that the Code for complying with the confidentiality obligation of price sensitive information coming into the possession or control of Directors/ employees, advocates officers and other designated employees to pass on such price sensitive information of the company to any persons directly or indirectly. The said Para 5 of the Code of Conduct further also recommends dealing in securities of the company on the basis of UPSI to comply with the confidentiality obligation for prevention of misuse of price sensitive information. Thus, I find that Para 5 of the Code of Conduct of FTL defeats the very objective for which section 12A, sub-section (d) of the SEBI Act stands. Thus, I conclude that the Board of Directors of FTL by approving such an ambiguous Code of Conduct left a lot of scope for misuse of the price sensitive information in the hands of its Directors and employees.
53. In my earlier Order dated February 26, 2014, which was remanded by the Hon'ble SAT vide its Order dated February 11, 2016, I had *inter alia* also noted the contents of the aforementioned Para 5 of FTL Code of Conduct. Para 46 of my earlier Order records as follows:

*"46. Besides, I note that the Code of Conduct for Prevention of Insider Trading in Shares of the company provided vide letter dated June 14, 2013 has been claimed to be on the basis of Model Code of Conduct for Prevention of Insider Trading for a listed company as mentioned in Schedule I Part A of the SEBI PIT Regulations, 1992 and approved in the meeting of the Board of Directors held on December 16, 2008. On a perusal of the said Code, I find that the Code, on the contrary, **urges all officers and other designated employees to inter alia:***

- i. "Pass on Price Sensitive Information to any persons Directly or Indirectly by way of making a recommendation for the purchase or sale of securities of the company; or*

.

.

..."

(emphasis added)

54. The Order dated February 11, 2016 passed by the Hon'ble SAT *inter alia* prescribed that the Noticees be heard and appropriate order be passed in accordance with law. However as mentioned in the earlier part of the Order, despite having been granted opportunities to appear in person in the matter and make submissions in their defense, the Noticees have chosen not to avail of the same. It is pertinent to note that the earlier Order dated February 26, 2014 had clearly brought out the language of Para 5 of FTL's Code of Conduct, which urged its officers to act in a manner contrary to the Model Code of Conduct. Though the said Order has been set aside, the Noticees were well versed with the findings therein. Despite the same, I find that the Noticees have deemed it fit to not offer any reply/ defense/ submissions for the same and chosen to remain silent. Further, I note that the ***Hon'ble SAT, in the matter of Classic Credit Vs. SEBI (December 8, 2006)*** has observed that:

"...the appellants did not file any reply to the 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."

55. Similar to the same, in the matter at hand, as the Noticees have not come up for hearing pursuant to the remand of the earlier Order dated February 26, 2014 and have also not provided any explanation/ clarification with regards to the ambiguous Code of Conduct adopted by the Company, I am of the view that the Code of Conduct still exists in its state of ambiguity.

56. It is noted from the copy of the Minutes of the meeting of the Board of Directors held on December 16, 2008 that Mr. Pawan Kumar Ruia, in the capacity as Chairman and Mr. S. Ravi in the capacity as Director were *inter alia* present at the meeting that adopted such an ambiguous Code of Conduct for Prevention of Insider Trading in Shares of the Company. I also find from the Annual Reports of the Company that Mr. Sunil Bhansali, who was appointed as the Executive Director w.e.f. September 30, 2008 continued as the Executive Director of the Company till he resigned on November 16, 2012. Further, from a copy of the Minutes of the Board of Directors Meeting held on January 20, 2009 provided along with letter dated February 07, 2014, I find that the Board of Directors in the said meeting had approved the appointment of Mr. M.C.Bhansali, Company Secretary as the Compliance Officer of the Company with immediate effect. Thus, I note that Mr. M.C.Bhansali has been the Company Secretary cum Compliance Officer w.e.f. January 20, 2009.
57. The Company was required to frame a Code of Internal Procedures and Conduct as near thereto the Model Code specified in Schedule I of PIT Regulations, 1992, without diluting it in any manner and ensuring compliance with the same. However, I find it surprising to note that such an ambiguous Code of Conduct that left UPSI exposed to potential misinterpretation and misuse at the hands of its directors and employees has continued for almost a decade right from December 2008.
58. Further, I find that as per Section 27(1) of the SEBI Act, 1992, if an offence under the Act has been committed by a company, every person who at the time when the offence was committed was in charge of and was responsible to the company for the conduct of business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly. ***In view of the above, I conclude that the Noticees have violated the provision of Regulation 12(1) read with Clause 1.2 under Part A of Schedule I of the PIT Regulations, 1992, by diluting the very purpose which Regulation 12(1) of the PIT Regulations, 1992 seeks to achieve.***
59. The next issue for consideration is as to what would be the monetary penalty that can be imposed on the Noticees for violation of the provision of Regulations 12 (1) read with Clause 1.2 under Part A of Schedule I of the PIT Regulations, 1992 at the relevant point of time. 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...”.

60. In view of the foregoing, I am convinced that it is a fit case to impose monetary penalty under Section 15HB of the SEBI Act, which reads as under:

“15HB. Penalty for contravention where no separate penalty has been provided.-

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.”

61. While determining the quantum of monetary penalty under Section 15 HB, 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.”*

62. I note that the objective of framing a Code of Conduct as near thereto the Model Code of Conduct as specified under the PIT Regulations, 1992 is to prevent insider trading and prevent misuse of the price sensitive information, which undermines the confidence of the investors. It is, thus, a preventive measure rather than a post facto remedial action.

63. I have taken note of the claim of the Noticees that none of their directors/ officers/ designated employees or any of their dependents including spouse, children, parents and other family members have traded in the securities of the company when the trading window was closed. Also, I have taken note of the fact that SEBI has not taken any action against any of the Noticees under the PIT Regulations, 1992 at any point of time in the past.

64. From the company’s reply dated March 30, 2011, I find that the day to day management of the company at the relevant point of time was looked after by Mr. Pawan Kumar Ruia, as the Chairman

and Promoter Director of the Company and Mr. Sunil Bhansali, as the Executive Director of the company. Further, Mr. M. C. Bhansali was the Company Secretary as well as the Compliance Officer of the company at the relevant point of time. Also, Mr. S. Ravi was the Non-Executive Director of the company at the relevant point of time and as a Non-Executive Director, I consider him to be a custodian of the governance process and responsible for monitoring the executive activity. Besides, I find that Mr. Pawan Kumar Ruia, in the capacity as Chairman and Mr. S. Ravi in the capacity as Director were *inter alia* present at the Board of Directors meeting that adopted such ambiguous Code for Prevention of Insider Trading in Shares, and which has continued since December 2008.

65. I further note that the ***Hon'ble Securities Appellate Tribunal in the case of N. Narayanan v. The Adjudicating Officer, SEBI (Appeal No. 29 of 2012 decided on October 05, 2012)***, while commenting on the role of directors, had observed that:

"With the changing scenario in the corporate world, the concept of corporate responsibilities is also rapidly changing day by day. The director of a company cannot confine himself to lending his name to the company, but, taking light responsibility for its day to day management. While functions may be delegated to professionals, the duty of care, diligence, verification of critical points by directors cannot be abdicated. The directors are expected to have a hands on approach in the running of the company and take up responsibility not only for the achievements of the company, but, also the failings thereto."

66. I, further, find it pertinent to mention here that before announcing price sensitive information to the market, a company has to take all reasonable care to ensure that any information it releases to the market is not misleading, false or deceptive. It is, hence, that Model Code of Conduct under the PIT Regulations, 1992 lays emphasis on the fact that employees/ directors should maintain confidentiality of price sensitive information and not pass on such information to any person directly or indirectly, as also to handle it on a 'need to know' basis. Further, Model Code of Conduct also requires that a listed company should appoint a senior level employee as a Compliance Officer, who shall report to the Managing Director/ Chief Executive Officer, and who shall *inter alia* be responsible for setting forth policies, procedures, monitoring adherence to the rules for the preservation of Price Sensitive Information and implementation of the code of conduct under the overall supervision of the Board of the listed company. Thus, I find that putting in place a Code of Conduct as near thereto the Model Code of Conduct is vital for preventing insider trading.

67. Further, I find that in the case of **Shri E. Sudhir Reddy vs. SEBI [Appeal no. 138 of 2011 decided on December 16, 2011]**, the Hon'ble SAT has observed as follows:

"A shareholder becomes an owner of the company to the extent of the value of shares held by him. He is therefore, entitled to his share in the profits earned by the company. Therefore, performance of a company is of primary importance to the investors as well as to the general public who might be interested in investing in the company. The shareholders and general public get information about the company either through the annual report or during the annual general meeting. However, persons in the company or otherwise concerned with the affairs of the company are in possession of such information before it is actually made public. The directors of the company or for that matter even professionals like Chartered Accountants and Advocates advising the company on its business related activities are privy to the performance of the company¹⁴ and come in possession of information which is not in public domain. Knowledge of such unpublished price sensitive information in the hands of persons connected to the company puts them in an advantageous position over the ordinary shareholders and the general public. Such information can be used to make gains by buying shares anticipating rise in the price of the scrip or it can also be used to protect themselves against losses by selling the shares before the price falls. Such trading by the insider is not based on level playing field and is detrimental to the interest of the ordinary shareholders of the company and general public. It is with a view to curb such practices that section 12A of the SEBI Act makes provisions for prohibiting insider trading and the Board also framed the Insider Trading Regulations to curb such practice."

68. However, in the given case, I find that the Code of Conduct as approved by the Board of FTL on December 16, 2008 left ample scope for misuse of price sensitive information, hence was detrimental to the interest of the shareholders of the company and general public. In fact, I find that if any insider of the company had passed on UPSI to any person directly or indirectly by way of making a recommendation, and if such an insider thereby stood to gain from sharing of such UPSI, still the company FTL may have to restrain itself from taking any enforcement action against such miscreant insiders, due to such ambiguous code of conduct framed by it. This is because it is possible that miscreant insiders may take shelter in accordance with the provisions given to them by the company under para 5 of the code of conduct. The Model Code of Conduct under PIT Regulations, 1992 was intended to primarily define behavior of directors/employees while in

possession of UPSI. However, I find that FTL by continuing with an ambiguous code since 2008 has undermined this very spirit that the Model Code intended to serve.

69. Further, I find it pertinent to mention here that many companies have invested a lot in putting in place compliance policies & procedures and in providing training, so as to create a culture of stringent compliance with the PIT Regulations within the company. On the contrary, the fact that FTL has continued with such an ambiguous code since 2008, speaks volumes of the company's reluctant approach towards compliance of PIT Regulations. Hence, I am of the view that any lenient view taken in the given case would send a wrong signal to those companies who have ensured stringent compliance, and it would also not be in interest of the investors. The non-compliance of the company FTL with the prescribed Model Code of Conduct is, thus, viewed seriously as such non-compliance may have grave repercussions and may lead to violation of PIT Regulations. I, thus, conclude that the Noticees have committed violations that bear serious repercussions and therefore deserve maximum penalty under the law.

ORDER

70. Thus, after taking into consideration all the facts and circumstances of the case, I impose a penalty of **Rs.1,00,00,000/- (Rupees One Crore only)** under **Section 15 HB of SEBI Act** on the **Noticees viz. Falcon Tyres Ltd.(the company/ FTL), Mr. Pawan Kumar Ruia, Mr. S. Ravi, Mr. Sunil Bhansali and Mr. M.C.Bhansali** for violation of the provision of Regulations 12(1) read with Clause 1.2 under Part A of Schedule I of the PIT Regulations, 1992. The Noticees shall be **jointly and severally liable** to pay the said monetary penalty which will be commensurate with the violations committed by the Noticees.
71. The Noticees 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	
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

72. The Noticees shall forward said Demand Draft or the details / confirmation of penalty so paid through e-payment to the Chief General Manager, Enforcement Department, SEBI. 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 produced 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)	

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

Date: **March 27, 2017**

Place: **Mumbai**

(Anita Kenkare)

Adjudicating Officer