BEFORE THE ADJUDICATING OFFICER

SECURITIES AND EXCHANGE BOARD OF INDIA

[ADJUDICATION ORDER NO. RA/JP/ 225 – 227 / 2017]

UNDER SECTION 15-I (2) OF SECURITIES AND EXCHANGE BOARD OF INDIA ACT, 1992 AND RULE 5 OF SEBI (PROCEDURE FOR HOLDING INQUIRY AND IMPOSING PENALTIES BY ADJUDICATING OFFICER) RULES, 1995.

In respect of:-

Mr. Amit Jaiswal (PAN: AEQPJ6841J)

Mrs. Mansi (PAN: AOHPM4432M)

Kanchan Properties Limited (PAN: AAACK6704E)

BACKGROUND

1. Securities and Exchange Board of India (hereinafter referred to as '**SEBI**') had carried out investigations in the trading of shares of Jagaran Prakashan Limited (hereinafter referred to as "**JPL/Company**") for the period from August 01, 2009 to October 31, 2009 (**Investigation period**) to find out the possible irregularities / violations in the shares of JPL. Investigations *prima facie* revealed that (1) Mr. Amit Jaiswal – Company Secretary of the JPL, (2) Mrs. Mansi wife of Mr. Amit Jaiswal and (3) Kanchan Properties Limited (for short '**Kanchan**')- a promoter Group / Associate Company of JPL (all are referred hereinafter as "**Noticee No. 1 to 3**" respectively or as **"the Noticees"** collectively) had indulged into violations of regulation 3(i), 3(ii), 3A of the SEBI (Prohibition of Insider Trading) Regulations, 1992 (hereinafter referred

to as **'PIT Regulations')** read with section 12A (d) and (e) of the Securities and Exchange Board of India Act, 1992 (hereinafter referred to as '**SEBI Act**') and Clauses 3.2-2, 3.2-5, 3.3-1 & 4.2 of Model Code of Conduct contained in Schedule I of Part A under regulation 12(1) of the PIT Regulations.

APPOINTMENT OF ADJUDICATING OFFICER

2. SEBI had initiated adjudication proceedings and appointed the undersigned as the Adjudicating Officer under section 15 I of the SEBI Act read with rule 3 of the SEBI (Procedure for Holding Inquiry and Imposing Penalties by Adjudicating Officer) Rules, 1995 (hereinafter referred to as **'Adjudication Rules'**) vide order dated January 08, 2016, to inquire into and adjudge under section 15 G and 15 HB of the SEBI Act, the violations of aforesaid provisions of SEBI Act and PIT Regulations alleged to have been committed by the Noticees.

SHOW CAUSE NOTICE, REPLY AND HEARING

3. A common Show Cause Notice No. E&AO/RA/JP/3273/2016 dated February 05, 2016 (hereinafter referred to as **"SCN"**) was served upon the Noticees under rule 4(1) of the Adjudication Rules to show cause as to why an inquiry should not be held and penalty be not imposed against them under sections 15G and 15 HB of the SEBI Act for the aforesaid alleged violations. The allegations levelled against the Noticees are briefly mentioned hereunder.

I. That the Noticee No. 1 is the Company Secretary of the JPL and is also related / connected with the Noticee No. 3 (Kanchan) which is a Promoter Group / Associate Company of the JPL. The Noticee No. 3 vide its letter dated October 01, 2014 (Annexure II of SCN) had stated that the Noticee No. 1 knows its directors and assisted in filing of its certain papers with Registrar of Companies on request of its directors. It was also stated in said letter that the Noticee No.1 had received

reimbursements of ` 900/- and ` 612/- towards payments made by him through his personal credit cards for Kanchan's filing fees with Registrar of Companies. The Noticee No. 1 also vide his letter dated November 03, 2014 (Annexure III of SCN) had replied on similar lines and confirmed his involvement of filing with Registrar of Companies on behalf of Noticee No. 3. The Noticee No. 1 had acknowledged that the directors of the Noticee No. 3 were personally known to him and was reimbursed with the said amount.

II. *That the Noticee No. 1 recorded the minutes of board meeting of the Noticee No. 3 held on September 01, 2009 wherein resolution was passed by board of Noticee No. 3 to sell shares of JPL in open market through the stock exchanges at price ranging between ` 105 -115, to raise approximately ` 40-42 crores. Copy of Letter dated March 03, 2015 of the Noticee No. 3 along with said board minutes was enclosed as Annexure IV along with SCN showing that the Noticee No. 1 was involved in preparing the board minutes of the Noticee No. 3.*

<u>Allegations in respect of Noticee No. 1 & 2 (Mr. Amit Jaiswal and Mrs. Mansi)</u>

III. *The Noticee No. 1 being the company secretary / designated employee of the JPL and well connected with Noticee No. 3 (as stated above) and the Noticee No. 2 being the wife of the Noticee No. 1, had traded in the shares of JPL. The date-wise trades of Noticee No. 1 & 2 during investigation period were mentioned in a table at para 6 of SCN.*

IV. *The JPL forwarded a certified copy of Model Code of Conduct (Annexure V of SCN), which is as near thereto, as prescribed in Schedule I of PIT Regulations and as per Clause 3.3.1 of the said model Code of Conduct, all Directors, Officers and designated employees of the JPL and their dependents who intends to deal in the securities of the Company/JPL above the minimum threshold limit of ` 5 Lacs or 10,000 shares or 1% of total shareholding/voting rights, whichever is lower, should pre-clear the transaction as per the pre-dealing procedure.*

V. *That the JPL vide letter dated December 11, 2014 along with a list of employees (Annexure VI of SCN) informed that the trading window in its shares was closed during the period 20 - 28 October of 2009 on*

account of the publication of quarterly financial results pertaining to the quarter ended September 2009. Along with said letter, the JPL had provided a list of its employees who were intimated about the said window closure period and the Noticee No. 1. That the Noticee No. 1 had purchased a total of 6,500 shares (i.e.1,000 shares on October 23, 2009, 500 shares October 26, 2009, 4000 shares on October 27, 2009 & 1,000 shares on October 28, 2009) and sold 500 shares on October 26, 2009 during the window closure period, which allegedly was in violation of Clauses 3.2.1, 3.2.2 & 3.2.5 of the Model Code of Conduct contained in Schedule I of Part A of regulation 12(1) of PIT Regulations (read with regulation 12 of PIT Regulations, 2015). The Noticee No. 1 in his reply vide letter dated November 03, 2014 (annexure III above) had acknowledged of having traded during the said trading window closure period.

VI. *The JPL vide letter dated January 20, 2015 (Annexure VII of SCN) had stated that the Noticee No. 1 & 2 had not sought pre clearance for their trades during August 01 to October 31 of 2009. Day-wise trade details of the Noticee No. 1 & 2 are shown in table at para 6 of SCN. According to the model code of conduct adopted by the JPL pursuant to regulation 12(1) of PIT Regulations, it was the duty of the director/designated employee of the JPL to seek pre clearance for the trades of their dependents. It was alleged that it was the responsibility of the Noticee No. 1 to seek pre-clearance for the trades of his wife (the Noticee No. 2), but, he had failed to seek pre-clearance of trades exceeding threshold of 10,000 shares and allegedly violated clause 3.3.1 of the Model Code of Conduct contained in Schedule I of Part A under regulation 12(1) of PIT Regulations (read with regulation 12 of PIT Regulations, 2015).*

VII. *It was also alleged that the Noticee No. 1 had indulged into opposite transactions (buy as well as sell of shares) within a period of three months itself which allegedly was in violation of Clause 4.2 of Model Code of Conduct contained in Schedule I of Part A under regulation 12(1) of PIT Regulations, (read with regulation 12 of PIT Regulations, 2015).*

VIII. *JPL vide letter dated March 25, 2015 (Annexure VIII of SCN) provided a chronology of events leading to publication of interim dividend of ` 2/- per share for the Financial Year 2009-10 etc. and its publication on Stock Exchange which is tabulated hereunder.*

Sr No	Date	Activity
1	Oct 14, 2009	Date when agenda proposing interim dividend of ` 2/- for FY 2009-10 was prepared
2	Oct 15, 2009	Date when agenda proposing interim dividend of ` 2/- for FY 2009-10 was circulated to the Board of JPL
3	Oct 27, 2009	The date of Board meeting when this interim dividend proposal was discussed
4	Oct 27, 2009	Date of board meeting when this interim dividend proposal was approved
5	Oct 27, 2009 13:43(BSE) 13:54(NSE)	Board of Directors declared interim dividend of `2/- per equity share

IX. That vide aforesaid letter dated March 25, 2015, JPL had informed that the Noticee No. 1 was involved when agenda was prepared and circulated for activity at serial no. 1 and 2 of table above, which allegedly suggested that the Noticee No. 1 was privy to Unpublished Price Sensitive Information (**UPSI**) between October 14, 2009 to October 27, 2009 (13:43 hours). It was alleged that from the letter of JPL, the Price Sensitive Information (**PSI**) came into existence on October 14, 2009 and press release regarding a corporate announcement on Board of Directors declaring interim dividend of `2/- per equity share was made public only at 13:43 hours at BSE and 13:54 hours at NSE on October 27, 2009.

X. That vide e-mail dated March 26, 2015 (Annexure IX of SCN) of JPL/Noticee No. 1 (regarding the Financial results for the quarter ended September 30, 2009 which is a PSI), a chronology of events leading to publication of financial results from the JPL and its publication on stock exchange is tabulated below;

S.No.	Date	Activity
1	Oct 15,	Date when the agenda of the financial results for

	2009	*September 2009 quarter was circulated to the Audit Committee and the Board of Jagran Prakashan Limited*
2	*Oct 27, 2009*	*Date of meeting of Audit Committee and the Board when the financial results for September 2009 quarter was held*
3	*Oct 27, 2009*	*Date of approval by Audit Committee and the Board of the financial results for September 2009 quarter*
4	*Oct 27, 2009 14:07(BSE) Oct 28, 2009 14:25(NSE)*	*Press release on Financial Results for September 2009 quarter*

XI. JPL had informed that Noticee No. 1 was involved in activity at serial no. 1, 2 & 3 of table above which suggested that the Noticee No. 1 was privy to UPSI between October 15, 2009 to October 27, 2009 (14:07 hrs.). From the said e-mail of JPL, it was revealed that PSI came into existence on October 15, 2009 and press release regarding announcement of September, 2009 quarterly results was made public only at 14:07 hours at BSE and 14:25 hours at NSE on October 27, 2009.

XII. That the UPSI period for interim dividend declaration and for financial results of quarter September 2009 was October 14 & October 15 of 2009 respectively and the press releases on Interim dividend and financial results were published at Stock Exchange (BSE) at 13:43 hours and 14:07 hours respectively on October 27, 2009. It was alleged that the Noticee No. 1 was involved in both activities and thus, UPSI period for the Noticee No. 1 starts from October 14, 2009 till October 27, 2009 14:07 hours.

XIII. It was alleged that since the JPL had stated that the Noticee No. 1 is its Compliance Officer / Company Secretary and was involved in activity of interim dividend and financial results, therefore, he is an "insider" as per PIT Regulations and his wife Mansi (Noticee No. 2) is 'deemed to be

connected person' as per PIT Regulations. It was alleged that the Noticee No. 1 and 2 being the insider had traded in the shares of JPL while in possession of UPSI during the UPSI period. Following are trades details done by the Noticee No 1 & 2 on NSE during UPSI period.

Amit Jaiswal				***Mansi***		
Date	***Total Buy Qty***	***Total Sell Qty***		***Date***	***Total Buy Qty***	***Total Sell Qty***
14.10.2009	*2150*	*2150*		*14.10.2009*	*29685*	*29685*
16.10.2009	*20674*	*20674*		*15.10.2009*	*47830*	*47830*
23.10.2009	*1000*	*0*		*16.10.2009*	*168586*	*168586*
26.10.2009	*500*	*500*		*20.10.2009*	*6783*	*6783*
27.10.2009	*4000*	*0*		*21.10.2009*	*112973*	*112973*
				22.10.2009	*2500*	*0*
				23.10.2009	*4500*	*500*
Total	***28324***	***23324***		***Total***	***372857***	***366357***

XIV. *It was also alleged that the Noticee No. 1 was aware of the decision of Kanchan (the Noticee No. 3 a Promoter & Promoter Group as disclosed by JPL to NSE vide letter dated July 02, 2009) to sell shares of JPL through stock exchanges at price ranging between `105 – `115 to raise approximately `40-42 crores and while in the possession of such PSI pertaining to aforesaid decision of Kanchan, the Noticee No 1 indulged into sale/purchase of shares of JPL.*

XV. *That during the course of investigation enquiries were made with the non-independent directors of JPL to confirm if they were in knowledge about the trades of Noticee No. 1 & 2 during the UPSI period; and all of them responded that they did not have any information about the transactions done by Noticee No. 1 & 2. The Chairman & Managing Director of JPL viz. Shri Mahendra Mohan Gupta, vide letter dated July 01, 2015 (Annexure X of SCN) stated that written apology was taken from the Noticee No. 1 for his violation of various provisions of securities laws and he was also reprimanded and not granted any annual increment for the financial year 2015-16 as penalty. Investigation also revealed that the Noticee No.1 vide e-mail dated August 10, 2015 (Annexure XI of SCN) had stated that no information regarding his*

trades and trades of his wife during the UPSI period was provided to any of the directors/officials of the JPL.

XVI. *In view of the above, it was alleged that the trading done by the Noticee No. 1 and 2 in scrip of JPL whilst in the possession of aforesaid UPSI viz. (Interim Dividend, Financial Results of the JPL and decision of Kanchan to sell shares) during the period of October 14, 2009 till October 27, 2009 14:07 hours; the same was in violation of regulation 3(i) & 3(ii) of PIT Regulations, 1992 and section 12A (d) and (e) of SEBI Act.*

XVII. *It was also alleged that the Noticee No. 1 & 2 had made profits from the said trading in the shares of JPL on the basis of said PSI (the details of which was enclosed as Annexure XII of SCN).*

Allegations in respect of Noticee No. 3 (Kanchan)

XVIII. *That copy of letter dated August 27, 2011 (Annexure XIII of SCN) showed that JPL is an associate company of Noticee No. 3; and 3 out of 4 directors of Noticee No. 3 were also non-independent directors of JPL. That the Noticee No. 3 is 'deemed to be connected person' and 'Insider' as per PIT Regulations. It was alleged that Noticee No. 3 / Kanchan being an "associate company of the JPL / 'promoter group entity / insider' of the JPL while in possession of aforesaid UPSI relating to periodic financial results of JPL for the quarter ending September 2009 and intended declaration of Interim Dividend for Financial Year 2009-10, had traded in the scrip of JPL during the UPSI period (October 14, 2009 till October 27, 2009 14:07 hours). The details of trades done by the Noticee No. 3 while in possession of UPSI are mentioned in a table below;*

NSE Trades		
Date	***Total Buy Qty***	***Total Sell Qty***
14.10.2009	*0*	*182735*
15.10.2009	*0*	*286000*
16.10.2009	*0*	*600000*
21.10.2009	*0*	*350000*

Total	***0***	***1418735***

XIX. It was alleged that though the Noticee No. 3 took decision to sell shares of JPL on September 01, 2009, however as the actual trades happened during October 14 – 21 of 2009 during the UPSI period (October 14, 2009 till October 27, 2009 14:07 hours) and therefore, allegedly the trades of the Noticee No. 3 during the UPSI period were in violation of section 12A (d) and (e) of SEBI Act and regulation 3A of PIT Regulations (read with regulation 12 of PIT Regulations, 2015).

XX. The aforesaid provisions of SEBI Act, PIT Regulations alleged to have been violated by the Noticee(s) are reproduced as under;

SEBI Act

Prohibition of manipulative and deceptive devices, insider trading and substantial acquisition of securities or control.

12A. *No person shall directly or indirectly—*

(d) engage in insider trading;

(e) deal in securities while in possession of material or non-public information or communicate such material or non-public information to any other person, in a manner which is in contravention of the provisions of this Act or the rules or the regulations made thereunder;

PIT Regulations

Prohibition on dealing, communicating or counselling on matters relating to insider trading.

3. *No insider shall—*

(i) either on his own behalf or on behalf of any other person, deal in securities of a company listed on any stock exchange when in possession of any unpublished price sensitive information; or

(ii) communicate or 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 securities :

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.*

3A. *No company shall deal in the securities of another company or associate of that other company while in possession of any unpublished price sensitive information.*

MODEL CODE OF CONDUCT FOR PREVENTION OF INSIDER TRADING FOR LISTED COMPANIES UNDER PART A OF SCHEDULE I (regulation 12(1) of the PIT Regulations)

3.2.2 *When the trading window is closed, the employees/directors shall not trade in the company's securities in such period.*

3.2-5 *All directors/officers/designated employees of the company shall conduct all their dealings in the securities of the Company only in a valid trading window and shall not deal in any transaction involving the purchase or sale of the company's securities during the periods when trading window is closed, as referred to in para 3.2.3 or during any other period as may be specified by the Company from time to time.*

3.3.1 *All directors/officers/designated employees of the company and their dependents as defined by the company who intend to deal in the securities of the company (above a minimum threshold limit to be decided by the company) should pre-clear the transaction as per the pre-dealing procedure as described hereunder.*

4.2 *All directors/ officers/ designated employees who buy or sell any number of shares of the company shall not enter into an opposite transaction i.e. sell or buy any number of shares during the next six months following the prior transaction. All directors/ officers/ designated employees shall also not take positions in derivative transactions in the shares of the company at any time.*

In the case of subscription in the primary market (initial public offers), the above mentioned entities shall hold their investments for a minimum period of 30 days. The holding period would commence when the securities are actually allotted.

PIT Regulations 2015

Repeal and Savings.

12. (1) The Securities and Exchange Board of India (Prohibition of Insider Trading) Regulations, 1992 are hereby repealed.

(2) Notwithstanding such repeal,—

(a) the previous operation of the repealed regulations or anything duly done or suffered thereunder, any right, privilege, obligation or liability acquired, accrued or incurred under the repealed regulations, any penalty, forfeiture or punishment incurred in respect of any offence committed against the repealed regulations, or any investigation, legal proceeding or remedy in respect of any such right, privilege, obligation, liability, penalty, forfeiture or punishment as aforesaid, shall remain unaffected as if the repealed regulations had never been repealed; and

(b) anything done or any action taken or purported to have been done or taken including any adjudication, enquiry or investigation commenced or show-cause notice issued under the repealed regulations prior to such repeal, shall be deemed to have been done or taken under the corresponding provisions of these regulations;

(3) After the repeal of Securities and Exchange Board of India (Prohibition of Insider Trading) Regulations, 1992, any reference thereto in any other regulations made, guidelines or circulars issued thereunder by the Board shall be deemed to be a reference to the corresponding provisions of these regulations.

4. It was alleged in the SCN that the aforesaid alleged violations, if established, would make the Noticee No. 1 liable for monetary penalty under section 15 G and 15 HB of the SEBI Act and would make the Noticee No. 2 & 3 liable for monetary penalty under section 15G of the SEBI Act, which reads as follows:

Penalty for insider trading.

15G. If any insider who,—

(i) either on his own behalf or on behalf of any other person, deals in securities of a body corporate listed on any stock exchange on the basis of any unpublished price-sensitive information; or

(ii) communicates any unpublished price-sensitive information to any person, with or without his request for such information except as required in the ordinary course of business or under any law; or

(iii) counsels, or procures for any other person to deal in any securities of any body corporate on the basis of unpublished price-sensitive information,

shall be liable to a penalty of twenty-five crore rupees or three times the amount of profits made out of insider trading, whichever is higher.

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.

5. In respect to the SCN, the Noticee No. 1 and 2 vide letters dated February 22, 2016 requested additional time of 4 weeks and the Noticee No. 3 vide letter dated February 22, 2016 requested additional time of 21 days to file reply. Thereafter, Noticee No. 1 and 2 again vide letter dated March 22, 2016 requested for additional 2 weeks time to file reply towards the SCN. No reply was received from Noticee No. 1 and 2 within time sought by them and they again vide letter dated April 08, 2016 requested for another two weeks time to file reply.

6. A reply dated March 22, 2016 towards the SCN was received from Noticee No. 3. A reply dated April 29, 2016 towards the SCN was received from Noticee No. 1. However, the Noticee No. 2 again vide letter dated May 03, 2016 sought time of 7 days to file reply. Thereafter, reply dated May 07, 2016 towards the SCN was received from Noticee No. 2.

7. During the period of instant proceeding, the Hon'ble Supreme Court of India vide judgment dated November 26, 2015 in the case of *SEBI vs. Roofit Industries Ltd*. held that Adjudicating Officer has no discretion in deciding quantum of penalty under Chapter VI A (except in u/s 15F (a) and 15HB of

the SEBI Act). The issue involved in *Roofit* case was differently interpreted in case of *Sidharth Chaturvedi* (decided on March 14, 2016) and accordingly, the legal issue / matter was pending for Larger Bench of Hon'ble Supreme Court of India. Meantime, as per "The Finance Act 2017" (Notified for Part VIII of Chapters VI came into effect from April 26, 2017) following has been *inter - alia* clarified in respect of adjudication under SEBI Act-

147. In section 15J of the principal Act, the following Explanation shall be inserted, namely:-

"Explanation- For the removal of the doubts, it is clarified that the power of an adjudicating officer to adjudge the quantum of penalty under section 15A to 15E and clauses (b) and (c) of section 15F, 15G, 15H and 15HA shall be and shall always be deemed to have been exercised under the provisions of this section."

8. Consequent to the clarity brought into the Finance Act, 2017, an opportunity of hearing was provided to the Noticees on May 24, 2017 vide notice of hearing dated May 12, 2017.

9. In respect to said notice of hearing, the Noticee No. 1 and 2 vide letter dated May 20, 2017 and the Noticee No. 3 vide e-mail dated May 22, 2017 sought adjournment of hearing. Taking into account the principle of natural justice, final opportunity of hearing was provide to the Noticees on June 20, 2017 vide notice dated May 24, 2017.

10. Hearing on June 20, 2017 was attended by the authorized representatives **(AR)** of the Noticees. During the Course of hearing, Noticee No. 3 was informed that as the common SCN was issued to it along with Noticee No. 1 and 2, therefore, the facts / references / allegations which are common in entire SCN (including the details of chronology of events leading to interim dividend publication / financial results for the quarter ended September 30, 2009 etc. which was alleged as UPSI in the SCN) may be read as part and parcel as well in respect to its case which were not reproduced for sake of brevity. During the course of hearing, AR of the

Noticees requested for inspection of documents available with SEBI on records in the matter and requested that thereafter an opportunity of hearing be provided to them.

11. Thereafter, an opportunity of inspection was provided to the Noticees vide communique dated June 21, 2017 advising them to complete the inspection by July 05, 2017. Inspection of documents was completed by the Noticees on July 13, 2017 and the inspection minutes as received from SEBI is placed on record.

12. As the inspection of documents was complete, therefore, final opportunity of hearing was provided to the Noticees on August 22, 2017 vide notice dated August 11, 2017.

13. In respect of said notice of hearing, the Noticee No. 3 (through its AR) vide e-mail dated August 16, 2017 request to adjourn the scheduled hearing as the senior counsel engaged in the matter is pre occupied on the said date of hearing and requested for hearing on August 31, 2017 or thereafter. In respect of Noticee No. 3, the hearing was adjourned to August 31, 2017 and same was intimated vide e-mail dated August 16, 2017.

14. The hearing in respect of Noticee No. 1 and 2 was attended by their AR on August 22, 2017 and during the course of hearing the AR reiterated as stated in the reply dated April 29, 2016 and reply dated May 07, 2016 by the Noticee No. 1 and 2 respectively. Also, the AR stated that they would submit by August 31, 2017 the written argument/submissions along with case laws. Thereafter, additional submissions dated September 11, 2017 were received from the Noticee No. 1 and 2.

15. The hearing on August 31, 2017 in respect of Noticee No. 3 was attended by its AR. During the course of hearing the ARs were informed that an opportunity of inspection has already been availed by it and copies of all the documents as requested in the matter by you have already been provided with (including appointment of Investigating Officer showing waiver of notice requirement etc.), hence, whether they would like to submit anything in addition to its reply dated March 22, 2016? The Noticee No. 3 reiterated as stated in aforesaid reply and also stated to submit additional written submissions / argument made within 10 days.

16. However, no additional submissions was received from the Noticee No. 3 despite extension sought by its AR vide e-mail dated September 19, 2017 whereby AR assured to submit the same by September 25, 2017. Therefore, vide an e-mail dated November 13, 2017, the AR was informed that despite lapse of more time, no such written argument / additional submissions have been received and if no written argument / additional submissions are received by November 20, 2017, then, the matter would be decided further on the basis of material available on records. The AR of Noticee No. 3 vide an e-mail / letter dated November 20, 2017 made additional written submission / argument.

17. It is relevant to mention here that the Noticee No. 3 along with its reply dated March 22, 2016 had submitted annexure H (viz. e-mail dated 15th October 2009 from Jagaran Prakashan Ltd. addressed to BSE and NSE informing about meeting to be held on 27th October 2009 of Board of Directors of Jagaran Prakashan Ltd. for - (1) to take on record Unaudited Financial Results for the quarter ended September 30th 2009 and (2) to consider the declaration of Interim Dividend for the Financial Year 2009-10) and contended that the PSI was published on 15th October 2009, hence, IPSI period as alleged is not correct. In order to check the authenticity of same, vide communique as well as e-mail dated November 13, 2017, the BSE and NSE were directed to confirm by November 24,

2017 as to whether the said letter / e-mail of Noticee(s) / JPL was received by them or not and if received, then, whether such announcement / information was uploaded at their website for public knowledge on same day or on other day.

18. In respect of said communique / e-mail, the NSE on same day (November 13, 2017) had stated that it had received the Board Meeting Intimation on October 15, 2009 and the announcement was disseminated to the public on the same day. BSE also vide an e-mail dated November 20, 2017 had confirmed that Exchange had received notice of Board Meeting to be held on October 27, 2009 via email dated October 15, 2009 and said announcement was disseminated on the Exchange website on October 15, 2009 at 12:00 Noon.

19. Since, the hearing / inquiry is concluded in the matter, therefore, the matter needs to be proceeded further on the basis of material available on records. The core submissions made by the Noticees towards the SCN (i.e. reply dated April 29, 2016 of Noticee No. 1, reply dated May 07, 2016 of Noticee No. 2, additional written submissions dated September 11, 2017 of Noticee No. 1 & 2, reply dated March 22, 2016 & additional written submissions dated November 20, 2017 of Noticee No. 3 and the submissions made during course of hearings are mentioned below;

Common submissions of Noticee No. 1 and 2

UPSI – Assumption regarding Interim Dividend "of `2 per share"

I. *Agenda dated 15.10.2009 circulated on 15.10.2009 itself to the Board of Directors for the Board Meeting that was scheduled to be held on 27.10.2009 did not contain the amount / rate of interim dividend (for the financial year 2009-2010) of `2/- per share. The agenda item No.10 is reproduced below:*

"Agenda : Item No. 10:

To consider, discuss and declare interim dividend for the financial year 2009-10.

The Board shall consider and discuss the matter relating to declaration of interim dividend for the financial year 2009-10 and to fix the record date, if payment of interim dividend is approved."

II. *Similarly, Agenda of Audit Committee meeting dated 15.10.2009 circulated on 15.10.2009 also did not contain the amount / rate of interim dividend (for the financial year 2009-2010) of ` 2/- per share. The agenda item No. 5 of Audit Committee meeting is also reproduced below:*

"Agenda : Item No.5:
To recommend declaration of Interim Dividend for the financial year 2009-10.
The Audit Committee shall consider the matter relating to declaration of interim dividend for the financial year 2009-10 and recommend it to the Board of Directors.

III. *The proposal of interim dividend was discussed, approved and amount of dividend was decided by the Board after recommendation of proposal for declaration of interim dividend by the Audit Committee in its meeting held on 27.10.2009.*

IV. *Draft of agenda was prepared in late evening of 14.10.2009 and next day immediately after compilation and finalization was circulated to Board and Audit Committee members on 15.10.2009. JPL had informed BSE / NSE on 15.10.2009 (at 11:56 hrs. and 11:58 hrs. respectively) about the Board meeting to be held on 27.10.2009 to consider inter alia the declaration of interim dividend for the financial year 2009-2010.*

V. *Furthermore, in declaration of interim dividend or in any matter, I being Company Secretary cannot even be deemed to have any role to play or influence any such decision, which has to be decided by the Board. Thus, in the light of the facts stated above, I beg to submit that-*
   - *(a) Agenda which contains no mention of amount/rate of dividend cannot be deemed to be a PSI.*
   - *(b) In case of interim dividend, it is never a certainty that Audit Committee / Board will necessarily recommend and approve the payment of dividend specially when the management/ promoters do not have majority in Audit Committee/Board and the decision is governed by those independent directors who do not have any interest in payment / non-payment of dividend as none of them*

holds any share in the company. All the more, not only the approval of interim dividend but also amount/rate was uncertain and not in existence. Thus, anything which is uncertain to the extent explained herein cannot have any influence on share price and be deemed to be PSI.

(c) *There was no UPSI from 15th October 2009 because the information that Board will consider proposal of interim dividend was disclosed to stock exchanges, on 15th October 2009 itself (Communicated to BSE at 11:56 hrs. and NSE at 11:58 hrs. respectively on 15th October 2009).*

(d) *Thus, the aforesaid declaration of dividend (as it was only a proposal for consideration of board) and more importantly the amount / rate of dividend was not in existence on either 14.10.2009 or 15.10.2009 or before 27.10.2009. It came into existence on 27.10.2009, when dividend was declared by the Board in its meeting held on 27.10.2009 (which started at 12:30 hrs) and the same was communicated to the Stock Exchanges on 27.10.2009 (at 13:43 hrs to BSE and 13:54 hrs. to NSE) i.e. immediately after conclusion of the Board meeting.*

(e) *In other words, for the information which does not exist, the question of having privy thereof did not arise and cannot arise. I was unaware of amount/rate of interim dividend, at any point of time, till the Board meeting which declared the interim dividend and decided the amount/rate of dividend.*

(f) *Thus, I was not in possession of any price sensitive information nor I have traded on the basis of any price sensitive information, I deny the said charge.*

<u>UPSI-Assumption regarding Financial Results</u>

VI. *It is pertinent to mention that financial results were placed at the time of the meeting and it appears that SEBI has erroneously assumed in SCN that financial results were sent to Audit Committee and Board alongwith agenda on 15th October 2009, which assumption is erroneous, without any base and is false.*

VII. *The financial results for the quarter ended 30.9.2009 were not circulated in advance along with agenda to the Audit Committee and the Board of Jagran Prakashan Ltd.*

VIII. *The financial results were first placed before the Audit Committee which started at 11:30 A.M. and later in the Board meeting which started at 12:30 P.M. on 27.10.2009 for their consideration and approval.*

IX. *It is most humbly submitted that circulation of agenda and placement of document in Board meeting are two different things. Therefore, circulation of agenda on 15th October 2009 does not constitute a base or remote inference that the financial results were ready and circulated alongwith the agenda.*

X. *Further, the first item (Serial No.1) of email reply dated 26.03.2015 of the company (Annexure 9 of SCN) has escaped the attention of SEBI. It clearly stated that the company does not have the date on which the financial results were prepared.*

XI. *Your honour is also requested to take note of the in-house practice followed by Jagran Prakashan Limited in connection with the financial results since listing of the Company in 2006.*

XII. *Financial results are placed before the Audit Committee and before Board by Senior General Manager (Corporate Finance) & Audit / CFO at the time of the meetings. I and my team of secretarial department do not get involved in preparation / presentation of financial results. Hence I was not privy to financial results until the Audit Committee meeting. Accordingly, I submit as follows:-*

   i) The agenda dated 15.10.2009 only contained the item that Audit Committee / Board shall consider financial results and no financial results were circulated in advance alongwith agenda of Audit Committee / Board as wrongly presumed in SCN.

   ii) Since agenda item regarding financial results was made public on 15th October 2009 (Communicated to BSE at 11:56 hrs and NSE at 11:58 hrs. respectively on 15th October 2009), there was no UPSI from 15th October 2009, post communication to Stock Exchanges that Board of the Company shall take on record financial results in its meeting to be held on 27.10.2009.

   iii) No sooner did the quarterly financial results were taken on record by the Board of Directors in its meeting held on 27.10.2009 (which started at 12:30 hrs), it was made public and was communicated to the Stock Exchanges on 27.10.2009 i.e. immediately after conclusion of the Board meeting.

XIII. *Hence, it is incorrect to even presume that I was aware of aforesaid financial results from the date of agenda i.e. 15.10.2009 till 27.10.2009. The inference which has been drawn in SCN that financial results were sent alongwith agenda is factually wrong.*

<u>PSI – Assumption regarding Kanchan's decision to sell shares of Jagran Prakashan Ltd. (JPL)</u>

XIV. *With regard to alleged Price Sensitive Information of decision of Kanchan Properties Ltd. ("KPL" or "Kanchan") to sell shares of JPL, I most respectively submit that I am Company Secretary of Jagran Prakashan Limited and has no connection with the affairs / business of Kanchan.*

XV. *In the Board meeting of Kanchan held on 1.9.2009, Kanchan decided to sell JPL shares at price ranging from ` 105/- to ` 115/- through Stock Exchanges. I clarify that I was neither a party to the said decision to sell shares nor played any role / concerned in any manner in the matter. I did not attend this meeting. My name does not appear in the minutes and as Mr. Gupta has stated in his reply dated 3.3.2015 to SEBI (Annexure IV to SCN), that he has recorded the minutes of the meeting. It is emphatically submitted that alleged decision to sell the shares of JPL by Kanchan was never in my knowledge before and / or while Kanchan has traded in shares of JPL. Therefore, the presumption (drawn on basis of letter dated 3rd March 2015 forming part of SCN as Annexure IV) that decision to sell shares of JPL by Kanchan was within my knowledge before and/or while Kanchan has traded in shares of JPL is factually wrong.*

XVI. *Further, the minutes on the points of sale of shares are very broad, general, generic and does not mention even quantity / number of shares proposed to be put on the block, exact timing / days, mode of sale (bulk, block deal), manner, strategy etc. Without these relevant details, the said decision was an empty, shallow, hollow, insipid and lacking in elements of price sensitivity. Hence, assuming but without admitting, even if I had knowledge that Kanchan would sell shares in future, it was irrelevant and of no use to me and lack element of PSI.*

XVII. *It would be absolutely necessary to put before your Honour that even SEBI (Substantial Acquisition of Shares and Take Over) Regulations and SEBI (Prohibition of Insider Trading) Regulations, applicable at relevant point of time for period under investigation, do not consider selling less than 2% shares by promoter, promoter group etc. as PSI, therefore did not mandate any pre or post disclosure for selling less than 2% shares both under SEBI (Substantial Acquisition of Shares and Take Over) Regulations and SEBI (Prohibition of Insider Trading) Regulations.*

XVIII. *SEBI in SCN has assumed that day on which Kanchan has traded, my trade is objectionable, otherwise it was not objectionable. From my trading chart, it is clear that between 01.09.2009 to 13.10.2009 (i.e. from date on which board of Kanchan decided to sell shares of JPL, to date before draft agenda of board meeting of JPL for interim dividend*

was prepared), that my trade on certain dates was not objected, but on other dates, it was objected.

XIX. *I take liberty to clarify that the words 'objected'/ 'not objected' has been used in above table on the basis of para 22 of SCN relating to alleged profit from trading in share of JPL on the basis of PSI read with Annexure XII to SCN.*

Model Code of Conduct

Pre Clearance of Trades:

XX. *I clarify that JPL put in place and made applicable its own code of conduct in terms of PIT Regulations (Annexure V of SCN) after approval of its Board on 30.01.2010. Prior to 30.01.2010, no code of conduct of the Company under PIT Regulations setting the threshold limit existed which has been clarified by the Company to SEBI vide emails dated 16.03.2015 at 4:33 PM and 6:33 PM respectively and therefore, in view of the fact that transaction was prior to coming of code of conduct, formulated by the Company on 30.01.2010, considering the limit of 10000 shares as threshold limit for pre clearance of trade is factually incorrect.*

XXI. *My trading was prior to 30.01.2010 and hence allegation of failure to obtain pre-clearance of trading as alleged in SCN is misconceived and erroneous. Ms. Mansi had done trading through her separate broker and met her obligations independent of me. Further, I clarify that as there was no code of conduct of the company fixing threshold limit for pre-clearance and providing definition of dependent prior to 30.01.2010, as explained above, hence, there was no question of obtaining pre clearance. Therefore, in view of above factual submissions, the pre clearance requirement was not applicable on her trade, in any manner, what so ever.*

Trading window closure period.

XXII. *On perusal of my trading, it can be observed that my volume was insignificant and the pattern of trading was intra-day. First small quantity of shares were bought (or sold), this quantity of shares was squared-off and then fresh buy or sale was effected. Hence, small profit / loss was booked and no exposure was carried to the next day. The difference in rates of buy and sell orders was 50 paise to one or two rupees, which is typical of a jobbers mind trading. Had I any malicious design, I would have not traded in my name. The very fact*

that I acted in the normal and ordinary course shows that my trading was transparent and without any mens rea. I am not guilty of suppressio veri and suggestio falsi.

XXIII. *Further, during trading window closure, as contained in SCN also, my buy quantity was 6500 sharess and sell quantity was 500 shares and profit earned as estimated by SEBI (Annexure XII of SCN) was ` 4010. Hence no one would do trading for such a meagre gain and risk the regulatory action. The said trading was therefore inadvertent as is only a technical lapse.*

XXIV. *The company has taken disciplinary actions against me for trading in window closure period and warned me to desist from such activities in future. Any further action by SEBI will amount to double jeopardy and will amount to punishment disproportionate to my wrong doing, if any, of a very insignificant value having no bearing what so ever on ruling/market price of shares.*

Opposite transactions within 3 months.

XXV. *I clarify that the aforesaid transactions were not applicable as the company had not put in place its code of conduct prior to 30.01.2010. Further, my nature of trading was by and large intra –day in small quantity. I believed that this opposite transaction restrictions as provided in model code of conduct of PIT Regulations was not applicable to my pattern of trading.*

Mitigating Factors:

XXVI. *Hon'ble Whole-Time Member, SEBI passed an order dated 20.11.2015, pursuant to which my bank and demat account were frozen. Thereafter I deposited ` 1,18,143/- (alleged gain of ` 68,229/- plus interest of ` 49,914/-) and my wife, Mansi deposited ` 9,22,862/- (alleged gain of ` 5,33,708/- plus interest of ` 3,89,154/-) total aggregating to ` 10,41,005/- on 18.12.2015 which sum of money is kept in an escrow account with Central Bank of India, Gumti No.5, Kanpur. A cop of WTM's Order dated 20.11.2015 is enclosed as Annexure B, to this reply.*

XXVII. *I submit that the present Adjudicating proceeding amounts to double jeopardy – as the same set of transactions – cause of action – is sought to be adjudicated proceeding. I request you to consider that Sec.11/11B of SEBI Act proceedings have been taken against me which are additional and penal in the nature.*

XXVIII. *Reply to summon of SEBI dated 16/02/2015 to Kanchan (which is not part of investigation report, but part of SCN), Kanchan has clearly stated that minutes of the Board Meeting was recoded by Mr Shailendra Mohan Gupta, director of the Company.*

XXIX. *Therefore, finding in the investigation report that Mr Amit Jaiswal, recorded the minutes of the Board meeting is incorrect. Since the said document i.e. Annexure 5 to SCN dated 05.02.2016 to be read in full and not out of context. Hence, investigation report is silence on what date the noticee came to knowledge of decision to sell shares of JPL by Kanchan. It has falsely assumed that Mr. Amit Jaiswal was informed about the decision to sell shares on 1st September 2009, which is denied.*

XXX. *III. Hon'ble Supreme Court in Civil Appeal No. 2480 of 2014 in the matter of "Excel Corp Care Limited vs Competition Commission of India and another" in judgment delivered on 08th May 2017 has laid down various principles while imposing the penalty by any authority which are as under:*

XXXI. *Hon'ble Supreme Court while hearing the various appeals against the order of Competition Appellate Tribunal held that the reduction of penalty by Appellate Tribunal is justified (and on page 72 onwards) dealt with principle for imposing the penalty.*

XXXII. *In view of clarification in the Finance Act, 2017 (w.e.f. 26.4.2017), 'mens rea' become relevant in adjudication proceedings. Please therefore consider (2008) II SCC 617 and more specifically para 18, 19, 21 and 22 of Bharjatiya Steel Industries Vs Commissioner Sales Tax, U.P.*

<u>Some other submissions of Noticee No. 2</u>

XXXIII. *I am an independent, individual person and in my personal capacity, in my name/code, I had traded as per my view, conviction and risk appetite and not on the basis of any UPSI relating to JPL. I say that deeming provisions and legal fiction, if any has no application to my trading which was honest, bonafide and in the normal course of things. Also, a fiction cannot be extended by importing another fiction. In my case, deeming that I am a connected person could be permissible in law but other fiction that I had the knowledge of UPSI/PSI is wrongly assumed, false and erroneous.*

XXXIV. *I note from the SCN that the following allegations have been made against me because I am wife of Mr. Amit Jaiswal, Company*

Secretary of JPL and therefore I have been deemed to be a connected person.

XXXV. *I would like to emphatically submit that while I was trading in the shares of JPL during the period 14th October 2009 to 23rd October 2009, UPSI as alleged was neither in existence nor was known to me and above all I have not traded on the basis of any UPSI. I deny the said charge.*

XXXVI. *Thereafter, in my reply dated 12.12.2014 to SEBI in response to summon dated 5.12.2014, I showed my bona-fide and suo motto mentioned that "if I had contravene any provision of law and regulation, I was ready to return the profit made". I further mentioned that "I wish to be law abiding person and live in peace".*

XXXVII. *Thus, in each of my submission, I was consistent in showing my true bona fide. However, SEBI after prolonged enquiry of more than 6 years, freezed my bank and demat account for ceasing the alleged profit of ` 5,33,708 (as calculated by SEBI) alongwith interest at the rate of 12% of ` 3,89,154, (as calculated by SEBI) which I deposited in Escrwo Account opened in Central Bank of India, Gumti No. 5, Kanpur in compliance to SEBI order under 11/11B dated 20.11.2015, by taking loan.*

XXXVIII. *Profit calculated by SEBI is also higher as it ignored brokerage, STT, service tax, Transaction & SEBI turnover tax and stamp duty paid on my transactions. On account of ignoring these expenses and charges, profit as calculated by SEBI is higher. I deny all allegations of SEBI, however, showing my bonafide intention and to rest in peace sooner than later, I am not disputing, the profit calculation or profit calculated by SEBI.*

XXXIX. *It may be noted that I got married with Mr. Amit Jaiswal in February 2009, (i.e. 6 month before the investigation period). I only knew that my husband is Company Secretary of Jagran Prakashan Limited. He never used to discuss affairs of JPL or anything related to his work with me. I had no information about any regulatory framework for dealing in shares of JPL, which are very specialized, technical and complex in nature.*

Submissions of Noticee No. 3

XL. *It is denied that it has violated any of the provisions of the SEBI Act- clauses 3 2-2 3.2-5 3.3-1 and 4.2 of Model Code of Conduct contained in Schedule I of Part A under Regulation 12(1); Regulation 3(1) and 3(ii); and Regulation 3A of the PIT Regulations.*

XLI. *It is humbly submitted that the shares of the JPL were purchased on 1 July 2009 and 2 July 2009. It had acquired 53,63,991 equity shares of JPL in aggregate on the stock exchanges at an average price of ` 68.53- per share aggregating to sum of INR 36,75,81,584 (Rupees Thirty Six Crore Seventy Five Lakh Eighty One Thousand Five Hundred Eighty Four Only).*

XLII. *All the shares of JPL were acquired through open market transactions and at the prevailing market rate. It had also made necessary disclosures under Regulation 7 of the SEBI (Substantial Acquisition of Shares and Takeover) Regulations, 1997 in this respect to the stock exchanges and JPL. Copies of the disclosures made by it are attached and marked herewith as Annexure "A" to this reply.*

XLIII. *Copy of the board resolution passed by the board of its directors on 1 September 2009 and the copy of the term sheet executed between it and IL&FS Financial Services Limited are attached and marked herewith as Annexure "B" and "C" respectively to this reply.*

XLIV. *A table showing the daily weighted average price for the period of 24 August 2009 to 31 August 2009 is annexed hereto and marked as Annexure "D" to this reply. Mr Shailendra Mohan Gupta, director of Kanchan gave instructions to sell the shares of JPL to its stock broker in furtherance to the board resolution dated 1 September 2009.*

XLV. *It started selling the shares of JPL from 10 September 2009 i.e. within 9 days from the date of the passing of the Board resolution. It had sold 38,95,862 shares and raised a sum of INR 41,59,26 963 96 between 10 September 2009 to 21 October 2009. Out of the total shares sold during the aforesaid period, 24,77,127 shares were sold prior to 14 October 2009. Further, the sum raised by it was within the limit mentioned in the resolution dated 1 September 2009. A chart containing the day wise details of the trades done in the shares of JPL during the period from 1 July 2009 to 31 October 2009 is annexed hereto and marked as Annexure "E" to this reply.*

XLVI. *After selling 38,95,862 Shares of JPL and raising the required amount to repay the IL&FS Financial Services Limited's loan, it held*

14,68,129 shares of JPL which it continues to hold till date. A copy of demat account statement reflecting the shares of JPL currently lying with it is annexed and marked hereto as Annexure "F" to this reply.

XLVII. *A copy of the chartered accountant certificate confirming the utilisation of funds raised from selling the shares of JPL is annexed hereto and marked as Annexure "G" to this reply.*

XLVIII. *It is submitted that the PIT Regulations are a self-contained code and prescribe a detailed procedure for investigation in cases of alleged violation of PIT Regulations. A reference in this regards needs to be made to language of regulation 6 of the PIT Regulations. A plain reading of the aforesaid provisions clearly establishes that PIT Regulations mandate that SEBI should have issued a reasonable notice to it under Regulation 6(1) of PIT Regulations prior to initiating any investigation against it in the present matter However, this mandatory pre-condition was not complied in the present matter and no notice whatsoever was issued to it by SEBI at the time of initiating the investigation. It is submitted that the mandatory requirement of providing a notice under regulation 6(1) of the PIT Regulation can only be waived if SEBI is satisfied that it is in the interest of investors or in public interest not to issue such a notice. The aforesaid reason should be recorded in the order directing investigation. However, in the present matter no such order has been provided to it even at the stage of issuance of SCN In addition to the said lapse, the SCN also does not make any statement.*

XLIX. *It is submitted that vide the SCN serious allegations of indulging into insider trading has been levied, but the material in support of the allegations have not been made available. It is also submitted that the SCN is ambiguous and disjointed and the allegations therein are baseless, vague and based on assumptions, surmises and conjectures. It is submitted that vague averments and allegations have been made without even providing it with any particulars on the basis of which such allegations have been levied.*

L. *A reference in this regard can be made to paragraph 24 and 25 of the SCN wherein we have been alleged of entering into transactions after 14 October 2009 in the scrip of JPL on the basis of UPSI pertaining to periodic financial results of JPL for quarter ending September 2009. But the SCN does not mention the date on which the quarterly financials of JPL were ready for it to be categorised as a UPSI.*

LI. *It is at complete loss to even understand the basis on which SCN has ascertained that a UPSI pertaining to the quarterly financial statement of JPL came into existence on 15 October 2009 in the absence of*

relevant particulars like the date on which financials were ready, signed or communicated to it. The same clearly makes the SCN vague and incomprehensible.

LII. *However, it is vehemently denied that it had traded in the shares of JPL during 14 October 2009 to 21 October 2009 'while in possession of' or 'on the basis of any UPSI including any information relating to the periodic financial results of JPL or the proposed intended declaration of dividend.*

LIII. *With reference to the issue of existence of UPSI, it is submitted that the information pertaining to quarterly financial statements and declaration of dividend cannot be considered to be UPSI between 14 October 2009 to 21 September 2009 for the following reasons.*

LIV. *As per the SCN, the sole basis of categorising periodic financial statement as a UPSI is the fact that on 15 October 2009 an agenda of the financial results for quarter ending September 2009 was circulated to the audit committee and the board of directors of JPL. It is submitted that the circulation of agenda and readiness of financial statement are two totally different issues which cannot be interlinked. A circulation of agenda is a routine phenomenon which is done with the sole intention of informing the board of directors about an upcoming board meeting and the topics/issues which will be taken up for the consideration of the board of directors therein. The same is in no manner a proof of the fact that the financials of JPL were in fact ready on 15 October 2009. In order to show that it was in possession of price sensitive information pertaining to the periodic financial results of JPL, SEBI at the least was required to place on record some evidence to show that the financials of JPL were ready on 15 October 2009.*

LV. *Secondly, without prejudice to anything stated herein, even if it is assumed that circulation of agenda pertaining to taking on record of financial results for a particular period is a price sensitive information in itself, then also in the present case, JPL had vide its letter dated 15 October 2009 duly disclosed about this agenda to the stock exchanges and thus the information regarding the financials being taken on record in the board meeting scheduled on 27 October 2009 cannot be categorised as UPSI after 15 October 2009. A copy of JPL's email and letter both dated 15 October 2009 addressed to the stock exchanges is annexed hereto and marked as Annexure 'H colly' to this reply.*

LVI. *As far as the issue of categorising information pertaining to intended declaration of dividend for the financial year 2009-10 as an UPSI, it is humbly submitted that as on 14 October 2009 the proposal for*

declaration of dividend was put up for consideration by the board of JPL in its meeting to be held on 27 October 2009.

LVII. *The said proposal for approving declaration of dividend was also disclosed by JPL to the stock exchanges through its letter dated 15 October 2009, which was disclosed by the stock exchanges on 15 October 2009 and thus was in public domain. As such, the proposal to declare dividend itself cannot be categorised an UPSI once the disclosure was made by the stock exchanges on 15 October 2009.*

LVIII. *The decision to declare or not to declare the dividend was totally dependent on the directors, which could have been ascertained in the meeting scheduled on 27 October 2009. Further, no contrary evidence is placed on record to show that it had information that such a proposal will be cleared by the board of directors of JPL. Therefore, in the absence of any such evidence, it cannot be stated that it, being 'Insider' or 'deemed connected person', had any information or knowledge to suggest that such a proposal will be approved by the board of directors of JPL in the meeting scheduled on 27 October 2009.*

LIX. *It is submitted that in order to establish any violation of Regulation 3A of PIT Regulations or under section 12A (d) and(e) of the SEBI Act, it is sine qua non requirement that the trading of a noticee should have been carried out 'while in possession' of any UPSI. But the facts in the present case clearly show that there was no UPSI existing during the relevant period and therefore the issue of trading while in possession of any UPSI does not arise at all and therefore the allegation levied against it is merely based on surmises, conjectures and has no basis whatsoever.*

LX. *Further, without prejudice to anything stated herein above, even if it is assumed that a UPSI pertaining to periodic financial statements and intended declaration of dividend existed during 14 October 2009 to 21 October 2009 i.e. the days on which it had traded, even then in our humble submission no penalty can be levied for any wrongdoing as trading undertaken by it was not 'on the basis' of any UPSI.*

LXI. *It is submitted that the entire trading carried out by it in the scrip of JPL was undertaken with a view to repay the loan taken by it from IL&FS Financial Services Limited as already pointed out in paragraph 6(d) to (k) hereinabove. It is submitted that the SCN incorrectly mentions that it had started selling the shares of JPL from 14 October 2009 on the basis of UPSI. On the contrary, it had started selling the shares of JPL from 10 September 2009 i.e. within 9 days from the date of the passing of the board resolution dated 1 September 2009 and had traded on 6 different days prior to 14 October 2009.*

LXII. *It had sold 38,95,862 shares in aggregate and raised a sum of INR 41,59,26,963.96 between 10 September 2009 to 21 October 2009. Out of the total shares sold by it, 24, 77,127 shares were sold prior to 14 October 2009. It is also pertinent to mention that the sum raised was within the limit specified in the resolution passed by the board of directors in there meeting held on 1 September 2009.*

LXIII. *After selling 38,95,862 shares of JPL and since it had realized the amount required for repaying the loan of IL&FS Financial Services Limited no further shares of JPL were sold by it. As on 21 October 2009, it was holding 14,68,129 shares of JPL and it continues to hold these shares even to this date. Subsequently the funds raised by it from selling of the shares of JPL were utilised for the sole and stated purpose of repaying the loan of IL&FS Financial Services Limited.*

LXIV. *At this juncture, it would also like to point out that between 14 October 2009 to 21 October 2009 i.e. while allegedly being in possession of UPSI, it had only entered into sell transactions and had not bought a single share with the intention of making gains after the scheduled board meeting. This conduct is totally contrary to the normal reaction of any Insider who is trying to benefit from a UPSI pertaining to upcoming positive financial results and declaration of dividend. It is submitted that under normal circumstances, any insider would have ideally bought shares while in possession of UPSI i.e. before 27 October 2009 and would have sold the shares on or after 27 October 2009 in order to benefit from a positive rise in the price of the securities on account of good financial results and declaration of dividend.*

LXV. *In order to establish a violation under regulation 3 of PIT Regulations and for levy of penalty under section 15 G of the SEBI Act, it is essential to demonstrate that the trading was done 'on the basis of UPSI' and not otherwise. A reference in this regard needs to be made to the following observations made by the Hon'ble Securities Appellate Tribunal in its order dated 31 January 2011 as passed in the matter of Chandrakala v/s. SEBI, Appeal No. 209 of 2011:*

"The prohibition contained in regulation 3 of the regulations apply only when an insider trades or deals in securities on the basis of any unpublished price sensitive information and not otherwise. It means that the trades executed should be motivated by the information in the possession of the insider. If an insider trades or deals in securities of a listed company, it may be presumed that he / she traded on the basis of unpublished price sensitive information in his / her possession unless contrary to the same is established. The burden of proving a situation contrary to the presumption mentioned above lies on the insider. If an insider shows that he /she did not trade on the

basis of unpublished price sensitive information and that he /she traded on some other basis, he/she cannot be said to have violated the provisions of regulation 3 of the regulations."

LXVI. The ratio laid down by the Hon'ble Securities Appellate Tribunal in the aforesaid matter was also applied by the Hon'ble Tribunal in its order dated 3 October 2012 as passed in matter of Manoj Gaur and Ors. V. SEBI, Appeal no. 64 of 2012. The Tribunal after observing the trading pattern of the Mrs Urvashi Gaur, wife the Appellant clearly held the trading pattern clearly suggest that she has not traded on the basis of UPSI and there is no evidence on record to suggest that she was in possession of any UPSI.

LXVII. The fact that the trading carried out by it was not based on any UPSI, but on the — basis of its trading plan is in itself a sufficient ground to exonerate it from any wrong doing and for quashing and setting aside of the SCN.

LXVIII. It is submitted that a perusal of the aforesaid submission clearly shows the entire matter is based on summaries and conjunctures and not even a single evidence has been placed on record to establish any of the following:

(a) That a USPI pertaining to quarterly financial results and declaration dividend existed on 14 October 2009.

(b) That such a USPI was communicated to it.

(c) That it had undertaken transaction on 14 October 2009 to 21 October 2009 'while in possession' of or 'on the basis of' any UPSI whatsoever.

LXIX. It is submitted that the charge of violating PIT Regulations is a serious allegation and the same cannot be levied on the basis of summaries and conjunctures and it has to be based on evidence. A penalty cannot be levied till the time any concrete proof/ evidence are placed on record. In order to substantiate the aforesaid submissions, we would like to place on record the Hon'ble Supreme Court's decision in the case of Ex-Naik Sardar Singh vs. Union of India (1991) 3 SCC 212) and case of Ranjit Thakur vs. Union of India (AIR 1987 SC 2386).

20. After taking into account the allegations, replies, additional submissions of the Noticees and evidences / material available on records, I hereby, proceed to decide the case on merit.

CONSIDERATION OF ISSUES AND FINDINGS

21. The issues that arise for consideration in the present case / SCN are :

a) Whether the UPSI period started from October 14, 2009 to October 27, 2009 AND Whether the Noticees had traded in the scrip of JPL during such UPSI period?

b) Whether the Noticees were the “Insider” in terms of PIT Regulations?

c) If yes, then, whether trading by insider / Noticees during UPSI period, is in violation of regulation 3 (i), 3 (ii) and 3 A of the PIT Regulations read with section 12 A (d) and (e) of the SEBI Act?

d) If yes, then, whether the Noticees are liable for monetary penalty under section 15 G of the SEBI Act?

e) Whether the Noticee No. 1 had traded in the scrip of JPL when the trading window was closed during the period 20th to 28th October of 2009 AND if yes, then whether the same is in violation of clauses 3.2.2 & 3.2-5 of Model Code of Conduct contained in Schedule I of Part A of regulation 12(1) of PIT Regulations?

f) Whether the Noticee No. 1 had failed to obtain pre-clearance for his trades and the trades of his wife (Noticee No. 2), to deal in the securities of JPL as per the model code of conduct; AND if yes, then whether the same is in violation of clause 3.3-1 of Model Code of Conduct contained in Schedule I of Part A under regulation 12(1) of PIT Regulations?

g) Whether the Noticee No. 1 had indulged into opposite transactions (buy as well as sale of shares) in the scrip of JPL; AND if yes, then, whether the same is in violation of clause 4.2 of Model Code of Conduct contained in Schedule I of Part A under regulation 12(1) of PIT Regulations?

h) If yes, for (e) to (g) above, then, whether the Noticee No. 1 is liable for monetary penalty under section 15 HB of the SEBI Act?

i)What would be the monetary penalty that can be imposed upon the Noticees taking into consideration the factors stipulated in section 15J of the SEBI Act read with rule 5 (2) of the Adjudication Rules for the aforesaid violations, if any?

ISSUE

Whether the UPSI period started from October 14, 2009 to October 27, 2009? AND Whether the Noticees had traded in the scrip of JPL during such UPSI period?

22. Before going to examine the UPSI period, it would be appropriate to describe as to what is the PSI and upto what time/period it is so considered/existed. As per the PIT Regulation viz. regulation 2 (ha), the PSI is defined as under;

2(ha) "price sensitive information" means any information which relates directly or indirectly to a company and which if published is likely to materially affect the price of securities of company.

Explanation.—The following shall be deemed to be price sensitive information: —

(i) periodical financial results of the company;

(ii) intended declaration of dividends (both interim and final);

(iii) issue of securities or buy-back of securities;

(iv) any major expansion plans or execution of new projects.

(v) amalgamation, mergers or takeovers;

(vi) disposal of the whole or substantial part of the undertaking;

(vii) and significant changes in policies, plans or operations of the company;

23. From the above definition is its clear that "any information which relates directly or indirectly to a company and which if published is likely to materially affect the price of securities of company" and includes the "periodical financial results of the company" and 'intended declaration of dividends both interim and final' are well covered within the definition of PSI and same is considered as the PSI untill they are published.

24. As regards to the period of UPSI, from Annexure VIII of the SCN (a letter dated March 25, 2015 which in fact was signed by the Noticee No. 1 only) it is noted that chronology of events leading to publication of interim dividend of ` 2/- per share for the Financial Year 2009-10 etc. was provided by the JPL and the details are tabulated hereunder.

Sr No	Date	Activity
1	Oct 14, 2009	Date when agenda proposing interim dividend of ` 2/- for FY 2009-10 was prepared
2	Oct 15, 2009	Date when agenda proposing interim dividend of ` 2/- for FY 2009-10 was circulated to the Board of JPL
3	Oct 27, 2009	The date of Board meeting when this interim dividend proposal was discussed
4	Oct 27, 2009	Date of board meeting when this interim dividend proposal was approved
5	Oct 27, 2009 13:43(BSE) 13:54(NSE)	Board of Directors declared interim dividend of ` 2/- per equity share

25. Also, from Annexure IX (e-mail dated March 26, 2015 from JPL / Noticee No. 1) chronology of events leading to publication of financial results for the quarter ended September 30, 2009 which is a PSI, is noted as under;

S.No.	Date	Activity
1	Oct 15, 2009	Date when the agenda of the financial results for September 2009 quarter was circulated to the Audit Committee and the Board of Jagran Prakashan Limited
2	Oct 27, 2009	Date of meeting of Audit Committee and the Board when the financial results for September 2009 quarter was held
3	Oct 27, 2009	Date of approval by Audit Committee and the Board of the financial results for September 2009 quarter
4	Oct 27, 2009 14:07(BSE) Oct 28, 2009 14:25(NSE)	Press release on Financial Results for September 2009 quarter

26. The aforesaid details are not in dispute. From the above it is apparent that PSI for interim dividend declaration came onto effect on October 14, 2009 and PSI for financial results of quarter September 2009 came into effect from October 15 of 2009.

27. Now, the issue as to whether the said PSI remained unpublished till 27th October 2009 as alleged or whether such PSI were published to stock exchanges (BSE and NSE) on 15th October 2009 as contended by the Noticees.

28. As stated in above paras, the NSE and BSE categorically confirmed that it had received the Board Meeting Intimation from JPL on October 15, 2009 regarding (1) to take on record Unaudited Financial Results for the quarter

ended September 30th 2009 and (2) to consider the declaration of Interim Dividend for the Financial Year 2009-10) and the announcement in this respect was disseminated to the public on the same day.

29. Since, it is clear that the PSI regarding both "intended interim dividend" and "Unaudited Financial Results" were published to the BSE and NSE on 15th October 2009 itself, therefore, the same cannot be termed as UPSI from 15th October 2009 to 27th October 2009. However, certainly the PSI in respect of 'intended' interim dividend came into existence on 14th October 2009 (as per Annexure VIII of SCN) and same remained 'unpublished' on 14th October 2009. Therefore, it is established that UPSI Period is 14th October 2009 in the matter.

30. Further, the trading details done by the Noticees as shown in the SCN are not in dispute. From the unrebutted records, it is established that the Noticees had traded on 14th October 2009 (i.e. during the UPSI period) and their such details are shown in table below;

Amit Jaiswal			***Mansi***			***Kanchan***	
Date	***Total Buy Qty***	***Total Sell Qty***	***Date***	***Total Buy Qty***	***Total Sell Qty***	***Date***	***Sell Qty***
14.10.2009	***2150***	***2150***	*14.10.2009*	***29685***	***29685***	*14.10.2009*	***182735***

ISSUE

Whether the Noticees were the "Insider" in terms of PIT Regulations? AND If yes, then, whether trading by insider / Noticees during UPSI period, is in violation of regulation 3 (i), 3 (ii) and 3 A of the PIT Regulations read with section 12 A (d) and (e) of the SEBI Act?

31. Now, to examine the issue whether the Noticees were the "insider", it would be relevant to refer the definition of 'insider' as stipulated under regulation 2 (e) of the PIT Regulations as under-

2(e) "insider" means any person who,

(i) is or was connected with the company or is deemed to have been connected with the company and is reasonably expected to have access to unpublished price sensitive information in respect of securities of company, or

(ii) has received or has had access to such unpublished price sensitive information.

32. In order to examine whether such person is or was 'connected' or 'deemed to be connected' with the company, the following definition under the PIT Regulations is taken into consideration.

Reg. 2 (c) "connected person" means any person who,-

(i) is a director, as defined in clause (13) of section 2 of the Companies Act, 1956 (1 of 1956), of a company, or is deemed to be a director of that company by virtue of sub-clause (10) of section 307 of that Act or

(ii) occupies the position as an officer or an employee of the company or holds a position involving a professional or business relationship between himself and the company whether temporary or permanent and who may reasonably be expected to have an access to unpublished price sensitive information in relation to that company:
Explanation :—For the purpose of clause (c), the words "connected person" shall mean any person who is a connected person six months prior to an act of insider trading;

Reg. 2(h) "person is deemed to be a connected person", if such person—

(1) is a company under the same management or group, or any subsidiary company thereof within the meaning of sub section (1B) of section 370, or sub section (11) of section 372, of the Companies Act 1956 (1 of 1956), or sub clause (g) of section 2 of the Monopolies and restrictive Trade Practices Act, 1969 (54 of 1969), as the case may be;

(*vi) is a relative of any of the aforementioned persons;*

(vii) is a banker of the company.
(viii) relatives of the connected person; or

Reg. 2 (i) "relative" means a person, as defined in section 6 of the Companies Act, 1956 (1 of 1956);

33. Section 6 of the Companies Act, 1956 [now section 2(77) of the new Companies Act, 2013 read with rule 4 of the Companies (specification of definition details) Rules, 2014, defining 'relative', and includes 'wife' as deemed to be connected person.

34. It is undisputed fact the Noticee No. 1 is the Company Secretary / Compliance Officer of the JPL and Noticee No. 2 is the wife of Noticee No. 1. Taking into account regulation 2 (c) of the PIT Regulations, I am of the opinion that the Noticee No. 1 (being the company secretary / compliance officer of JPL) occupies the position as an officer / employee of the company and is 'connected person' with JPL. Also, considering the material fact from Annexure VIII of SCN (letter dated 25th March 2015 of JPL) which confirms that the Noticee No. 1 was involved in preparation / circulation of agenda to Board of Directors regarding aforesaid intended interim dividend, I am of the view that the Noticee No. 1 being so, was actively privy to the UPSI regarding interim dividend. Further, keeping into account regulation 2 (h) and 2 (i) of the PIT regulations, I am of the view that the Noticee No. 2 being the wife of Noticee No. 1 / connected person is a 'person deemed to be connected person' and is reasonably expected to have an access to UPSI. From the undisputed trading details by the Noticee No. 2 and the fact that she is the wife of Noticee No. 1, it can be safely concluded that the PSI regarding intended interim dividend was communicated to her by Noticee No. 1. Therefore, in view of the foregoing, it is established that the Noticee No. 1 and 2 are the 'insider' of JPL within the meaning of PIT Regulations.

35. As regards to Noticee No. 3, it is noted from the undisputed records that the Noticee No. 3 is the associate company / promoter group of the JPL. It is also noted from the Annexure XIII of the SCN (a letter dated 27th August 2011 of the Noticee No. 3) that 3 of its directors namely - Mr. Devendra Mohan Gupta, Mr. Shailendra Mohan Gupta and Mahendra Mohan Gupta are also the directors of the JPL. In view of aforesaid and taking into account regulation 2 (h) of PIT Regulations, it is clear that the Noticee No. 3 is the 'person deemed to be connected person' and by virtue of having common directors with JPL, Noticee No. 3 is reasonably expected to have access to UPSI and falls within the definition 'insider' within the meaning of PIT Regulations.

36. I have also noted that from Annexure II of SCN (viz. a letter dated October 01, 2014 of Noticee No. 3) where it was stated that Noticee No. 1 knows its directors and assisted in filing of its certain papers with Registrar of Companies on request of its directors. It was also stated in said letter that the Noticee No.1 had also received reimbursements of ` 900/- and ` 612/- towards payments made by him through his personal credit cards for Kanchan's filing fees with Registrar of Companies. The Noticee No. 1 also vide his letter dated November 03, 2014 (Annexure III of SCN) had replied on similar lines and confirmed his involvement of filing with Registrar of Companies on behalf of Noticee No. 3. The Noticee No. 1 had also acknowledged that the directors of the Noticee No. 3 were personally known to him and was reimbursed with the said amount. From the above, it is clear that the Noticee No. 1 connected or known to Noticee No. 3 / its directors.

37. Since, the UPSI period (14th October 2009) is established and it is also established that all the Noticees are the 'insider' within the meaning of PIT Regulations, therefore, another core issue whether their such trading during the UPSI period, is in violation of regulation 3(i), 3 (ii) and 3A of the

PIT Regulations read with section 12 A (d) and (e) of the SEBI Act, is being examined as under.

38. I have taken into account the provisions of regulation 3(i), 3 (ii) and 3A of the PIT Regulations read with section 12 A (d) and (e) of the SEBI Act which are as under –

PIT Regulations

3. No insider shall—

(i) either on his own behalf or on behalf of any other person, deal in securities of a company listed on any stock exchange when in possession of any unpublished price sensitive information;

(ii) communicate or 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 securities :

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.

SEBI Act

Prohibition of manipulative and deceptive devices, insider trading and substantial acquisition of securities or control.

12A. *No person shall directly or indirectly—*

(d) engage in insider trading;

(e) deal in securities while in possession of material or non-public information or communicate such material or non-public information to any other person, in a manner which is in contravention of the provisions of this Act or the rules or the regulations made thereunder;

39. From the undisputed records, it is seen that the Noticees had traded in the scrip of JPL during the UPSI period (viz. 14th October 2009) and their such trading is shown in a table at para 30 above.

40. It would be pertinent to mention that legislative intention has been made clear to define the "insider" and if it is established that a person is "insider' and had dealt in the scrip "when in possession" of UPSI, then, such trading done by him would be against the regulatory framework or in violation of regulation 3 (i), 3 (ii) and 3A of the PIT Regulations.

41. The case laws / judgments relied upon by the Noticee(s) viz. *Mrs. Chandrakala vs. SEBI (*decided on 31/01/2012), *Manoj Gour vs. SEBI* (decided on 03/10/2012) and *Dilip Pendse vs. SEBI* (decided on 19/11/2009) would not help them in light of subsequent judgments of the Hon'ble Securities Appellate Tribunal (**SAT)** in case of *Mrs. Chandra Mukherji vs. SEBI (decided on November 30, 2016), SRSR Holdings Private Limited & Ors. vs. SEBI* (decided on August 11, 2017) which are being discussed as under.

42. The Hon'ble SAT in case of *Mrs. Chandra Mukherji case* (*supra*) held that

> *"36. In Appeal No126 of 2014, there is no dispute that the appellant was an insider. The contention that trades were executed by the husband and not by the appellant is without any merit because in none of the letters addressed by the appellant to the AO of SEBI this plea was raised.* ***In any case being an insider no trades could be executed during the existence of the UPSI*** *from 19th June, 2009. Admittedly, trades were executed by the appellant on 3rd July, 2009 i.e. during the subsistence of UPSI.* ***The argument made by the Counsel for the appellant that she did not sell the shares bought on 3rd July, 2009 and as such did not benefit from the UPSI even assuming that if she was privy to the UPSI is also without any merit. Under the relevant regulations trading in the shares of the company (whether buy or sell) by an insider is prohibited".***

43. Also, while holding the insider trading case, the Hon'ble SAT in case of *SRSR Holdings (supra) at para 23 (c) held that –*

> *"Impugned order passed by the WTM of SEBI on 10.09.2015 against all the appellants herein (except in case of B. Jhansi Rani, Appellant in Appeal No. 462 of 2015) is upheld to the extent that the appellants were insiders under the PIT Regulations and that the appellants had pledged/sold the shares of Satyam when in possession of UPSI and thus, they have violated the SEBI Act and the PIT Regulations……."*.

44. I have also noted that regulation 3(i) of the PIT Regulations, 1992 originally stated as follows:

> *"3. No insider shall—*
>
> *(i) either on his own behalf or on behalf of any other person, deal in securities of a company listed on any stock exchange <u>on the basis of</u> any unpublished price sensitive information; or"*

45. The regulation 3 (i) was amended by the SEBI (Insider Trading) (Amendment) Regulations, 2002 which came into effect from February 20, 2002 and after this amendment, the phrase "on the basis of" was substituted by "when in possession". After the amendment, regulation 3 (i) reads as follows:

> *3. No insider shall—*
>
> *(i) either on his own behalf or on behalf of any other person, deal in securities of a company listed on any stock exchange <u>when in possession</u> of any unpublished price sensitive information; or*

46. In the light of 2002 Amendment, the prohibition under regulation 3(i) would be attracted if – the person was an 'insider' and such insider had dealt in securities 'when in possession" of UPSI. Further, the legislative intent while amending and incorporating the words "when in possession' in place

of word “on the basis” had amply made clear that if the person is found to be “insider’ within the definition of regulation 2(e) of the PIT Regulations, and being so he trades during UPSI, then, the bar under regulation 3 (i), 3 (ii) and 3 A of PIT Regulations is attracted or in other words he is liable for violation of insider trading. Also, I cannot loose sight that the requirement of “when in possession’ of UPSI is already covered under regulation 2 (e) (i) i.e. “reasonably expected to have access to UPSI” to consider him as ‘insider’. Therefore, once, it is established a person is “insider” in terms of regulation 2 (e) (i) taking into account the requirement of “reasonably expected to have access to UPSI”, then, it is deemed that he was in ‘possession” of UPSI and such trading during UPSI is in contravention of regulation 3(i), 3 (ii) and 3A of the PIT Regulations.

47. By virtue of position / involvement of the Noticees in the JPL , in my opinion, they were in the situation to know all crucial details / PSI about ‘intended interim dividend’ and therefore are ‘reasonably expected to have access to UPSI’ in terms of regulation 2 (e) (i) of PIT Regulations. It is not out of place to mention that Noticee No. 3 / Kanchan and the JPL had the aforesaid common directors. Here, it is relevant to mention that the Hon’ble SAT in case of *SRSR Holdings (supra) at* para 11 held that - “*It is relevant to note that the concept of ‘reasonably expected to have access to UPSI’ is not applied to Director/deemed Director, because, unlike other connected persons, Director/ deemed Director constitute part of the company’s board and hence responsible for all the deeds/ acts of the company during the period when they were Director/ deemed Director’….*

48. Here, it is not out of place to mention that once the person is found to be “insider” within the meaning of PIT Regulations, then, the onus to disprove that he is not an “insider’ and not in ‘possession’ of UPSI, lies on the said person only. In the instant case, the Noticees had failed to disprove the same.

49. I am of the opinion that basic premise that underlines the integrity of securities market is that persons connected with such market conform to the standards of transparency, good governance and ethical behaviour prescribed in securities laws. The Insider Trading Regulations have put in place a framework for prohibition of insider trading in securities and the prohibitions provided in the PIT Regulations ensure a level-playing field in the securities market and safeguard the interest of investors and integrity of securities market. I am of the view that the object and spirit of the Insider Trading Regulations would get defeated if the violators of the said Regulations are not dealt as per the spirit of PIT Regulations.

50. In view of the above, it is established that the Noticees being 'insider' had traded in the scrip "when in possession" of aforesaid UPSI against the bar contained in regulation 3 (i), 3(ii) and 3A of the PIT Regulations and section 12 A (d) – (e) of the SEBI Act.

51. The contention of the Noticee (s) that agenda dated 15.10.2009 circulated to the Board of Directors for the meeting did not contain the amount / rate of interim dividend (for the financial year 2009-2010), is apparently not acceptable as the JPL vide letter dated March 25, 2015 (Annexure VIII of SCN which was signed by the Noticee No.1 himself) clearly indicated the said amount of ` 2 proposed for interim dividend. As regards to the 'possession of UPSI, it is clear from said Annexure VIII that the Noticee No. 1 was involved in preparation of agenda and circulation of agenda to Board of Directors for proposed for interim dividend at the rate of ` 2. As observed above, the aforesaid Annexure makes it clear that the Noticee(s) were privy to PSI regarding intended dividend which came into existence on 14th October 2009 and in fact all the Noticees being 'insider' as established above, had traded on 14th October 2009 when such PSI remained unpublished as the PSI was published to stock exchange only on 15th October 2009 as observed in pre paras of this order.

52. In respect to the allegation that the Noticee No. 1 indulged into sale/purchase of shares of JPL while in the possession of PSI pertaining to decision of Kanchan / Noticee No. 3 to sell shares of JPL at price ranging between ` 105 – 115, the Noticee No. 1 stated that the minutes on the points of sale of shares are very broad, general, generic and does not mention even quantity / number of shares proposed to be put on the block, exact timing / days, mode of sale (bulk, block deal), manner, strategy etc. He also stated that without these relevant details, the said decision is lacking elements of price sensitivity. In this respect, I have already made observations at pre paras that the the Noticee No. 1 had acknowledged that the directors of the Noticee No. 3 were personally known to him and was reimbursed with the amount towards payments made by him through his personal credit cards for Kanchan's filing fees with Registrar of Companies.

53. The plea of Noticee(s) that SEBI applicable Regulations do not consider selling less than 2% shares by promoter as PSI, is without any merit. Further, the contention of the Noticee No. 2 that she is an independent individual and traded in her personal capacity and not on the basis of any UPSI relating to JPL. She also contended that deeming provisions and legal fiction, if any, has no application to her trading which was honest, bonafide and in the normal course of things. The aforesaid plea of the Noticee No. 2, cannot be accepted in light of observations made at pre paras of this order establishing that she was an “insider’ within the definition of PIT Regulations and was reasonably expected to have an access to UPSI of JPL.

54. From the undisputed trading details by the Noticee No. 2, the fact that she is the wife of Noticee No. 1 and the fact that they are having common address, it can safely be concluded that the UPSI was communicated to her by Noticee No. 1 only. Also, from the trading details it is observed that

major number of shares were traded by the Noticee No. 2 when compared to Noticee No. 1 which clearly suggests that Noticee No.1 deliberately avoided his detection and urged his wife (Noticee No. 2) to trade during UPSI period. Needless to say that onus to disprove the aforesaid material facts regarding her trading, lies on Noticee No. 2 which she could not establish otherwise. From the aforesaid, it is evident that Noticee No. 1 while himself indulging into trading during UPSI period (viz. 14th October 2009) had also communicated UPSI to his wife (Noticee No. 2) and thereby both of them had indulged into trading during aforesaid UPSI period.

55. *The Noticee No. 3 in its defence had submitted following –*

i. that resolution was unanimously passed by the board of directors to sell the shares of JPL and Mr. Shailendra Mohan Gupta (director of Kanchan) gave instructions to sell the shares of JPL to its stock broker in furtherance to the board resolution dated 1 September 2009. Accordingly, it started selling the shares of JPL from 10 September 2009 i.e. within 9 days from the date of the passing of the Board Resolution.

ii. It had sold 38,95,862 shares and raised a sum of ` 41,59,26 963.96 between 10 September 2009 to 21 October 2009.

iii. Out of the total shares sold during the aforesaid period, 24,77,127 shares were sold prior to 14 October 2009 and the sum raised by it was within the limit mentioned in the resolution dated 1 September 2009.

iv.After selling 38,95,862 Shares of JPL and raising the required amount to repay the IL&FS Financial Services Limited's loan, it held 14,68,129 shares of JPL which it continues to hold till date.

56. As I have observed above that once the regulatory framework has been well prescribed to curb down any possibilities of insider trading, hence, any defiance / deviation or in other words the trading against the settled norms (especially certain prohibitory norm during a specified time), would

certainly be in breach of such norms / regulatory mandates. Therefore, the aforesaid submissions made by the Noticee No. 3 (viz. only sell transaction, no buy transactions, / loan payment etc.) cannot be accepted to overcome the mandatory norms under PIT Regulations / SEBI Act.

57. Another submission made by the Noticee No. 3 that SEBI should have issued a reasonable notice to it under regulation 6(1) of PIT Regulations prior to initiating any investigation against it and such mandatory pre-condition was not complied in the present matter. The Noticee No. 3 submitted that the mandatory requirement of providing a notice under regulation 6(1) of the PIT Regulation can only be waived if SEBI is satisfied that it is in the interest of investors or in public interest not to issue such a notice and aforesaid reason should be recorded in the order directing investigation. The Noticee No. 3 submitted that in the present matter, no such order has been provided to it even at the stage of issuance of SCN.

58. The aforesaid submissions of the Noticee No. 3 regarding regulation 6(1) of PIT Regulations, cannot be accepted as during the course of inspection of documents, it had received all the details including appointment of Investigating Authority and waiver of notice requirement under PIT Regulations. This was in fact intimated / acknowledged during the course of hearing on August 31, 2017. Therefore, the contention of Noticee No.3 regarding failure of process as required under regulation 6 (1), is completely without any merit and consequently the case laws relied upon by the Noticee No. 3 at page 4 – 5 of its reply dated March 22, 2016 are not helpful to it.

59. The submission of the Noticee No. 3 that SCN is ambiguous and the material in support of the allegations have not been made available to it, cannot be accepted at all as the relied upon documents have been provided to it along with SCN and as observed at pre pars that inspection

of documents have already been carried out by it. Also, it is relevant to mention that during the course of hearing on June 20, 2017, the Noticee No. 3 was informed that as common SCN was issued to it along with Noticee No. 1 and 2 and therefore, the facts / references / allegations which are common in entire SCN (including the details of chronology of events leading to interim dividend publication / financial results for the quarter ended September 30, 2019 etc. which was alleged as UPSI in the SCN) may be read as part and parcel in its case too. Therefore, the plea of violation principles of natural justice / ambiguous SCN, is completely without any merit and consequently the case laws relied upon by the Noticee No. 3 at page 8 - 12 of its reply dated March 22, 2016 are not helpful to it.

60. The Noticee No. 3 contended that in order to establish a violation under regulation 3 of PIT Regulations and for levy of penalty under section 15 G of the SEBI Act, it is essential to demonstrate that the trading was done 'on the basis of UPSI' and not otherwise. The aforesaid plea cannot be accepted on the following reasons.

61. It would be relevant to mention that section 15G (Chapter VIA of SEBI Act) was incorporated vide SEBI Amendment Act in the year of 1995 and remained as it is except change in quantum of penalty in said section / Chapter in subsequent Amendments. As observed in pre paras of this order that the intention to amend the PIT regulation in 2002 was to bring the concept of trading done 'while in possession' of UPSI and not 'on the basis' of UPSI. Also, the same was held by Hon'ble SAT in case of *SRSR Holding case (supra).* Moreover, the legislative intent of keeping the phrase "while in possession" can be clearly seen in the New PIT Regulation 2015. Further, I cannot ignore to mention that section 12 A under chapter VA of the SEBI Act was inserted by virtue of SEBI (Amendment) Act, 2002 w.e.f. October 29, 2002 and after that amendment itself, the legislative intent to bring the concept of trading done 'while in possession' of UPSI was

brought into legislation under clause 12 A (e) of SEBI Act. It is not the position that the word “on the basis of” in section 15 G was incorporated subsequent to 2002 PIT Regulations Amendment / SEBI Act Amendment in 2002. It would be appropriate to mention that since the violation of insider trading is established, then, such section (viz. 15 G of the SEBI Act) which is only remedial in nature, would be attracted for the commission of insider trading violation.

62. Taking into account harmoniously the PIT Regulations prior to and post to 2002 Insider Regulation Amendment as well as the 2002 Amendment in SEBI Act when compared to penalty provision under section 15 G of the SEBI Act, it is clear that it was well intended under the amended legislation to replace the concept of ‘on the basis” of UPSI to the concept of “while in possession” of UPSI. Therefore, violation of insider trading (regulation 3, 3A of PIT Regulation and section 12 A (d) & (e) of SEBI Act) would attract the penalty under section 15G of SEBI Act irrespective of the words ‘on the basis’ contained in section 15G of SEBI Act.

63. At this juncture, I would also like to highlight the following judgments of Hon’ble Supreme Court of India which relates to the issue involved.

Kesho Ram & Co. & Ors. Etc vs Union Of India & Ors 1989 SCR (2)1005, 1989 SCC (3) 151:- *It is a settled rule of harmonious construction of statutes that a construction which would advance the object and purpose of the legislation should be followed and a construction which would result in reducing a provision of the Act to a dead letter or to defeat the object' and purpose of the statute should be avoided without doing any violence to the language.*

Union of India Vs. Filip Tiago De Gama of Vadem Vasco- 1990 AIR 981 or 1990 (1) SCC 277 *:-The paramount object in statutory interpretation is to discover what the legislature intended. This intention is primarily to be ascertained from the text of enactment in question. That does not mean the text is to be construed merely as a piece of prose, without reference to its nature or purpose. A statute is neither a literary text nor a divine revelation . If there is obvious anomaly in the application of law, the Court could shape the law to remove the anomaly. If the strict grammatical interpretation gives rise to absurdity or inconsistency, the Court could discard such interpretation and adopt an interpretation which will give effect to the purpose of the legislature.*

64. In view of the aforesaid observations, the plea of Noticee No. 3 that for levying the penalty under section 15 G of the SEBI Act, the requirement of trading 'on the basis of' UPSI is compulsory, is not accepted.

65. In view of the foregoing, it is established that the Noticees being 'insider' had traded in the scrip "when in possession" of aforesaid UPSI and therefore, the Noticee No. 1 and 2 had violated regulation 3 (i) & 3 (ii) of the PIT Regulations read with section 12 A (d) – (e) of the SEBI Act and the Noticee No. 3 had violated regulation 3A of the PIT Regulations read with section 12 A (d) – (e) of the SEBI Act.

ISSUE

Whether the Noticee No. 1 had traded in the scrip of JPL when the trading window was closed during the period 20th to 28th October of 2009? AND If yes, then whether the same is in violation of clauses 3.2.2 & 3.2-5 of Model Code of Conduct contained in Schedule I of Part A of regulation 12(1) of PIT Regulations?

66. It was alleged that the Noticee No. 1 had traded in the scrip of JPL when the trading window was closed during the period October 20-28 of 2009 and thereby violated Clauses 3.2.2 & 3.2-5 of Model Code of Conduct contained in Schedule I of Part A of regulation 12(1) of PIT Regulations.

67. In respect to the allegation, the Noticee No. 1 had submitted that his volume was insignificant and the pattern of trading was intra-day. He submitted that during trading window closure, his buy quantity was 6500 sharess and sell quantity was 500 shares and profit earned as estimated by SEBI was `4,010. Hence no one would do trading for such a meagre gain with risk of regulatory action. He submitted that the said trading was

inadvertent as is only a technical lapse. He also submitted that the company has taken disciplinary actions against him for trading during window closure period and warned to desist from such activities in future and any further action by SEBI will amount to double jeopardy

68. I have noted that trading during the window closure period is not in dispute. I have noted from the records that the JPL vide letter dated December 11, 2014 (Annexure VI of SCN) which in fact has been signed by the Noticee No. 1 himself, informed that the trading window was closed during the period 20 - 28 October of 2009 on account of the publication of quarterly financial results pertaining to the quarter ended September 2009. Along with said letter, JPL had provided a list of its employees who were intimated about the said window closure period and the name of Noticee No. 1 is shown in that list. Also, the Noticee No. 1 vide his letter dated November 03, 2014 (Annexure III of SCN) at para 4 had acknowledged of having traded during the said trading window closure period.

69. Since, the JPL had specified the 'window closure period' as stated above, therefore, it is clear that despite knowing the window closure period, the Noticee No. 1 deliberately had traded in the shares of JPL by purchasing a total of 6,500 shares (viz. 1,000 shares on 23/10/2009, 500 shares on 26/10/ 2009, 4000 shares on 27/10/2009 and 1,000 shares on 28/10/2009) and selling 500 shares on 26/10/2009.

70. Here, it goes without saying that being a Compliance Officer / Company Secretary on whom certain independent regulatory duties are assigned and dealing deliberately against the specified norms, is against the regulatory framework and certainly is serious in nature. Therefore, in my opinion, the plea of the Notice No. 1 that the JPL has taken disciplinary actions against him for trading in window closure period and further action by SEBI will amount to double jeopardy, is not convincing as such action by JPL are not commensurate to the violation committed by the Noticee

No. 1. At this juncture, it is relevant to mention regulation 12 (4) of the PIT Regulations which reads as under-

"Action taken by the entities mentioned in sub-regulation (1) against any person for violation of the code under sub-regulation (3) shall not preclude the Board from initiating proceedings for violation of these Regulations".

71. Also, the submission of Noticee No. 1 that said trading was insignificant and was inadvertent / technical lapse, cannot be accepted taking into account his deliberate trading despite knowing window closure period which is against stipulated regulatory framework and admittedly such trading resulted into profit / gain to Noticee No. 1. In view of the aforesaid, it is concluded that the Noticee No. 1 had violated clauses 3.2.2 and 3.2.5 (read with clause 3.2.1) of the Model Code of Conduct of the JPL read with regulation 12 (1) of the PIT Regulations.

ISSUE

Whether the Noticee No. 1 had failed to obtain pre-clearance for his trades and the trades of his wife (Noticee No. 2), to deal in the securities of JPL as per the Code of Conduct adopted by the JPL; AND if yes, then whether the same is in violation of clause 3.3-1 of Model Code of Conduct contained in Schedule I of Part A under regulation 12(1) of PIT Regulations?

72. In respect to the allegation of not seeking pre clearance for his trades and the trades of his wife (Noticee No. 2) before dealing in the securities of JPL, the Noticee No.1 had submitted that JPL had put in place its own code of conduct in terms of PIT Regulations (Annexure V of SCN) after approval of its Board on 30.01.2010 and prior to 30.01.2010, no code of conduct of the JPL under PIT Regulations setting the threshold limit was existed. The Noticee No. 1 therefore submitted that no code of conduct of the JPL fixing threshold limit for pre-clearance and providing definition of

dependent prior to 30.01.2010 existed at the time of the alleged trades, and hence, question of obtaining pre clearance does not arise.

73. In respect of allegation, I have noted that the trades executed by the Noticee No. 1 and 2 as shown in a table under para 6 of the SCN, are not in dispute. The main contention raised by the Noticee No. 1 is that trading was done by him and his wife in the year October 2009 whereas and the code of conduct of the JPL was approved on only January 30, 2010.

74. The aforesaid plea cannot be accepted in view of JPL's letter dated January 20, 2015 (Annexure VII of SCN along with copy of summons dated 15th January 2015) which in fact has been signed by the Noticee No. 1 only and in said letter (at para 1), there is an admitted reference about approved model code of conduct of JPL applicable during the period between August 01, 2009 to October 31, 2009. Further, in said letter, it is clearly admitted that Noticee No. 1 & 2 had not sought pre clearance for their trades during August 01 to October 31, 2009.

75. In light of aforesaid admitted position of approved model code of conduct during August – October 2009 itself, the Annexure V of the SCN which was provide by the JPL during investigation, would not help the Noticee No. 1.

76. Moreover, I cannot ignore that during the aforesaid period of trading, the Noticee No. 1 was the Company Secretary / Compliance Officer / Designated Employee of the JPL and as per clause 1.2 of the model code of conduct under PIT Regulations, the Compliance Officer of the Company shall be responsible for setting forth policies, procedure, monitoring adherence to the rules including pre clearance etc. Clause 1.2 of the model code of PIT Regulations reads as under;

"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 Board of the listed company."

77. In view of the above observations, it is established that the trades of Noticee No. 1 (being the compliance officer of JPL) and the trades of Noticee No. 2 (being wife of Noticee No. 1), were done without seeking pre clearance as per clause 3.3.1 of the model code of conduct and therefore the Noticee No. 1 had violated clause 3.3.1 of the model code of conduct under Schedule I of Part A under regulation 12(1) of PIT Regulations.

ISSUE

Whether the Noticee No. 1 had indulged into opposite transactions (buy as well as sale of shares) in the scrip of JPL; AND If yes, then, whether the same is in violation of clause 4.2 of Model Code of Conduct contained in Schedule I of Part A under regulation 12(1) of PIT Regulations?

78. In respect to the allegation of indulging into opposite transactions, the Noticee No.1 had again submitted that the aforesaid transactions were not applicable as the JPL had not put in place its model code of conduct prior to 30.01.2010 and the quantity of shares was small.

79. The indulgence of opposite transactions is not in dispute by the Noticee No. 1 (as alleged at para 23 (c) of the SCN). Mere contention of Noticee No. 1 that quantity were small and JPL had not put in place its code of conduct prior to 30.01.2010, is not convincing in light of observations

made by me while deciding preceding Issue. Further, it is important to mention that the requirement stipulated under said clause 4.2 is independent of code of conduct by the Company and thus same is mandatory in nature. Clause 4.2 of the Model code of conduct under regulation 12 of the PIT Regulations it is stipulated as under;

"4.2 All directors/ officers/ designated employees who buy or sell any number of shares of the company shall not enter into an opposite transaction i.e. sell or buy any number of shares during the next six months following the prior transaction. All directors/ officers/ designated employees shall also not take positions in derivative transactions in the shares of the company at any time.

In the case of subscription in the primary market (initial public offers), the above mentioned entities shall hold their investments for a minimum period of 30 days. The holding period would commence when the securities are actually allotted".

80. From the trading details as shown in SCN at para 6, it is observed that the Noticee No. 1 (being compliance officer/designated employee) had indulges into opposite transaction within three months itself (from his buy as well as sell transaction) and therefore, indulgence into such opposite transactions, it is concluded that the Noticee No. 1 had violated clause clause 4.2 of the model code of conduct contained in Schedule I of Part A under regulation 12(1) of PIT Regulations.

ISSUE

Whether the violation/failure on the part of the Noticees, would attract monetary penalty under section 15 G and 15 HB of the SEBI Act? AND If yes, then, what would be the monetary penalty that can be imposed upon the Noticees taking into consideration the factors stipulated in section 15J of the SEBI Act read with rule 5 (2) of the Adjudication Rules?

81. Since, the violation of regulation 3 (i), 3 (ii) and 3A of the PIT Regulations read with section 12 A (d) – (e) of the SEBI Act have been established, therefore, I am of the view the penalty upon the Noticee No. 1 and 2 under

section 15 G of the SEBI Act needs to be imposed for violation of 3 (i) and 3(ii) of PIT Regulation read with section 12 A (d) – (e) of the SEBI Act; and penalty upon the Noticee No. 3 under section 15 G of the SEBI Act needs to be imposed for violation of 3A of PIT Regulation read with section 12 A (d) – (e) of the SEBI Act. Section 15 G of the SEBI Act reads as under;

Penalty for insider trading.

15G. If any insider who,—

(i) either on his own behalf or on behalf of any other person, deals in securities of a body corporate listed on any stock exchange on the basis of any unpublished price-sensitive information; or

(ii) communicates any unpublished price-sensitive information to any person, with or without his request for such information except as required in the ordinary course of business or under any law; or

(iii) counsels, or procures for any other person to deal in any securities of any body corporate on the basis of unpublished price-sensitive information;

shall be liable to a penalty of twenty-five crore rupees or three times the amount of profits made out of insider trading, whichever is higher.

82. Also, the violation of clauses 3.2.2. and 3.2.5 (read with clause 3.2.1), clause 3.3.1 and clause 4.2 of the model code of conduct contained in Schedule I of part A under regulation 12 (1) of the PIT Regulations have been established, therefore, I am of the view the penalty upon the Noticee No. 1 under section 15 HB of the SEBI Act needs to be imposed. Section 15 HB of the SEBI Act 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.

83. It is noticed from JPL's letter dated 1st July 2015 (Annexure X of the SCN) that written apology was taken from Noticee No. 1 and he was also reprimanded / warned to desist / annual increment for the financial year 2015-16 was not granted, I am of the view that said action by JPL, does not commensurate to the violation committed by the Noticee No. 1. I have also taken into account the following the well-known judgments of Hon'ble Supreme Court of India as under;

The Chairman, SEBI Vs. Shri Ram Mutual Fund [2006] 68 SCL 216(SC) wherein it was 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".*

84. It is relevant to mention here that said case of *Shri Ram Mutual Fund* (*supra*) was maintained by the three judge bench of the Hon'ble Supreme Court of India in the case of ***Union of India vs. Dharmendra Textile Processor 2008 (13) SCC 369 decided on September 29, 2008*** on the issue related to income tax act. It was held by the Hon'ble Supreme Court that penalty under the provision is for breach of civil obligation and is mandatory and the *mens- rea* is not an essential element for imposing the penalty. The adjudicatory authority has no discretion to levy duty less than what is legally and statutorily leviable. The Hon'ble Supreme Court also specifically observed that the case of *Shri Ram Mutual Fund* (*supra*) has been analysed in the legal position and in the correct perspectives.

85. In view of the observations made at pre paras and in light of above judgments, the case laws relied by the Noticee(s) on the issue of imposition of penalties (viz. *Ex- Naik Sardar Singh vs. UoI (1991) 3 SCC*

212, Ranjit Thakur vs. UoI AIR 1987 SC 2386, Nandkishore vs. State of Bihar (1978) 3 SCC 366, Dilip pendse vs. SEBI (appeal No. 80/2009) and Bank of India vs. Degal Suryanarayan (1999) 5 SCC 762), Excel Corp Care Limited vs Competition Commission of India & Ors. and Bharjatiya Steel Industries Vs Commissioner Sales Tax, U.P, would not support the Noticees.

86. Also, it is noticed from Annexure XII of the SCN that the sell price of shares by Noticee No.1 and 2 were always higher than the price at which they bought and ultimately they made unlawful gain whilst trading during the period 14th – 27th October 2009. Also, it is noticed that Ld. Whole Time Member of SEBI vide order dated November 20, 2015 had observed about illegal gain by Noticee No. 1 and 2 and during the instant proceedings they had state that the amount was deposited in escrow account as per said order.

87. While determining the quantum of penalty under section 15 G and section 15 HB of the SEBI Act, it is important to consider the factors stipulated in section 15 J of the SEBI Act read with rule 5 (2) of the Adjudication Rules, which reads as under:-

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."

88. Illegal gain made by the Noticee No. 1 and 2 has been shown in Annexure XII of the SCN and since the UPSI period was only 14th October 2009 as

established above, therefore, it is seen that they made profit of only ` 31,615.85 out of transaction on 14th October 2009. No specific loss to any investor and no past action against the Noticees has been revealed under the investigation report. However, taking into account the legislative intent especially after amendment in Insider Regulations in 2002 debarring the "insider' from dealing in the shares when in possession of UPSI and considering the various irregularities / violations of model code of conduct under PIT Regulations by the Noticee No. 1 (who is he Compliance Officer of JPL), the same are serious in nature and a justfiable penalty needs to be imposed upon all the Noticees to meet the ends of justice.

89. The plea of Noticee(s) that no harm have been caused to investors / shareholders, are not acceptable in view of the aforesaid legislative mandate prohibiting the insider trading and the aforesaid judgments of Hon'ble SAT in *Chandra Mukherjee* and *SRSR Holding (supra)*.

ORDER

90. After taking into consideration all the aforesaid facts / circumstances of the case and the aforesaid mitigating factors, therefore, in exercise of the powers conferred upon me under section 15 I (2) of the SEBI Act read with rule 5 of the Adjudication Rules, I hereby impose penalty upon the Noticees as shown in table below;

Name of the Noticee	**Amount of Penalty**	**Penalty Provisions and Violations**
Mr. Amit Jaiswal (Noticee No. 1)	` 10,00,000/- (Rupees Ten Lakh only)	Under section 15 G of the SEBI Act for violation of regulation 3 (i), 3 (ii) of the PIT Regulations read with section 12A (d) and (e) of SEBI Act.

Mrs. Mansi (Noticee No. 2)	` 10,00,000/- (Rupees Ten Lakh only)	Under section 15 G of the SEBI Act for violation of regulation 3 (i), 3 (ii) of the PIT Regulations read with section 12A (d) and (e) of SEBI Act.
Kanchan Properties Ltd. (Noticee No. 3)	` 10,00,000/- (Rupees Ten Lakh only)	Under section 15 G of the SEBI Act for violation of regulation 3 A of the PIT Regulations read with section 12A (d) and (e) of SEBI Act.
Mr. Amit Jaiswal (Noticee No. 1)	` 5,00,000/- (Rupees Five Lakh only)	Under section 15 HB of the SEBI Act for violation of clause 3.2.2, 3.2.5 (read with clause 3.2.1) of the model code of conduct under Part A of the Schedule I read with regulation 12 (1) of PIT Regulations.
	` 5,00,000/- (Rupees Five Lakh only)	Under section 15 HB of the SEBI Act for violation of clause 3.3.1 of the model code of conduct under Part A of the Schedule I read with regulation 12 (1) of PIT Regulations.
	` 5,00,000/- (Rupees Five Lakh only)	Under section 15 HB of the SEBI Act for violation of clause 4.2 of the model code of conduct under Part A of the Schedule I read with regulation 12 (1) of PIT Regulations.

91. I am of the view that the said penalty would commensurate with the violations committed by the Noticees.

92. 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

93. The Noticees shall forward said Demand Draft or the details / confirmation of penalty so paid through e-payment to the Enforcement Department – Division of Regulatory Action – IV of SEBI. The Format for forwarding details / confirmations of e-payments shall be made in the following tabulated form as provided in SEBI Circular No. SEBI/HO/GSD/T&A/CIR/P/2017/42 dated May 16, 2017 and details of such payment shall be intimated at e-mail ID- tad@sebi.gov.in

Date	Department of SEBI	Name of Intermediary/ Other Entities	Type of Intermediary	SEBI Registration Number (if any	PAN	Amount (in `)	Purpose of Payment (including the period for which payment was made e.g. quarterly, annually	Bank name and Account number from which payment is remitted	UTR No

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

Date: November 27, 2017 **(RACHNA ANAND)**

Place: Mumbai **GENERAL MANAGER &**
ADJUDICATING OFFICER