

BEFORE THE ADJUDICATING OFFICER
SECURITIES AND EXCHANGE BOARD OF INDIA
[ADJUDICATION ORDER NO. EAD-2/DSR/RG/ 146 /2014]

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

In respect of
Shri Gurmeet Singh Dhingra [PAN: AADPD4480E]

In the matter of
Trinity League India Limited
(Formerly known as Dr Wellmans Homeopathic Laboratory Limited)

Background:

1. Securities and Exchange Board of India (hereinafter referred to as 'SEBI') conducted an examination into the irregularity in trading in the shares of Trinity League India Limited, formerly known as Dr Wellmans Homeopathic Laboratory Limited (hereinafter referred to as 'TLIL'), a company listed on the Bombay Stock Exchange (BSE), Ahmadabad Stock Exchange (ASE) and Delhi Stock Exchange (DSE) and into the possible violation of the provisions of the SEBI Act, 1992 (herein after referred to as the Act) and various Rules and Regulations made there under.
2. The examination revealed that Shri Gurmeet Singh Dhingra (hereinafter referred to as the Noticee) had acquired 249300 shares on September 28, 2009 which increased his shareholding in TLIL to 1079200 shares (holding prior to the acquisition being 829900 shares) i.e. an increase from 16.37% to 21.30%. As the increase in the Noticee's shareholding was more than 5%, the Noticee was required to make necessary disclosures as prescribed under Regulation 13(3)

read with Regulation 13(5) of the SEBI (Prohibition of Insider Trading) Regulations, 1992 (hereinafter referred to as PIT Regulations) which were not made.

3. Further, it was observed that during the relevant period, the Noticee had also sold shares of TLIL on four occasions i.e. on December 30, 2009, January 05, 2010, January 08, 2010 and January 23, 2010 which resulted in a decrease in his shareholding by more than 2% on all the four occasions which again required the Noticee to make necessary disclosures as prescribed under the abovementioned provisions of the PIT Regulations.
4. SEBI has, therefore, initiated adjudication proceedings under the Act to inquire into and adjudge the alleged violation of the abovementioned provisions of law against the Noticee.

Appointment of Adjudicating Officer:

5. The undersigned has been appointed as the Adjudicating Officer vide SEBI Order dated February 17, 2014 under Section 15-I of the SEBI Act read with Rule 3 of SEBI (Procedure for Holding Inquiry and Imposing Penalties by Adjudicating Officer) Rules, 1995 (hereinafter referred to as the 'Adjudication Rules') to inquire into and adjudge under Section 15A (b) of the Act the alleged violation of the abovementioned provisions of the PIT Regulations by the Noticee.

Notice, Reply & Personal Hearing:

6. Accordingly, a notice dated March 12, 2014 (hereinafter referred to as the 'SCN') was issued to the Noticee in terms of Rule 4 of the Adjudication Rules requiring him to show cause as to why an inquiry should not be held against him for the alleged violation. The Noticee, vide letter dated March 22, 2014 submitted his preliminary reply to the said SCN. In the interest of natural justice and in order to conduct an inquiry as per Rule 4 (3) of the Adjudication Rules, an opportunity of personal hearing was granted to the Noticee vide notice dated April 22, 2014 on May 05, 2014. The Noticee attended the said hearing on the

scheduled date and made oral submissions. Further, a request was made by the Noticee to submit a detailed reply in the matter which was acceded to and accordingly, the Noticee was granted time till May 15, 2014 to submit the said reply. Thereafter, vide letter dated May 06, 2014, the Noticee submitted his detailed reply in the matter.

Consideration of Issues, Evidence and Findings

7. I have carefully perused the charges against the Noticee as per the SCN, written submissions and the materials & documents as available on record. The issues that arise for consideration in the present case are:

a) Whether the Noticee has violated the provisions of Regulation 13(3) & read with 13(5) of the PIT Regulations?

(b) Does the violation, if any, on the part of the Noticee attract any penalty under Sections 15A (b) of the SEBI Act?

(c) If yes, what should be the quantum of penalty?

8. Before moving forward, it will be appropriate to refer to the relevant provisions of PIT Regulations which read as under:-

Relevant provisions of PIT Regulations:

Continual disclosure.

13(3) Any person who holds more than 5% shares or voting rights in any listed company shall disclose to the company in Form C the number of shares or voting rights held and change in shareholding or voting rights, even if such change results in shareholding falling below 5%, if there has been change in such holdings from the last disclosure made under sub-regulation (1) or under this sub-regulation; and such change exceeds 2% of total shareholding or voting rights in the company.

13(5) The disclosure mentioned in sub-regulation (3) and (4) shall be made within two working days of:

- (a)*** the receipts of intimation of allotment of shares, or
(b) the acquisition or sale of shares or voting rights, as the case may be.

9. Regulation 13(3) of PIT Regulations mandates a person holding more than 5% shares or voting rights to disclose to the company the number of shares or voting rights held and change in shareholding or voting rights, even if the

change results in shareholding falling below 5%, if there has been a change in such holdings from the last disclosure made under Regulation 13(1) and such change exceeds 2% of the total shareholding or voting rights in the company. The said change is to be disclosed to the company within 2 working days from the date of acquisition or receipt of intimation of allotment of shares in terms of Regulation 13(5) of the PIT Regulations.

10. I find from the SCN that TLIL is a company listed on BSE, ASE and DSE. The Noticee is the Director of TLIL and was the Managing Director with former, Dr Wellmans Homeopathic Laboratory Limited. I further find that the Noticee had acquired 249300 shares on September 28, 2009 which increased his shareholding in the company to 1079200 shares (holding prior to the acquisition being 829900 shares) i.e. an increase from 16.37% to 21.30%. As the increase in the Noticee's shareholding was for more than 5%, he was required to make necessary disclosure as prescribed under Regulation 13(3) read with Regulation 13(5) of the PIT Regulations which were allegedly not made.

11. Further, the Noticee had also sold shares of TLIL on four occasions i.e. on December 30, 2009, January 05, 2010, January 08, 2010 and January 23, 2010 which resulted in a decrease in his shareholding by more than 2% on all the four occasions which again required the Noticee to make necessary disclosures as prescribed under the abovementioned provisions of the PIT Regulations. The said disclosures were allegedly not made. The details of the said acquisition and sale of shares is as under:

| Date of Transaction | Holding prior to the transaction | Acquired qty of shares | Sold Qty of shares | Holding after the transaction | Holding in % |
|----------------------------|---|-------------------------------|---------------------------|--------------------------------------|---------------------|
| 28.09.2009 | 829900 | 249300 | - | 1079200 | 21.30 |
| 30.12.2009 | 1079200 | - | 250000 | 829200 | 16.37 |
| 05.01.2010 | 829200 | - | 250000 | 579200 | 11.43 |
| 08.01.2010 | 579200 | - | 250000 | 329200 | 6.50 |
| 23.01.2010 | 329200 | - | 259000 | 70200 | 1.39 |
| 02.02.2010 | 70200 | - | 70200 | 0 | 0.00 |

12. The Noticee vide letter dated March 22, 2014 submitted that the company, Dr Wellmans Homeopathic Laboratory Limited had filed a consent application in terms of SEBI Circular and accordingly, the company had paid the settlement amount to settle the delayed compliances of provision of Regulation 13(6) of the PIT Regulations for the years 1996, 2009 and 2010. In view of the same, the Noticee stated that as the said matter has already been settled through consent order in case of the company, the present adjudication proceeding initiated against him may be resolved. Further, vide letter dated May 06, 2014 the Noticee submitted a detailed reply to the SCN. He submitted that he does not hold any shares of TLIL as on date and has sold his holdings of 10,79,200 shares to various persons on various dates. The details of the sale of shares as provided by the Noticee are as under:

| Date of Sale | Opening Balance | % Holding | No. of shares sold | % Sold | Transferee Folio No. | Name of the Purchaser | Sale consideration |
|--------------|-----------------|-----------|--------------------|--------|----------------------|-----------------------|--------------------|
| 30.12.2009 | 1079200 | 21.03% | 250000 | 4.93 | 2710 | Devinder Lumar Jain | 250000 |
| 05.01.2010 | 829200 | 16.37% | 250000 | 4.93 | 2711 | Sharad Jain | 250000 |
| 08.01.2010 | 279200 | 11.43% | 250000 | 4.93 | 2713 | Satinder Kumar Narula | 250000 |
| 23.01.2010 | 329200 | 6.50% | 259000 | 5.11 | 2712 | Madhulika Jain | 259000 |
| 02.02.2010 | 70200 | 1.39% | 70200 | 1.39 | 2711 | Sharsd Jain | 70200 |

13. From the material available on record and the submissions made by the Noticee, I find that the Noticee was holding 829900 shares of TLIL constituting 16.37% of the total share capital. Upon acquisition of 249300 shares on September 28, 2009, the shareholding of the Noticee increased to 21.30% which required him to make the disclosures as prescribed under Regulation 13(3) read with Regulation 13(5) of the PIT Regulations. Further, he also had sold shares of TLIL on four occasions i.e. on December 30, 2009, January 05, 2010, January 08, 2010 and January 23, 2010 which resulted in a decrease in his shareholding by more than 2% on all the four occasions which again required the Noticee to make necessary disclosures as prescribed under the

abovementioned provisions of the PIT Regulations. The Noticee in his submissions has not made any mention of making the said disclosures and has only stated that the Company i.e. Dr Wellmans Homeopathic Laboratory Limited has settled the delayed compliance with respect to disclosure requirement as prescribed under Regulation 13(6) of the PIT Regulations under the consent scheme of SEBI. Further, the Noticee has admitted the sale of shares on five occasions out of which on four occasions the shareholding of the Noticee decreased by more than 2%. In view of the same, I conclude that the Noticee was required to make the necessary disclosures upon acquisition and sale of shares of TLIL as required under PIT Regulations which he failed to make and therefore, is liable for imposition monetary penalty under Section 15A(b) of the Act.

14. Section 15A (b) of the SEBI Act, reads as under:

15A. Penalty for failure to furnish information, return, etc.

If any person who is required under this Act or any rules or regulations made there under:-

(a).....

(b) *to file any return or furnish any information, books or other documents within the time specified therefore in the regulations, fails to file return or furnish the same within the time specified therefore in the regulations, he shall be liable to a penalty of one lakh rupees for each day during which such failure continues or one crore rupees, whichever is less.*

15. The Hon'ble Supreme Court of India in the matter of SEBI vs. Shri Ram Mutual Funds [2006] 68 SCL (216) SC held that " *once a violation of statutory regulation is established, imposition of penalty becomes sine qua non of violation and the intention of the parties committing such violation becomes totally irrelevant. Once the contravention is established then penalty is to follow*".
16. While determining the quantum of penalty under section 15A(b) of the SEBI Act, it is important to consider the factors stipulated in section 15J of the SEBI Act, which reads as under:-

15J - Factors to be taken into account by the adjudicating officer

While adjudging quantum of penalty under section 15-I, the adjudicating officer shall have due regard to the following factors, namely:-

(a) the amount of disproportionate gain or unfair advantage, wherever quantifiable, made as a result of the default;

(b) the amount of loss caused to an investor or group of investors as a result of the default;

(c) the repetitive nature of the default.

17. I observe that from the material available on record, it is difficult to quantify any gain or unfair advantage accrued to the Noticee or the extent of loss suffered by the investors as a result of the default of the Noticee. I find that the Noticee is not holding any shares of TLIL as on date and has sold all his holdings in the company. However, I note that the defaults of the Noticee are repetitive in nature. It may be noted that the objective of the disclosure provisions laid down under the PIT Regulations is to keep the investors and public at large informed of the change in the holdings of any company. I further note from the material available on record that the SEBI had passed a consent order dated May 28, 2013 against the Noticee settling delayed compliance of Regulation 7(1A) and 7(2) of SEBI (Substantial Acquisition of Shares and Takeovers) Regulations, 1997 and an amount of ₹ 2,50,000/- towards settlement charges was paid by him in the matter.

ORDER

18. In view of the above, after considering all the facts and circumstances of the case and exercising the powers conferred upon me under Section 15-I (2) of the SEBI Act read with Rule 5 of the Adjudication Rules, I impose a penalty of ₹5,00,000 (Rupees Five lakh Only) on Shri Gurmeet Singh Dhingra under Section 15A(b) of the SEBI Act in the matter. In my view, the penalty is commensurate with the default committed by the Noticee.

- 19.** The penalty amount as mentioned above shall be paid by the Noticee through a duly crossed demand draft drawn in favour of “SEBI – Penalties Remittable to Government of India” and payable at Mumbai, within 45 days of receipt of this order. The said demand draft should be forwarded to the Division Chief, ISD, Securities and Exchange Board of India, Sebi Bhavan, Plot No. C4-A, ‘G’ Block, Bandra Kurla Complex, Bandra (E), Mumbai – 400 051.
- 20.** In terms of the Rule 6 of the Adjudication Rules, copies of this order are sent to Noticee and also to Securities and Exchange Board of India.

Date: July 08, 2014

Place: Mumbai

**D. SURA REDDY
ADJUDICATING OFFICER**