

***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:** Man Industries (India) Ltd (PAN: AAACM2675G)  
CIN: L99999MH1988PLC047408

In the matter of Man Industries (India) Ltd

---

**BACKGROUND**

1. Securities and Exchange Board of India (hereinafter, referred to as "**SEBI**") conducted investigations into dealing in shares of Man Industries (India) Ltd (hereinafter, referred to as "**MIL**" or "**Noticee**"). During the said investigations, it was inter-alia observed that Man Finance Ltd (hereinafter, referred to as "**MFL**"), one of the promoter of Noticee, purchased 2,58,190 shares and 23,566 shares of Noticee on 27/09/2012 and 28/09/2012, respectively. It was observed further from the status of compliance informed by BSE to SEBI vide e-mail dated 02/02/2016, that Noticee failed to make requisite disclosure to BSE as required under Regulation 13(6) of SEBI (Prohibition of Insider Trading) Regulation, 1992 (hereinafter, referred to as "**PIT Regulations, 1992**") with regard to disclosure received from MFL for its said purchase of share.
2. Thus, it has been alleged that Noticee failed to comply with the Regulation 13 (6) of PIT Regulations, 1992.

**APPOINTMENT OF ADJUDICATING OFFICER**

3. SEBI, in terms of Section 19 read with Section 15-I of SEBI Act, 1992 and rule 3 of the SEBI (Procedure for Holding Inquiry and Imposing Penalties by Adjudicating Officer) Rules, 1995 (hereinafter, referred to as "**SEBI Adjudication Rules, 1995**") appointed an Adjudicating Officer to inquire into and adjudicate the alleged violation(s) stated above and if satisfied, impose liable penalty in terms of rule 5 of the SEBI Adjudication Rules, 1995 and as per the provisions of Section 15A(b) of SEBI Act 1992 (hereinafter, referred to as "**SEBI Act**").
4. Subsequent to change in Adjudicating Officers, SEBI, vide order / communique dated May 18, 2017, transferred the adjudication proceedings in the present matter which are being carried forward herein.

**SHOW CAUSE NOTICE, WRITTEN SUBMISSIONS, PERSONAL HEARING**

5. Show Cause Notice dated 25/04/2018 (hereinafter, referred to as "**SCN**") was issued to the Noticee, mentioning the allegation against the Noticee and to show cause within 14 days of

receipt of the SCN, as to why an inquiry should not be held and penalty be not imposed under Section 15A(b) of SEBI Act for the aforesaid alleged violation against the Noticees.

6. Noticee, vide its reply dated May 9, 2018 made following written submissions:

*“Para no. 7 of the aforesaid SCN inter-alia alleges that MIL failed to make disclosure to BSE as required under Regulation 13(6) of PIT Regulations, 1992 with regards to the disclosure made by MFL for its purchase of MIL shares on 27.09.2012 and 28.09.2012.*

*In this regard, we humbly submit that MIL has filed the disclosures required under Regulation 13(6) of PIT Regulations, 1992 with both BSE and NSE in respect of the aforesaid transaction with both the BSE and NSE. Acknowledged copies of disclosures filed by MIL under regulation 13(6) of PIT Regulations, 1992 with both BSE and NSE are enclosed herewith for your ready reference.*

*In view of the above facts, we most humbly request your good self to kindly dispose off the captioned adjudication proceedings in the aforesaid matter. However, we would wish to avail the opportunity of personal hearing in the matter, if so granted.”*

7. Considering the claim from Noticee inter-alia stating that it has made the requisite disclosure under Regulation 13(6) of PIT Regulations, 1992, vide e-mail dated 24/05/2018 and 06/06/2018 copy of disclosures provided by Noticee were forwarded to BSE and their comments / reply was sought on following two points:

a) *Whether the disclosure as enclosed with this e-mail was received by BSE? If not, please provide reasons against the claim of MIL.*

b) *Whether MIL has complied with the disclosure requirements under regulation 13(6) of PIT Regulations, 1992 w.r.t the transactions under question? and the reasons thereof.*

8. BSE, vide its e-mail dated 08/06/2018 replied in the following manner to aforesaid two points:

a) *Whether the disclosure as enclosed with this e-mail was received by BSE? If not, please provide reasons against the claim of MIL.*

**BSE Reply:** *Exchange is not in receipt of the disclosures as claimed by the MIL vide its letter dated October 3, 2012.*

b) *Whether MIL has complied with the disclosure requirements under regulation 13(6) of PIT Regulations, 1992 w.r.t the transactions under question? and the reasons thereof.*

**BSE Reply:** *We, reiterate that the Exchange has not received the disclosures as mentioned in the company letter dated October, 3, 2012 (copy received through trailing mail) from Man Industries Limited, as is required to be submitted under Regulation 13(6) of SEBI (PIT) Regulations, 1992.*

*Further, it may be noted that aforementioned letter was not addressed to the Exchange. (it was addressed to NASDAQ Dubai Stock Exchange Limited)*

9. Vide notice dated June 11, 2018 sent through SPAD and e-mail, said reply of BSE w.r.t the claim of Noticee was forwarded to Noticee with advise to provide its additional submissions, if any, and also an opportunity of hearing was granted on June 21, 2018. Authorised Representative (AR) of the Noticee appeared for the scheduled hearing, and made following additional submissions:

*“Authorised Representative (AR) reiterated the submissions made in reply dated May 9, 2018, and contended that though the disclosure under regulation 13(6) was inadvertently not addressed to BSE, however, same was acknowledged at BSE and should be taken as compliance.*

*AR further submitted that Noticee has intended to comply with the requisite disclosure norms, and a lenient view may be taken while deciding the matter.”*

## **CONSIDERATION OF ISSUES AND FINDINGS**

10. Based on the allegations mentioned in the SCN, the reply of the Noticee to SCN, comments from BSE, submissions made in the personal hearing, and other material on record, the following issues arise for consideration:

- a) Whether the Noticee has violated the regulation 13(6) of the PIT Regulations 1992?
- b) If yes, does the violations attract monetary penalty under Section 15A(b) of the SEBI Act?
- c)
- d) If yes, what quantum of monetary penalty should be imposed on the Noticees taking into consideration the factors mentioned in Section 15J of the SEBI Act?

## **FINDINGS**

### **Issue a) - Whether the Noticee has violated the regulation 13(6) of the PIT Regulations 1992?**

11. MFL, one of the promoter of Noticee purchased / acquired 2,58,190 shares and 23,566 shares of Noticee on 27/09/2012 and 28/09/2012, respectively, and for the same, MFL made two separate disclosures dated 28/09/2012 and 01/10/2012 to Noticee to fulfil its compliance under Regulation 13(4)/13(4A) of PIT Regulations, 1992. However, it has been alleged that after receipt of the said two disclosures from the MFL, Noticee failed to make subsequent disclosure to BSE under Regulation 13(6) of the said regulations.
12. It is noted that Regulation 13(6) of PIT Regulations, 1992 requires that *Every listed company, within two working days of receipt, shall disclose to all stock exchanges on which the company is listed, the information received under sub-regulations (1), (2), (2A), (3), (4) and (4A) in the respective formats specified in Schedule III.*
13. Noticee has contended that it filed the requisite disclosure under Regulation 13(6) of PIT Regulations, 1992 to both BSE and NSE, and in support of the same it has provided copy of separate disclosure covering letter acknowledged by BSE and NSE on 03/10/2012.
14. Upon being queried regarding claim of Noticee that it made the requisite disclosure under Regulation 13(6) of PIT Regulations, 1992, BSE has submitted that it didn't receive the disclosure as requisite under Regulation 13(6) of said Regulations from Noticee. Further, BSE added that the disclosure being contended to have been made to BSE was not addressed to BSE and the same was addressed to NASDAQ Dubai Stock Exchange Ltd.
15. Upon perusal of disclosure filed by Noticee with NSE, it is noted that this disclosure was made along with a covering letter jointly addressed to Department of Corporate Services of BSE and NSE, however, same was filed with NSE only and same bears acknowledgement stamp of NSE with caption "contents not verified". Further, upon perusal of disclosure claimed to have been

filed with BSE, it is noted that the same is a separate disclosure with covering letter solely addressed to “*Manager, NASDAQ Dubai Stock Exchange Ltd, Level 7, The Exchange Building, Gate District, Dubai International Financial Centre P.O. Box 53536, Dubai (UAE)*” was filed by Noticee with BSE and same bear acknowledgement stamp of BSE with caption “Contents not verified”. As regards to disclosure claimed to have been filed with BSE, it is noted that there is no mention or even indication on the said letter head of disclosure that the disclosure is addressed or intended for BSE.

16. In the hearing, Noticee has inter-alia contended that “*though the disclosure under regulation 13(6) was inadvertently not addressed to BSE, however, same was acknowledged at BSE and should be taken as compliance. Noticee has intended to comply with the requisite disclosure norms, and a lenient view may be taken while deciding the matter*”. It is clear and admitted fact that the disclosure was not correctly addressed. Consideration is required to be given to important fact that the covering letter of the disclosure not only did not mention the name of concerned department of BSE, but also did not mentioned BSE at all as an addressee or intended recipient.
17. In this scenario, it cannot be presumed that the said disclosure letter would have reached the concerned department of BSE and taken cognizance of by BSE. In this regard, concerned department of BSE has already clarified that it never received the requisite disclosure under Regulation 13(6) of the PIT Regulations, 1992.
18. It is clear that this cannot be deemed as compliance w.r.t disclosure requirements under Regulation 13(6) of PIT Regulations, 1992.
19. Considering the above findings, it is clear that there was a failure on part of the Noticee to make requisite disclosures to BSE, and it has thereby violated the provisions of Regulation 13(6) of PIT Regulations, 1992.

**Issue b) - If yes, does the violations attract monetary penalty under Section 15A(b) of the SEBI Act?**

20. Given the established violation as above, it is now to be determined whether the present matter is fit case for imposing monetary penalty.
21. Reliance is placed on order of Hon’ble Supreme Court of India in the matter of SEBI Vs. Shri Ram Mutual Fund [2006] 68 SCL 216(SC) which 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.....*”.
22. Thus, it is determined that the Noticee is liable for monetary penalty under Section 15A(b) of SEBI Act which reads as follows:

**15A.** *If any person, who is required under this Act or any rules or regulations made thereunder,—*

.....

*(b) to file any return or furnish any information, books or other documents within the time specified therefor in the regulations, fails to file return or furnish the same within the time specified therefor in the regulations, he shall be liable to 58[a penalty 59[which shall not be less than one lakh rupees but which may extend to one lakh rupees for each day during which such failure continues subject to a maximum of one crore rupees]];*

*58 Substituted for —a penalty not exceeding five thousand rupees for every day during which such failure continues, by the SEBI (Amendment) Act, 2002, w.e.f. 29-10-2002.*

*59 Substituted for the words —of one lakh rupees for each day during which such failure continues or one crore rupees, whichever is less by the Securities Laws (Amendment) Act, 2014, w.e.f. 08-09-2014.*

**Issue d) - If yes, what quantum of monetary penalty should be imposed on the Noticees taking into consideration the factors mentioned in Section 15J of the SEBI Act?**

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

***Section 15J of SEBI Act - Factors to be taken into account by the Adjudicating Officer***

*While adjudging quantum of penalty under section 15-I of SEBI Act, 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.”*

*93[ Explanation.—For the removal of doubts, it is clarified that the power of an adjudicating officer to adjudge the quantum of penalty under sections 15A to 15E, 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.]*

*93 Inserted by Part VIII of Chapter VI of the Finance Act, 2017 vide Gazette Notification No. 7, Extraordinary Pt II Section 1 dated March 31, 2017. This shall come into force from April 26, 2017.*

- 24. The material made available on record neither reveals nor specify disproportionate gains/ unfair advantage made by the Noticee, the specific loss suffered by the investors due to violations by the Noticee.
- 25. There is no material on record to suggest that the act of the Noticee is repetitive in nature.
- 26. Record shows that the same requisite disclosure was made by Noticee to NSE, the other Stock Exchange where shares of Noticee are listed. However, the law is clear that disclosure is required to be made to Stock Exchange where shares of company are listed, and in present case, it inter-alia also includes BSE. It is also seen that Noticee has intended to make the disclosure to BSE, though the same was not made in right manner resulting into failure and consequent default.
- 27. Therefore, taking into consideration the facts / circumstance of the case, and the technical nature of default, an appropriate penalty is justified to be imposed in the matter.

## **ORDER**

28. In view of the above, after taking into consideration findings, and all the facts and circumstances of the case, and after considering the factors enumerated in section 15J of the SEBI Act, under provisions of section 15A(b) of SEBI Act, a penalty of Rs.1,00,000/- (Rupees One Lakh only) is imposed on Man Industries Ltd (Noticee).
29. The Noticee shall remit / pay the said amount (total amount Rs.1,00,000/-only) of penalty within 45 (forty five) days of receipt of this order either by way of Demand Draft (DD) in favour of "SEBI - Penalties Remittable to Government of India", payable at Mumbai, or through e-payment facility into Bank Account, the details whereof are as follows:-

| <b>Account No. for remittance of penalties levied by Adjudication Officer</b> |  |
|---|--|
| 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  |

30. The Noticee shall forward the said Demand Draft or the details / confirmation of penalty so paid through e-payment to the Division Chief of the Enforcement Department 1 (EFD1) – Division of Regulatory Action 4 (DRA 4) of SEBI
31. 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](mailto:tad@sebi.gov.in):

|  |  |
|--|--|
| Date   |  |
| Department of SEBI   |  |
| Name of Intermediary / Other Entity  |  |
| Type of Intermediary   |  |
| SEBI Registration no. (If any)   |  |
| PAN  |  |
| Amount (in Rupees)   |  |
| Purpose of payment (including the period for which payment was made e.g, Quarterly, Annually |  |
| Bank Name and Account Number for which payment is remitted                                   |  |
| UTR No.  |  |

32. In terms of rule 6 of the SEBI Adjudication Rules, copies of this order is being sent to the Noticee and also to the SEBI.

**Date: June 29, 2018**  
**Place: Mumbai**

**Jeevan Sonparote**  
**Adjudicating Officer**