

**BEFORE THE ADJUDICATING OFFICER
SECURITIES AND EXCHANGE BOARD OF INDIA
ADJUDICATION ORDER NO. EAD/BJD/NJMR/2018-19/2143**

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
**Insight Multitrading Private Ltd.,
(PAN: AACCI9518C)
Room No. 75, 2nd Floor
Krishna Bhuvan
Parsi Panchayat Road, Andheri East
Mumbai – 400069.**

In the matter of Confidence Finance and Trading Ltd.,

BACKGROUND

1. Securities and Exchange Board of India (hereinafter referred to as '**SEBI**') conducted an investigation in the scrip of Confidence Finance & Trading Ltd., (*hereinafter referred to as "**CFTL**" / "**Company**"*) during the period September 4, 2012 to March 28, 2014 (*hereinafter to be referred to as "**investigation period**"*) to ascertain any possible violation of the provisions of SEBI Act and SEBI (Prohibition of Fraudulent and Unfair Trade Practices relating to Securities Market) Regulations, 2003 by certain connected entities.
2. During the course of investigation, it was observed that Insight Multitrading Private Ltd., (*hereinafter referred to as "**Insight**" / "**Noticee**"*), pursuant to acquisition of more than 5% of shareholding in CFTL on May 27, 2013 had made delayed disclosures under Regulation 29 (1) of SEBI (Substantial Acquisition of Shares and Takeovers) Regulations, 2011 (*hereinafter referred to as "**SAST**" Regulations*) and Regulation 13 (1) of SEBI (Prohibition of Insider Trading) Regulations, 1992 (*hereinafter referred to as "**PIT**" Regulations*). Further, it was also observed that the Noticee while holding more than 5% of shareholding in CFTL had done off-market transfer of shares

consisting 4.65% of shareholding on October 22, 2013, which triggered disclosure requirements under Regulation 29 (2) of SEBI (SAST) Regulations and Regulation 13 (3) of SEBI (PIT) Regulations, for which no disclosures were made by the Noticee to CFTL and to The Bombay Stock Exchange (BSE).

APPOINTMENT OF ADJUDICATING OFFICER

3. Accordingly, SEBI initiated Adjudication Proceedings against the Noticee and appointed the undersigned as the Adjudicating Officer vide Order dated May 18, 2017 under Section 19 of SEBI Act read with Sub-section (1) of Section 15-I of the SEBI Act, 1992 and Rule 3 of SEBI (Procedure for Holding Inquiry and Imposing Penalties by Adjudicating Officer) Rules, 1995 (hereinafter referred to as “**Adjudication Rules**”) to inquire into and adjudge under Section 15A(b) of SEBI Act for the alleged violation of the provisions of Regulation 29 (1) and 29 (2) of SEBI (SAST) Regulations and Regulation 13 (1) and 13 (3) of SEBI (PIT) Regulations, committed by the Noticee.

SHOW CAUSE NOTICE, REPLY AND HEARING

4. A Show Cause Notice (hereinafter referred to as “**SCN**”) bearing ref. no. EAD/BJD/NJMR/29564/2017 dated November 28, 2017 was issued to the Noticee under Rule 4 of SEBI Adjudication Rules to show cause as to why an inquiry be not held against it in terms of Rule 4 of the SEBI Adjudication Rules and penalty be not imposed under section 15 A (b) of SEBI Act, 1992 for the violation alleged to have been committed by it. I note that the SCN returned undelivered with the remarks “*left*”. Therefore, in terms of Rule 7 (b) of SEBI Adjudication Rules, the SCN was sent to the Noticee through electronic mail digitally signed, on January 1, 2019. However, I note that the email was not delivered to the Noticee, as it bounced. In order to conduct an Inquiry into the matter, the aforesaid SCN was uploaded on the website of SEBI (www.sebi.gov.in) under the head Enforcement → Unserved Summons/ Noticees for the information of the Noticee. Further, in terms of Rule 7 (c) of SEBI Adjudication Rules, an attempt was made to carry out affixture of the

SCN on the outer door premises, in which the Noticee known to have carried on business, on January 3, 2019. I note that the SCN could not be affixed as there was no such addressee found. Therefore, in terms of Rule 7 (d) of SEBI Adjudication Rules, a Notice was published in three newspapers, one in a daily newspaper having nationwide circulation i.e., Times of India, Mumbai Edition and two in newspapers having wide circulation published in the language of the region where the entity was last known to have carried on its business i.e., Nav Bharat Times (Hindi) and Lokmat (Marathi), both Mumbai Editions on January 23, 2019. Vide the aforesaid Notice, the Noticee was given a timeframe of 14 days to furnish its reply, if any, to the charges alleged in the SCN besides being provided with an opportunity of personal hearing scheduled on February 14, 2019.

5. I note that the Noticee neither submitted its reply to the SCN nor availed the opportunity of personal hearing. In this context, I would like to rely upon the observations of The Hon'ble Securities Appellate Tribunal (SAT) in the matter of Classic Credit Ltd. vs. SEBI (Appeal No. 68 of 2003 decided on December 08, 2006) wherein it, inter alia, observed that - "*..... the appellants did not file any reply to the second show-cause notice. This being so, it has to be presumed that the charges alleged against them in the show-cause notice were admitted by them*".
6. The Hon'ble SAT has again in the matter of Sanjay Kumar Tayal & Others v SEBI (Appeal No. 68 of 2013 decided on February 11, 2014), inter alia, observed that – "*.....As rightly contended by Mr. Rustomjee, learned senior counsel for respondents, appellants have neither filed reply to show cause notices issued to them nor availed opportunity of personal hearing offered to them in the adjudication proceedings and, therefore, appellants are presumed to have admitted charges levelled against them in the show cause notices.....*".
7. In view of the above, I am of the opinion that the SCN and Notices of hearing have been duly served upon the Noticee, but the Noticee failed to reply and

also failed to avail the opportunity of personal hearing. The principle of natural justice has been followed in the matter, as enough opportunities were provided to the Noticee to reply to the SCN and appear for hearing. Therefore, I am inclined to decide the matter ex-parte taking into account the evidence / material available on record.

CONSIDERATION OF ISSUES

8. I have taken into consideration the facts and material available on record. I observe that the allegation levelled against the Noticee is that it had made either delayed disclosures or no disclosures under the relevant provisions of SEBI (SAST) Regulations *and* SEBI (PIT) Regulations, 1992

After perusal of the material available on record, I have the following issues for consideration, viz.,

- I. Whether the Noticee has violated the relevant provisions of SEBI (SAST) Regulations, 2011 and SEBI (PIT) Regulations, 1992?*
- II. Does the violation, if any, attract monetary penalty under Section 15 A (b) of SEBI Act.?*
- III. If so, what would be the monetary penalty that can be imposed taking into consideration the factors mentioned in Section 15J of SEBI Act?*

ISSUE-1: Whether the Noticees have violated the relevant provisions of SEBI (SAST) Regulations, 2011 and SEBI (PIT) Regulations, 1992?

9. Before moving forward, it is pertinent to refer to the relevant provisions of SEBI (SAST) Regulations, 2011 and SEBI (PIT) Regulations, 1992 alleged to have been violated by the Noticee, which reads as under:

Regulation 29 (1) of SEBI (SAST) Regulations, 2011

Any acquirer who acquires shares or voting rights in a target company which taken together with shares or voting rights, if any, held by him and by persons acting in concert with him in such target company, aggregating to five per cent or more of the shares of such target company, shall disclose their aggregate shareholding and voting rights in such target company in such form as may be specified.

Regulation 29 (2) of SEBI (SAST) Regulations, 2011

Any person, who together with persons acting in concert with him, holds shares or voting rights entitling them to five per cent or more of the shares or voting rights in a target company, shall disclose the number of shares or voting rights held and change in shareholding or voting rights, even if such change results in shareholding falling below five per cent, 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 two per cent of total shareholding or voting rights in the target company, in such form as may be specified.

Regulation 13 (1) of SEBI (PIT) Regulations, 1992

Any person who holds more than 5% shares or voting rights in any listed company shall disclose to the company in Form A, the number of shares or voting rights held by such person, on becoming such holder, within 2 working days of :—

(a) the receipt of intimation of allotment of shares; or

(b) the acquisition of shares or voting rights, as the case may be.

Regulation 13 (3) of SEBI (PIT) Regulations, 1992

Any person who holds more than 5% shares for 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.

10. The details of transactions done by Insight in the scrip of CFTL are given as under:

Date	No of shares held (pre-acquisition)	% of shareholding held (pre-acquisition)	Buy / (sale) transaction	Value of Transactions (₹)	Net Holding after transactions	% of holding after transactions	Regulation Triggered SAST, 2011 and PIT Reg.	Disclosures given (Yes/No)
18.12.2012	0	0	4,805	1,344,263	4,805	0.05	No	NA
21.12.2012	4,805	0.05	2,700	766,800	7,505	0.07	No	NA
24.12.2012	7,505	0.07	4,900	1,416,100	12,405	0.12	No	NA
27.12.2012	12,405	0.12	2,500	750,000	14,905	0.15	No	NA
08.01.2013	14,905	0.15	5,000	1,600,000	19,905	0.19	No	NA
09.01.2013	19,905	0.19	16,000	5,120,000	35,905	0.35	No	NA
01.02.2013	35,905	0.35	22,600	7,231,324	58,505	0.57	No	NA
04.02.2013	58,505	0.57	3,300	1,056,000	61,805	0.6	No	NA
05.02.2013	61,805	0.6	23,900	7,634,979	85,705	0.84	No	NA
06.02.2013	85,705	0.84	29,645	9,463,833	115,350	1.13	No	NA
07.02.2013	115,350	1.13	10,205	3,252,031	125,555	1.22	No	NA
11.02.2013	125,555	1.22	29,145	9,312,290	154,700	1.51	No	NA
12.02.2013	154,700	1.51	15,200	4,858,060	169,900	1.66	No	NA
13.02.2013	169,900	1.66	18,568	5,934,047	188,468	1.84	No	NA
14.02.2013	188,468	1.84	16,815	5,376,596	205,283	2.00	No	NA
15.02.2013	205,283	2.00	33,300	10,629,652	238,583	2.33	No	NA
18.02.2013	238,583	2.33	16,525	5,244,413	255,108	2.49	No	NA
21.02.2013	255,108	2.49	5,000	1,584,975	260,108	2.54	No	NA
22.02.2013	260,108	2.54	5,000	1,585,050	265,108	2.59	No	NA
25.02.2013	265,108	2.59	13,500	4,305,300	278,608	2.72	No	NA
26.02.2013	278,608	2.72	2,550	813,195	281,158	2.74	No	NA
01.03.2013	281,158	2.74	21,850	6,955,000	303,008	2.96	No	NA
06.03.2013	303,008	2.96	10,000	3,177,259	313,008	3.05	No	NA
11.03.2013	313,008	3.05	10,000	3,172,500	323,008	3.15	No	NA
21.03.2013	323,008	3.15	15,613	4,952,834	338,621	3.3	No	NA
25.03.2013	338,621	3.3	33,824	10,761,969	372,445	3.63	No	NA
26.03.2013	372,445	3.63	3,360	1,044,280	375,805	3.67	No	NA
04.04.2013	375,805	3.67	30,600	9,763,760	406,405	3.96	No	NA
05.04.2013	406,405	3.96	41,000	13,042,838	447,405	4.36	No	NA
08.04.2013	447,405	4.36	11,800	3,751,840	459,205	4.48	No	NA
09.04.2013	459,205	4.48	41,828	13,277,745	501,033	4.89	No	NA
25.04.2013	501,033	4.89	4,400	1,399,200	505,433	4.93	No	NA
29.04.2013	505,433	4.93	-1,000	319,000	504,433	4.92	No	NA

03.05.2013	504,433	4.92	-1,000	318,450	503,433	4.91	No	NA
27.05.2013	503,433	4.91	19,000	6,101,000	522,433	5.1	Yes, 29(1) SAST and 13(1) of PIT	Delayed; disclosures under SAST on 11.10.2013
04.06.2013	522,433	5.1	-2,050	638,062	520,383	5.08	No	NA
11.06.2013	520,383	5.08	-1,700	501,500	518,683	5.06	No	NA
12.06.2013	518,683	5.06	4,500	1,305,000	523,183	5.1	No	NA
21.06.2013	523,183	5.1	12,200	3,611,200	535,383	5.22	No	NA
24.06.2013	535,383	5.22	11,600	3,282,800	546,983	5.34	No	NA
26.06.2013	546,983	5.34	5,000	1,450,000	551,983	5.39	No	NA
28.06.2013	551,983	5.39	4,149	1,094,492	556,132	5.43	No	NA
02.07.2013	556,132	5.43	10,000	2,455,500	566,132	5.52	No	NA
03.07.2013	566,132	5.52	100	23,330	566,232	5.52	No	NA
05.07.2013	566,232	5.52	8,600	2,098,400	574,832	5.61	No	NA
08.07.2013	574,832	5.61	6,860	1,715,000	581,692	5.68	No	NA
09.07.2013	581,692	5.68	3,240	810,810	584,932	5.71	No	NA
10.07.2013	584,932	5.71	-7,000	879,500	577,932	5.64	No	NA
12.07.2013	577,932	5.64	-900	246,950	577,032	5.63	No	NA
15.07.2013	577,032	5.63	2,500	650,000	579,532	5.65	No	NA
17.07.2013	579,532	5.65	5,335	1,389,768	584,867	5.71	No	NA
24.07.2013	584,867	5.71	6,050	1,542,750	590,917	5.77	No	NA
26.07.2013	590,917	5.77	2,305	599,300	593,222	5.79	No	NA
31.07.2013	593,222	5.79	8,000	1,999,200	601,222	5.87	No	NA
01.08.2013	601,222	5.87	8,005	2,001,188	609,227	5.94	No	NA
05.08.2013	609,227	5.94	18,000	4,500,000	627,227	6.12	No	NA
07.08.2013	627,227	6.12	14,000	3,480,000	641,227	6.26	No	NA
22.10.2013	641,227	6.26	-476,107	NA	165,100	1.61	Yes, 29(2) SAST and 13(3) of PIT	No

11. I note from the above table that the Noticee started acquiring the shares of CFTL since December 18, 2012. Over a period of time, with the acquisition of shares of CFTL, the Noticee's shareholding in CFTL crossed 5% of the shareholding on May 27, 2013. I note from the records that the Noticee was holding 5,03,433 shares constituting 4.91% of the shareholding of CFT, before acquisition of 19,000 shares on May 27, 2013. Pursuant to acquisition of 19,000 shares on May 27, 2013, the holding of the Noticee increased from 4.91% to 5.10%. The change in shareholding beyond 5%, requires the Noticee

to disclose the change in shareholding within two days from the date of acquisition to the Company and to BSE, in terms of the provisions of Regulation 29 (1) of SEBI (SAST) Regulations, 2011 and Regulation 13 (1) of SEBI (PIT) Regulations.

12. However, I note from the records that the Noticee disclosed acquisition of shareholding of more than 5% to CFTL and to BSE on October 11, 2013 i.e., after a delay of more than 4 months. Therefore, it is established that the Noticee had delayed in making the requisite disclosures upon acquisition of 5% shareholding in terms of Regulation 29 (1) of SEBI (SAST) Regulations and Regulation 13 (1) of SEBI (PIT) Regulations.

13. Further, I also note that the Noticee was holding 6,41,227 shares constituting 6.26% shareholding of CFTL as on October 21, 2013. Pursuant to transfer of 4,76,107 shares in off-market on October 22, 2013, the shareholding of the Noticee decreased from 6.26% to 1.61%, which resulted in change in shareholding of 4.65%. In terms of Regulation 29 (2) of SEBI (SAST) Regulations and Regulation 13 (3) of SEBI (PIT) Regulations, an obligation is cast upon the shareholders already holding share aggregating more than 5% of the shares of the company, to make disclosures upon changes in their shareholding aggregating to 2% or more. I note from the BSE's email dated May 5, 2017 that no disclosure was received from the Noticee under Regulation 29 (2) of SEBI (SAST) Regulations, 2011 regarding change in shareholding. Further, I also note that CFTL vide its email dated June 15, 2015 submitted that it has not received any information from the Noticee pursuant to change in shareholding.

14. Thus, it is established that the Noticee failed to make the requisite disclosures upon change in its shareholding of 4.65% on October 22, 2013, in terms of Regulation 29 (2) of SEBI (SAST) Regulations, 2011 and Regulation 13 (3) of SEBI (PIT) Regulations, 1992.

15. In this connection, I deem it appropriate to refer to the judgment of Hon'ble SAT in the matter of Akriti Global Traders Limited Vs SEBI (Appeal No. 78 of 2014 dated September 30, 2014) wherein, it held, *"Obligation to make disclosure under the provisions contained in SAST Regulations, 2011 as also under PIT Regulations, 1992 would arise as soon as there is acquisition of shares by a person in excess of the limits prescribed under the respective regulations and it is immaterial as to how the shares are acquired"*.
16. I note that SEBI (PIT) & (SAST) Regulations specifically provides for the manner and timing of disclosure to be made by promoters, directors, substantial shareholders and person who have control over the company. The object of requiring such disclosure to be made within the requisite number of days is with a view to ensure that there is no abuse on account of investors being not aware of such change in shareholding of a major shareholder. Such specific disclosures are timely disseminated by stock exchanges for public information. If the necessary disclosures are not made within the requisite number of days as per the respective Regulations, which are event based, the investors are deprived of taking an informed decision in investing in the scrip of the said Company.
17. In view of the aforesaid findings, I conclude that the Noticee by making delayed disclosures of acquisition of more than 5% shareholding in CFTL had violated the provisions of Regulation 29 (1) of SEBI (SAST) Regulations, 2011 and Regulation 13 (1) of SEBI (PIT) Regulation, 1992. Further, I also conclude that the Noticee by not making disclosures of its change in shareholding of more than 2% shareholding in CFTL had violated the provisions of Regulation 29 (2) of SEBI (SAST) Regulations, 2011 and Regulation 13 (3) of SEBI (PIT) Regulations, 1992.

ISSUE – II: Does the violation, if any, attract monetary penalty under Section 15 A (b) of SEBI Act.?

18. It is important to point out that securities market operates on a disclosure based regime and hence true and timely disclosure of information, as

prescribed under the statute, is an important regulatory tool intended not only to enable regulator to effectively monitor transactions in the market but also helps investors to take well-informed decision. The Noticees, by their failure to make requisite disclosure under SEBI (PIT) and SEBI (SAST) Regulations have prevented dissemination of valuable information to investors at the relevant point of time.

19. In this connection, I draw reference to the judgement of Hon'ble SAT in the matter of Vitro Commodities Pvt., Ltd., Vs. SEBI, wherein inter-alia Hon'ble SAT observed that *"Regulation 7 (1) of SAST Regulations and Regulation 13 (1) of PIT Regulations are not substantially difference, since violation of first automatically triggers violation of second and hence there no justification for imposition of penalty for second violation when penalty for first violation has been imposed"*. In view of the above, I am not holding the Noticee liable for monetary penalty for violation of Regulation 29 (1) and 29 (2) SEBI (SAST) Regulations, 2011, since the requirement of disclosures to be made under Regulation 29 (1) and 29 (2) of SEBI (SAST) Regulations, 2011 are of the same kind of disclosures to be made under Regulation 13 (1) and 13 (3) of SEBI (PIT) Regulations, respectively.

20. The timely disclosure is mandated under these Regulations for the benefit of the investors at large. There can be no dispute that compliance with the provisions of the Regulations is mandatory and it is the duty of SEBI to enforce compliance of these Regulations. Timeliness is the essence of disclosure and delayed disclosure / no disclosure would serve no purpose at all. Since, the violation of the statutory obligation under the provisions of Regulation of 13 (1) and 13 (3) of SEBI (PIT) Regulations have been established against the Noticee, the Noticee is liable for monetary penalty under Section 15 A (b) of SEBI Act. The provisions of Section 15 A (b) of SEBI Act are reproduced hereunder:

Penalty for failure to furnish information, return, etc.

Section 15A of SEBI Act– *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 a penalty which shall not be less than one lakh rupees but which may extend to one lakh rupees for each day during which such failure continues subject to a maximum of one crore rupees*

ISSUE – III: If so, what would be the monetary penalty that can be imposed taking into consideration the factors mentioned in Section 15J of SEBI Act?

21. While determining the quantum of monetary penalty under Section 15 A (b) of SEBI Act, I have considered the factors stipulated in Section 15-J of SEBI Act, which reads as under:

Section 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.*

22. The material made available on record has not quantified the amount of disproportionate gain or unfair advantage made by the Noticee and the loss suffered by the investors as a result of the Noticee's default. There is also no material made available on record to assess the amount of loss caused to investors or the amount of disproportionate gain or unfair advantage made by the Noticee as a result of default. However, it is important to note that timely disclosure of information, as prescribed under the statute, is an important

regulatory tool intended to serve a public purpose. Timely disclosures are also an essential part of the proper functioning of the securities market and failure to do so prevents investors from taking a well-informed investment decision.

23. Therefore, I am not inclined to view the lapse on the part of the Noticee leniently and consider it necessary to impose monetary penalty on the Noticee for violation of SEBI (PIT) Regulations, 1992, which would act as deterrent to the Noticee in future.

ORDER

24. Having considered all the facts and circumstances of the case, I, in exercise of the powers conferred upon me under Section 15I of the SEBI Act read with Rule 5 of the SEBI Adjudication Rules, hereby impose a penalty ₹ 2,00,000/- (Rupees Two Lakhs only) on the Noticee i.e., Insight Multitrading Private Ltd., under Section 15 A (b) of SEBI Act for violation of the provisions of Regulation 13 (1) and 13 (3) of SEBI (PIT) Regulations, 1992.

25. The said penalty imposed on the Noticee, as mentioned above, shall commensurate with the violation committed and acts as a deterrent factor for the Noticee and others in protecting the interest of investors.

26. The Noticee shall remit / pay the said amount of penalty within 45 days of receipt of this order either by way of Demand Draft in favour of "SEBI - Penalties Remittable to Government of India", payable at Mumbai, OR through e-payment facility into Bank Account the details of which are given below:

Account No. for remittance of penalties levied by Adjudicating 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

27. The Noticee shall forward said Demand Draft or the details / confirmation of penalty so paid through e-payment to the Deputy General Manager, Enforcement Department-1, DRA-4, SEBI, in the format as given in table below

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

28. In terms of Rule 6 of the SEBI Adjudication Rules, copies of this Order are sent to the Noticee i.e., Insight Multitrading Private Ltd., and also to SEBI.

Date: 15 February 2019

Place: Mumbai

B J DILIP

Adjudicating Officer