

---

**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**

Mefcom Agro Industries Ltd (name changed to Vishvas Projects Limited) (PAN No.: AAACM2047A)  
Satyender Kumar (PAN No.:CXDPK2039R)  
Ashok Marwah (PAN No.:AGAPM9028L)  
Nihar Ranjan Mishra (PAN No.:AFLPM1238C)  
Vijay Mehta (PAN No.:AAKPM1588M)

**In the matter of**

Mefcom Agro Industries Limited  
CIN No.: U29211WB1995PLC071741

---

**BACKGROUND OF THE CASE**

1. Securities and Exchange Board of India ("SEBI") conducted examination in the scrip of Mefcom Agro Industries Limited (hereinafter referred to as Mefcom and/or the Noticee company), a company listed at Bombay Stock Exchange Limited ('BSE'), during the period of January 1, 2006 to June 30, 2007 (**investigation period**). During the period of investigation, it was observed that the company, prima facie, had not framed model code of conduct as required under Schedule I of SEBI (PIT) Regulations 1992, regarding pre-clearance of trades. Therefore, the current adjudication proceedings were initiated against the Noticees for violation of Regulation 12(1) read with Part A of Schedule I of the SEBI (PIT) Regulations 1992.

**APPOINTMENT OF ADJUDICATING OFFICER**

2. Adjudicating Officer was appointed under section 15I of Securities and Exchange Board of India Act, 1992 (SEBI Act, 1992) and under Rule 3 of Securities and Exchange Board of India (Procedure for Holding Inquiry and Imposing Penalties by Adjudicating Officer) Rules, 1995 (Adjudication Rules) to inquire into and adjudge under section 15 HB Act, 1992 the alleged noncompliance of Model Code of Conduct as specified under Schedule I Regulation 12(1) of Securities and Exchange Board of India Prohibition of Insider Trading) Regulations, 1992 (SEBI (PIT) Regulation 1992 by Mefcom Agro Industries Limited, Vijay Mehta, Ashok Marwah, Satyender Kumar and Nihar Ranjan (collectively Noticees).

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

3. A Show Cause Notice (SCN) dated February 21, 2018 was issued under Rule 4(1) of the SEBI (Procedure for Holding Inquiry and Imposing Penalties by Adjudicating Officer) Rules, 1995 (AO Rules) in the matter to the Noticees.
4. SCN returned undelivered from four Noticees namely; Mefcom Agro Industries Limited, Ashok Marwah, Satyender Kumar and Nihar Ranjan, therefore, the above mentioned SCN along with the Hearing Notice (HN) (in terms of Rule 4(3) of AO rules) were served to the aforementioned four Noticees by way of affixture on March 20, 2018, in terms of rule 7(c) of AO rules, affording him the opportunity of personal hearing on April 05, 2018. However, the notice could not be delivered again. The said notices were also uploaded on SEBI website under the head Enforcement->Unserved summons/Notices.
5. Thereafter, the Notices were served to Noticees by way of paper publication in terms of Rule 7(d) of AO rules. Subsequently, the Notices were published in Delhi edition of Hindustan Times (English) and

Navbharat times (Hindi) on January 18, 2019. The Noticees by way of aforesaid paper publication were also required to avail of the opportunity of hearing on February 11, 2019, which clearly indicates that the date of personal hearing was provided after a period of one month from the date of issuance of the publication of notice. Although, none of the aforesaid four Noticees availed opportunity of personal hearing. However, the Noticee namely; Mefcom Agro Industries Ltd. and one of its directors Mr. Ashok Marwah, vide letter dated February 18, 2019, made joint written submissions in the matter.

6. In the meantime Noticee Vijay Mehta vide his letter dated April 03, 2018, submitted his response to the SCN. Subsequently, the Noticee namely; Vijay Mehta was served Notice of hearing in terms of rule 4(3) of the AO rules. Vide aforementioned hearing Notice, the Noticee was granted opportunity of hearing on June 26, 2019. Subsequently, the Noticee vide e-mail dated June 24, 2019, requested for availing opportunity of personal hearing by way of video conferencing facility from Northern Regional Office (NRO) of SEBI. Thereafter, the Noticee availed the opportunity of personal hearing by way of video conferencing facility on June 26, 2019 at 03:00 PM from NRO. During the course of hearing the ARs of the Noticee reiterated their earlier submissions made vide their letter dated March 28, 2019.
7. The key submissions of the Noticees namely; Mefcom Agro Industries Ltd. and Vijay Mehta are summarized below;

**Submissions of Mefcom Agro Industries Ltd. and Ashok Marwah**

- *As per the annual report of the company the directors of the company for the financial year 2004-2005 to 2007-2008 shown in tour tabulated form is correct.*
- *The date of appointment of Mr. Ashok Marwah, Mr. Satyender Kumar and Mr. Nihar Ranjan Mishra appointed as additional directors since August 17, 2007.*
- *The Noticee submitted certified true copy of resolution passed by the Board of Directors of the company on August 17, 2006, for change in control of the company in favour of Mr. Satyender Kumar and Mr. Ashok Marwah.*
- *We had already provide you the information regarding change in Management control vide letter 04th February, 2014.*
- *We would like to inform you that we had informed BSE on 22.09.2016 regarding change in management but it is unfortunate it is not motioned in the outcome of stock Exchange.*
- *The pending replies of our letter dated 04th February, 2014, now competed.*

**Submissions of Vijay Mehta**

- *The investigation period in the afore-said SCN relates way back to to January 2006 to June, 2007 i.e. almost 12 years old. I had off loaded my holding and resigned from the Company way back in 2006 only and since then had no contact or relation or association with the Company and/ or its directors. The submissions herein are limited to the best of my knowledge and memory as during the change in management all the documents pertaining to the Company has been handed over to the new management and no records/ documents are available with me. The perusal of SCN shows that lots of information and documents have not been submitted by the Company and /or its present directors and it is my most humble submission that for the information and documents being withheld by the present management, I should not be made the scapegoat and implicated in this matter merely for lack of documentary evidences. Any action should only be taken on the basis of cogent proof and for reasons beyond doubts.*
- *It is herein to be noted that the investigation period pertains to the year 2006-2007 and summons dated 24.12.2014 and 08.01.2015 issued by your good office was after 8 long years. That as I already explained above, the management of the Company was changed long back and I too dis-associated myself from the Company way back in 2006 and all the documents were duly handed over to the new management of the Company. In this regard it is further stated that if the existing*

*management has failed to respond to the summons of your good office, then the action should be brought against them for not replying to your summons.*

- As per best of my knowledge, the company had duly framed the Code of conduct as required under Regulation 12(1) of SEBI (PIT) Regulations, 1992. It is pertinent to note here that PIT regulations, 1992 does not obligate any company to file the code of conduct on any public platform. Therefore, the fact that Company had duly framed the internal code of Conduct of PIT Regulations, 1992 cannot be substantiated after 12 years.*
- That by receiving no reply from the company and its present management, it was inferred by your good office that the company had not framed any model code of conduct under SEBI (PIT) Regulations, 1992. Just because the company and its present management had not responded to the summons issued by your good office and failed to provide the documentary evidence, it cannot be assumed that the company and its previous directors had not framed the model code of conduct under SEBI (PIT) Regulations, 1992.*
- It is pertinent to note here that in the amended SEBI (PIT) Regulations, 2015 there is an express provision wherein the board of directors of every company has been made responsible to formulate the code of conduct under PIT regulations, 2015. Such provisions was not present under in the earlier (PIT) Regulations, 1992. Hence, directors cannot be held liable in their individual capacity for the alleged violation.*
- Under various provisions of other Regulations of SEBI like SEBI (Substantial Acquisition of Shares and Takeovers), 2011 wherein when a Company has to make any compliance but failed to do so then only the Company is held liable and not the directors in their individual capacity for such non-compliances.*
- a Body Corporate is distinct from its shareholders and management and wherein for an alleged violation of the Company, its officers are to be held liable then in such case the law specifically provides for liability of the "officers in Default". Inference on the provisions of Companies Act can be drawn herein in support of the said averment.*
- Distinct Corporate Entity: "The true legal position in regard to the character of a corporation or a company which owes its incorporation to a statutory authority is not in doubt or dispute. The company, in law, is equal to a natural person and has a legal entity of its own. The entity of the corporation is entirely separate from that of its shareholders; it bears its own name and has a seal of its own; its assets are separate and distinct from those of its members; it can sue and be sued exclusively for its own purpose; its creditors cannot obtain satisfaction from the assets of its members; the liability of the members or shareholders is limited to the capital invested by them; similarly the creditors or the members have no right to the assets of the corporation. This position is well established ever since the decision in case of Salmon v. Salmon & Co., 1897 AC 22. In the light of the afore-said, it is clear that the Company has its own entity and can sue and be sued in its own name. Hence, for the liability arising from any non-compliance of any statutory provision against the Company the directors cannot be held liable for the same. As the Company has its own legal identity the directors cannot be held liable for such non-compliance.*

8. However, till date, no communication has been received from the other Noticees namely; Satyender Kumar and Nihar Ranjan, they have neither submitted replies to the SCN nor appeared for hearing. During the instant proceedings, despite giving ample opportunity to the Noticees to file reply to the SCN and to appear for personal hearing on several occasions, Noticees have neither submitted their reply to the SCN nor availed opportunity of personal hearing till the date of passing of order in the current proceedings. In view of the same, the matter is being proceeded ex-parte in terms of Rule 4(7) of AO Rules 1995 with respect to these two Noticees.

### **ISSUES FOR CONSIDERATION**

9. After perusal of the material available on record, the following issues arise for consideration;
- I. Whether the Noticees have violated Regulation 12(1) read with Part A of Schedule I of the SEBI (PIT) Regulations 1992?
  - II. Does the violation, if any, on the part of the Noticee attract monetary penalty under Section 15HB of the SEBI Act, 1992?
  - III. If so, what quantum of monetary penalty should be imposed on the Noticees considering the factors stated in section 15J of SEBI Act, 1992?

### **FINDINGS**

10. The texts of the said provisions are reproduced as under :-

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

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

*(a) the intermediaries as mentioned in section 12 of the Act, asset management company and trustees of mutual funds ;*

*(b) the self-regulatory organisations recognised or authorised by the Board;*

*(c) the recognised stock exchanges and clearing house or corporations;*

*(d) the public financial institutions as defined in section 4A of the Companies Act, 1956; and*

*(e) the professional firms such as auditors, accountancy firms, law firms, analysts, consultants, etc., assisting or advising listed companies, shall frame a code of internal procedures and conduct as near thereto the Model Code specified in Schedule I of these Regulations 45 [without diluting it in any manner and ensure compliance of the same].*

*(2) The entities mentioned in sub-regulation (1), shall abide by the code of Corporate Disclosure Practices as specified in Schedule II of these Regulations.*

*(3) All entities mentioned in sub-regulation (1), shall adopt appropriate mechanisms and procedures to enforce the codes specified under sub-regulations (1) and (2).*

*(4) 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*

### **SCHEDULE I**

**[Under regulation 12(1)]**

#### **PART A**

### **MODEL CODE OF CONDUCT FOR PREVENTION OF INSIDER TRADING FOR LISTED COMPANIES**

#### **3.3 Pre-clearance of trades**

**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.*

**3.3.2** *An application may be made in such form as the company may notify in this regard, to the Compliance Officer indicating the estimated number of securities that the designated*

*Employee/ officer/ director intends to deal in, the details as to the depository with which he has a security account, the details as to the securities in such depository mode and such other details as may be required by any rule made by the company in this behalf.*

**3.3.3** *An undertaking shall be executed in favour of the company by such designated*

*Employee/ director/ officer incorporating, inter alia, the following clauses, as may be applicable:*

*(a) That the employee/ director/ officer does not have any access or has not received "Price Sensitive Information" upto the time of signing the undertaking.*

*(b) That in case the employee/ director/ officer has access to or receives "Price Sensitive Information" after the signing of the undertaking but before the execution of the transaction he/ she shall inform the Compliance Officer of the change in his position*

and that he/ she would completely refrain from dealing in the securities of the company till the time such information becomes public.

(c) That he/ she has not contravened the code of conduct for prevention of insider trading as notified by the company from time to time.

(d) That he/ she has made a full and true disclosure in the matter.

**Issue No. I: Whether the Noticees have violated Regulation 12(1) read with Part A of Schedule I of the SEBI (PIT) Regulations 1992?**

11. It is noted that at the time of investigation, investigating authority sought information from the Noticees namely; Mefcom Agro Industries Limited, Vijay Mehta, Ashok Marwah, Satyender Kumar and Nihar Ranjan, with respect to certified copy of the model code of conduct as required under Schedule I of SEBI (PIT) Regulations 1992 and details regarding pre-clearance of trades, if any, by promoters/group company. However, the same was not provided by the Noticees despite of various reminders.
12. As per Regulation 12(1) of SEBI (PIT) Regulations 1992, “All listed companies and organisations associated with securities markets shall frame a code of internal procedures and conduct as near thereto the Model Code specified in Schedule I of these Regulations 45 [without diluting it in any manner and ensure compliance of the same” Further clause 3.3 of the code of conduct reads as “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”
13. From above it is clear that the Mefcom Agro Industries Ltd. and its directors (other Noticees) were under regulatory obligation to formulate a policy on model code of conduct as required under Schedule I of SEBI (PIT) Regulations 1992, on pre-clearance of trades. It is observed that the directors of the company during FY 2004-05 to 2007-08 (as mentioned in the annual reports of the company) are as tabulated below:

Designation	2004-05	2005-06	2006-07	2007-08
Chairman	Vijay Mehta	Vijay Mehta	--	--
Director	HK Mehta	Ashok Marwah	Ashok Marwah	Ashok Marwah
Director	RL Toshniwal	Satyender Kumar	Satyender Kumar	Satyender Kumar
Director	RK Pandey	Nihar Ranjan Mishra	Nihar Ranjan Mishra	Nihar Ranjan Mishra
Director	Atul Singh Tyagi	--	--	--

14. It is further noted from the records that the Investigating Authority, SEBI had issued summons to the Noticees on December 24, 2014 and reminder summons dated January 08, 2015, seeking certified copy of the model code of conduct and it has also been verified from records that both the summons were successfully delivered to the Noticee. It is noted the summons were issued to the company and the directors in 2015 for seeking information about the company of the period 2006. However, despite of several reminders in this regard, the Noticee neither responded to the summons nor submitted the requisite information.
15. Noticee namely; Vijay Mehta has submitted that “the investigation period pertains to the year 2006-2007 and summons dated 24.12.2014 and 08.01.2015 issued by your good office was after 8 long years. That as I already explained above, the management of the Company was changed long back and I too dis-associated myself from the Company way back in November 2006 and all the documents were duly handed over to the new management of the Company. In this regard it is further stated that if the existing management has failed to respond to the summons of your good office, then the action should be brought against them for not replying to your summons.”
16. In this regard, it is observed that SEBI vide letter dated January 08, 2015, inter alia brought the same to the notice of the Noticee Company viz. Mefcom Agro Industries, including the prima facie

presumption arrived at in view of the above that if no information is furnished by the Noticee company within the stipulated time frame, it will be understood that the Noticee company have nothing to submit and which would primarily mean that the Noticee company did not have a Code of Internal Procedure & model code of conduct, in accordance with PIT Regulations, 1992.

17. It is noted that although the Noticee Vijay Mehta has stated in its submissions that *“As per best of my knowledge, the company had duly framed the Code of conduct as required under Regulation 12(1) of SEBI (PIT) Regulations, 1992 and all the documents were duly handed over to the new management of the Company.”* While it would ordinarily be liable to be dismissed as a mere statement. However, the arguments placed by the Noticee Vijay Mehta merits consideration. Firstly, he has mentioned that he was no longer part of the management in 2015 when the SEBI sought information from him. Secondly, companies (Preservation and Disposal of Records) Rules, 1966, makes it mandatory for companies to maintain its books of account and vouchers for a period of eight years immediately preceding the current year. Therefore, after eight years of disassociation with the company Noticee; Vijay Mehta has no records as his efforts to procure records from the company have met the same fate as SEBI, as company did not co-operate with the investigations and did not provide the relevant information. It is also a matter of record that for non-submission of information, penalty has already imposed on the Noticees vide order dated March 20, 2019.
18. It is further noted that the Noticee Vijay Mehta has also stated in his submissions that *“It is pertinent to note here that PIT regulations, 1992 does not obligate any company to file the code of conduct on any public platform. Therefore, the fact that Company had duly framed the internal code of Conduct of PIT Regulations, 1992 cannot be substantiated after 12 years.”*
19. In this regard, it is noted that Regulation 12(1) of the PIT regulations makes it mandatory for all listed companies to frame a code of internal procedures and the Model Code specified in Schedule I of the Regulations without diluting it in any manner and ensure compliance of the same. Therefore, by virtue of Regulation 12(1) of the PIT regulations, it is clear that all listed companies at the relevant period were under regulatory obligation to mandatorily frame model code of conduct under PIT regulations, 1992.
20. The investigation for the period 2006 - 2007 was carried out in the financial year 2015-16, which falls outside the period of eight years as stipulated under Companies (Preservation and Disposal of Records) Rules, 1966, as the period of eight years expires in the financial year 2014 -15, which is prior to the period when investigation was carried out.
21. Although it is noted from available records that the Noticees namely; Vijay Mehta, Ashok Marwah, Satyender Kumar and Nihar Ranjan, were the directors of the company at the relevant period. It is further noted from records available on BSE website that the Noticees namely; Ashok Marwah, Satyender Kumar and Nihar Ranjan, were appointed as directors in the Noticee Company with effect from August 18, 2006 and that Noticee Vijay Mehta, had resigned from the Noticee Company on November 21, 2006, which indicates that the Noticee Vijay Mehta along with other Noticees namely; Ashok Marwah, Satyender Kumar and Nihar Ranjan, were clearly acting as director of the Noticee Company during the investigation period i.e. January 01, 2006 till November 2006.
22. However, due to lack of cogent information available on record, for non-compliance, solely based on ‘no information available’, the charges and allegations, made against the Noticees cannot be proceeded further. Thus, the same need to be dropped.

23. It is further noted that as stated by Vijay Mehta, under amended SEBI (PIT) Regulations, 2015, there is an express provision wherein the board of directors of every company has been made responsible to formulate the code of conduct under PIT regulations, 2015. However, such provisions was not present under in the earlier (PIT) Regulations, 1992. Thus, there was no such provision at the relevant time, under which listed companies were required to notify information with respect to framing of model code of conduct to the stock exchange / SEBI.
24. In light of above, the model code of conduct was not filed by the Noticee Company at any such forum through which the information with respect to framing of internal code of conduct could have been made available in public domain and thus, the same could not be made available for the purpose of current proceedings.
25. Therefore, in light of above, it is concluded that by virtue of Regulation 12(1) of the PIT regulations, the listed company namely; Mefcom Agro industries limited, was under regulatory obligation to frame model code of conduct under PIT regulations, 1992, at the relevant period. However, it is noted that there is not sufficient material available on record. Therefore, no adverse findings are made against any of the Noticees, namely; Mefcom Agro industries limited, Vijay Mehta, Ashok Marwah, Satyender Kumar and Nihar Ranjan for violation of Regulation 12(1) read with Part A of Schedule I of the SEBI (PIT) Regulations 1992.

### **Order**

26. Therefore, in light of above discussion, the SCN against the Noticees is dropped off without imposition of any monetary penalty on Noticees namely; Mefcom Agro industries limited, Vijay Mehta, Ashok Marwah, Satyender Kumar and Nihar Ranjan.
27. In terms of rule 6 of the Adjudication Rules, copies of this order are sent to the Noticee and also to the SEBI.

**Date: July 05, 2019**  
**Place: Mumbai**

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