

**OBFORE THE ADJUDICATING OFFICER**  
**SECURITIES AND EXCHANGE BOARD OF INDIA**

**[ADJUDICATION ORDER NO. AK/AO- 108/2014]**

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**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

**Ms. Rajul Premal Doshi (PAN AEBPD7131E)**

In the matter of

M/s. Arunjyoti Enterprises Limited

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**FACTS OF THE CASE**

1. Securities and Exchange Board of India (hereinafter referred to as '**SEBI**') observed that in the scrip of M/s. Arunjyoti Enterprises Ltd. (hereinafter referred to as '**Arunjyoti**'/ '**the company**') certain persons including **Ms. Rajul Premal Doshi** (hereinafter referred to as '**the Noticee**') failed to make relevant disclosures as required under the SEBI (Substantial Acquisition of Shares and Takeovers) Regulations, 2011 (hereinafter referred to as '**SAST Regulations, 2011**') and/ or SEBI (Prohibition of Insider Trading) Regulations, 1992 (hereinafter referred to as '**PIT Regulations**'), as applicable.

**APPOINTMENT OF ADJUDICATING OFFICER**

2. The undersigned was appointed as the Adjudicating Officer vide order dated August 07, 2013 under Section 15I of the Securities and Exchange Board of India Act, 1992 (hereinafter referred to as '**SEBI Act**') to inquire into and adjudge under Section 15A(b) of the SEBI Act the alleged violation of the SAST Regulations, 2011 and/ or PIT Regulations, as applicable.

### **SHOW CAUSE NOTICE, HEARING AND REPLY**

3. SEBI *inter alia* observed that the Noticee had acquired 4,11,111 shares (5.66% of the paid-up share capital) of the company in December 2011 quarter without making any disclosure, thereby violating Regulation 29 (1) read with 29 (3) of the SAST Regulations, 2011 and Regulation 13(1) read with 13(5) of PIT Regulations. Accordingly, vide a Notice No. EAD6/AK/VG/23233/2013 dated September 12, 2013 (hereinafter referred to as '**SCN**') issued under Rule 4 of SEBI (Procedure for Holding Inquiry and Imposing Penalties by Adjudicating Officer) Rules, 1995 (hereinafter referred to as '**the Rules**'), the Noticee was asked to show cause as to why an inquiry should not be held against her and penalty be not imposed under Section 15A (b) of the SEBI Act for the alleged violations specified in the SCN.
4. Though the SCN was delivered to the Noticee, no reply was received from her. In order to proceed in the matter, vide hearing notice dated October 15, 2013, the Noticee was granted an opportunity of personal hearing before me on November 15, 2013. The Noticee failed to appear for the hearing on the scheduled date. Accordingly, in the interest of natural justice, the Noticee was granted another opportunity for personal hearing on November 20, 2013. On this date, Shri Prakash Shah and Shri Premal Doshi, Authorised Representatives (hereinafter referred to as '**AR**') of the Noticee appeared on her behalf and submitted that the shares were purchased by the father-in-law of the Noticee in her name. The ARs were advised to provide further details about the transaction such as details from whom the shares were bought, price at which the shares were bought, etc.
5. Vide letter dated November 28, 2013, the Noticee requested for two weeks time to submit the details sought during the hearing. The request of the Noticee was acceded to and vide letter dated November 29, 2013, the Noticee was granted time upto December 6, 2013 to reply. Vide letter dated December 6, 2013 the Noticee *inter alia* submitted that dealing in the shares of the company was done by her father-in-law, who is around 72 years old and presently not in good health, due to which he is

unable to assist her in retrieving the required details. Also, that even after persistent follow up with her stock brokers, they had not furnished the complete information/ documents. The Noticee vide the above said letter submitted that as per the records available, her holding in the December 2011 quarter was 2,23,024 shares, whereas as per the SCN her holding was 4,11,111 shares. The Noticee requested that details of her holding as per the SCN be provided to her.

6. Hence, vide letter dated May 16, 2014 the details of the Notice's holding of 4,11,111 shares of the company were provided to her. The details are as given hereunder:
- a. As per the CDSL transaction statement, which was provided to the Noticee with the aforesaid letter, the Noticee had acquired 4,11,111 shares in the following manner:

Transaction Date	Counterparty (CP) Name	CP PAN	Txn Type	No. of Shares
13/10/2011	Pabbathi Venkata Ravi Kumar	AIHPP9846J	Inter depository	70,000
13/10/2011	P Badri Narayana Murthy	ABPPP4360G	Off Mkt	50,000
14/10/2011	Pabbathi Venkata Ravi Kumar	AIHPP9846J	Inter depository	80,000
14/10/2011	Varalakshmi Madaji	AXWPM9401C	Inter depository	1,00,000
21/10/2011	Details of counterparty clients given at (b) below	AADCM6645D	Inter depository	1,11,111
	Total			4,11,111

- b. Details of the counterparty clients for the transaction dated October 21, 2011 as per BSE's email dated March 13, 2014 were provided to the Noticee. The same are as given hereunder:

Trade_Date	CP PAN No	CP Client Name	Qty
21-10-2011	AAXPG0444M	NIRAV RAJABABU GANDHI	461
21-10-2011	AAACM0725H	SHIVSHAKTI FINANCIAL SERVICES PVT LTD	999
21-10-2011	AAACM0725H	SHIVSHAKTI FINANCIAL SERVICES PVT LTD	1,000
21-10-2011	APPPS1302H	HETAL KISHORE THAKKAR	1,000
21-10-2011	AAACM0725H	SHIVSHAKTI FINANCIAL SERVICES PVT LTD	1,000
21-10-2011	AIFPJ8500P	CHIRAG RAMESH JOSHI	300
21-10-2011	ACAPC9569Q	AJO CHANDY	100
21-10-2011	ACJPJ4216A	RENU CHIRAYIL JOHN	100
21-10-2011	AHJPK4954H	NARAYANA RAO KODALI	1,000
21-10-2011	AFZPS9107A	SHASHIKANT KESHAVLAL SHAH	1,000
21-10-2011	AAHPK3970E	VIKRAM KALLUDI	650
21-10-2011	AAGHK0444N	KUNVARJI K NISHAR HUF	500
21-10-2011	AAJHA7685L	VALLABHDAS ARVIND VALLABHDAS SHAH (HUF)	877
21-10-2011	ADUPV5946R	ASHOK PRABHUDAS VYAS	1,000
21-10-2011	AAXPG0444M	NIRAV RAJABABU GANDHI	30
21-10-2011	AFNPC7622L	JIGNESH RAJENDRA CHOWHAN	555
21-10-2011	AXWPM9402B	VENKAT NARESH MAJETI	42,000

Trade_Date	CP PAN No	CP Client Name	Qty
21-10-2011	AABFM0985H	NARENDRA K KOTHARI	25,000
21-10-2011	AABFM0985H	NARENDRA K KOTHARI	15,000
21-10-2011	AAFHD6153C	DHAVAL MAHENDRA SHAH (HUF)	150
21-10-2011	BAHPS1619F	SANJAY BABULAL SHETH SANJAY BABULAL SHETH	3,000
21-10-2011	AXWPM9402B	VENKAT NARESH MAJETI	222
21-10-2011	AABCM1114B	NUPOOR CAPITALS PRIVATE LIMITED	15,000
21-10-2011	AAACM0725H	SHIVSHAKTI FINANCIAL SERVICES PVT LTD	167
		Total	1,11,111

7. The Noticee was advised to file her submissions, if any, latest by May 30, 2014. Vide letter dated May 29, 2014, the Noticee filed her submissions *inter alia* stating as follows:

- a. *That she is a housewife and a lay retail investor and not involved in any business or profession;*
- b. *That the shares of the company were acquired by her father-in-law on her behalf for long term investment;*
- c. *That the Noticee had no interest in taking over the company and hence the compliances under the SAST Regulations ought not to be applied to her;*
- d. *That the Noticee is not connected, related or associated with the company, its promoters, directors or employees. Thus, since the Noticee is not an 'Insider', the PIT Regulations also ought not to be applied to her;*
- e. *That the scrip is currently illiquid and the Noticee has lost her capital;*
- f. *That the alleged non compliances were unintentional, without any ill-motive and happened on account of lack of knowledge and understanding of the securities laws;*
- g. *That the lapse is technical in nature;*
- h. *That the Noticee has not made any unfair gain, nor, has caused any harm, loss or damage to investors due to her alleged non disclosure;*
- i. *That the alleged lapse is not repetitive in nature.*

8. Upon receipt of reply, the Noticee was granted another opportunity of personal hearing on July 4, 2014. However, vide letter dated July 1, 2014, the Noticee requested to consider her reply dated May 29, 2014 as her submission in response to the notice of hearing.

## **CONSIDERATION OF ISSUES AND FINDINGS**

9. I have examined the SCN, the submissions made by the Noticee in her replies and during the personal hearing and the documents available on record. I observe that the allegation against the Noticee is that she failed to make the relevant disclosures under Regulation 29 (1) read with 29 (3) of the SAST Regulations, 2011 and Regulation 13(1) read with 13(5) of PIT Regulations.
10. The issues that, therefore, arise for consideration in the present case are:
- a) Whether the Noticee failed to make the relevant disclosures under Regulation 29(1) read with 29 (3) of the SAST Regulations, 2011 and Regulation 13(1) read with 13(5) of PIT Regulations?
  - b) Whether the failure on the part of the Noticee, if any, attracts monetary penalty under section 15A(b) of SEBI Act? and;
  - c) If so, what would be the monetary penalty that can be imposed on the Noticee.
11. Before moving forward, it will be appropriate to refer to the relevant provisions of the PIT Regulations, the SAST Regulations, 1997 and SAST Regulations, 2011, which read as under:

### **SEBI (Prohibition of Insider Trading) Regulations, 1992**

#### ***Disclosure of interest or holding in listed companies by certain persons - Initial Disclosure***

**13.** (1) 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.

...

(5) The disclosure mentioned in sub-regulations (3), (4) and (4A) 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.*

**SEBI (Substantial Acquisition of Shares and Takeovers) Regulations, 2011**

***Disclosure of acquisition and disposal.***

*29.(1) 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.*

*(2)...*

*(3) The disclosures required under sub-regulation (1) and sub-regulation (2) shall be made within two working days of the receipt of intimation of allotment of shares, or the acquisition of shares or voting rights in the target company to,—*

*(a) every stock exchange where the shares of the target company are listed; and*

*(b) the target company at its registered office.*

12. Now, the first issue for consideration is whether the Noticee failed to make the relevant disclosures under Regulation 29 (1) read with 29 (3) of the SAST Regulations, 2011 and Regulation 13(1) read with 13(5) of PIT Regulations for the acquisition of 4,11,111 shares of the company in the December 2011 quarter. Since by the said acquisition, the Noticee held more than 5% shares in the company, the Noticee was required to make the relevant disclosure under Regulation 29 (1) read with 29 (3) of the SAST Regulations, 2011 to the company and the Stock Exchanges where the shares of the company were listed, within two working days of the receipt of intimation of allotment of shares or the acquisition of shares or voting rights, as the case may be. Similarly, the Noticee was required to disclose to the company, the number of shares held by the Noticee within two working days of the receipt of intimation of allotment of shares or the acquisition of shares or voting rights, as the case may be, under Regulation 13(1) of the PIT Regulations. I note that Regulation 13(5) of the PIT Regulations does not apply to the alleged non-compliance on the part of the Noticee. The Noticee has admitted that the non-disclosure was out of ignorance about the securities laws and not intentionally done. Thus, it is established without doubt that the Noticee has violated the provisions of Regulation 29 (1) read

with 29 (3) of the SAST Regulations, 2011 and under Regulation 13 (1) of the PIT Regulations.

13. The Noticee has argued that since she did not have any interest in taking over the company, the provisions of the SAST Regulations, 2011 ought not to apply to her. Likewise, as she is not covered under the definition of 'insider', the PIT Regulations, too, should not apply to her. I do not find any merit in these arguments. Regulation 13(1) of the PIT Regulations clearly refers to 'any person' and not only to an 'insider'. Similarly, Regulation 29 (1) of the SAST Regulations states that any acquirer who acquires more than 5% should make the necessary disclosures. There is no exemption given to acquirers who do not intend to take over the company. I note that the object of the PIT and SAST Regulations mandating timely and adequate disclosure of acquisitions beyond certain quantity is to give equal treatment and opportunity to all shareholders to protect their interests.

14. Thus, in view of the foregoing, I conclude that the Noticee has violated the provisions of Regulation 29 (1) read with 29 (3) of the SAST Regulations, 2011 and Regulation 13 (1) of the PIT Regulations. The next issue for consideration is as to whether the failure on the part of the Noticee attracts monetary penalty under section 15A(b) of SEBI Act, and, if so, what would be the monetary penalty that can be imposed on the Notices. The Hon'ble Supreme Court of India in the matter of *SEBI Vs. Shri Ram Mutual Fund* [2006] 68 SCL 216(SC) has 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..."*

15. Further in the matter of *Ranjan Varghese v. SEBI* (Appeal No. 177 of 2009 and Order dated April 08, 2010), the Hon'ble SAT had observed

*"Once it is established that the mandatory provisions of takeover code was violated the penalty must follow."*

16. In view of the foregoing, I am convinced that it is a fit case to impose monetary penalty on the Noticee under section 15A(b) of the SEBI Act, which reads as under:

**15A(b). Penalty for failure to furnish information, return, etc.-**

*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 of one lakh rupees for each day during which such failure continues or one crore rupees, whichever is less.*

17. 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 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.”*

18. In view of the charges as established, the facts and circumstances of the case and the various judgments referred to and mentioned hereinabove, the quantum of penalty would depend on the factors referred in Section 15-J of SEBI Act and stated as above. It is noted that no quantifiable figures are available to assess the disproportionate gain or unfair advantage made as a result of such default by the Noticee. Further from the material available on record, it may not be possible to ascertain the exact monetary loss to the investors on account of default by these Noticee. However, the disclosures under Regulation 13 of the PIT Regulations aims to make insider trading



transparent by facilitating exposure of any illegal trade, and, thereby, serving as a deterrent. Further, the main objective of the SAST Regulations, 2011 is to afford fair treatment for shareholders who may be affected by a change in control. The Regulation seeks to achieve fair treatment by *inter alia* mandating disclosure of timely and adequate information to enable shareholders to make an informed decision and ensuring that there is a fair and informed market in the shares of companies affected by such change in control. Correct and timely disclosures are also an essential part of the proper functioning of the securities market and failure to do so results in preventing investors from taking well-informed decision. Thus, the cornerstone of both SAST Regulations and PIT Regulations is investor protection. Besides, I note that the Hon'ble Securities Appellate Tribunal (SAT) in the matter of Komal Nahata Vs. SEBI (Date of judgment- January 27, 2014) has observed that:

*“Argument that no investor has suffered on account of non disclosure and that the AO has not considered the mitigating factors set out under Section 15J of SEBI Act, 1992 is without any merit because firstly penalty for non compliance of SAST Regulations, 1997 and PIT Regulations, 1992 is not dependent upon the investors actually suffering on account of such non disclosure.”*

In view of the same, the argument put forth by the Noticee that no loss or damage was caused to the investors due to the alleged non-disclosure is not relevant for the given case.

19. Further, I am also inclined to consider the following mitigating factors while adjudging the quantum of penalty: a) the paid-up capital/ market capitalization of the company at the relevant point of time; b) the trading volumes of the company's shares on the exchanges, where the shares were listed, during the relevant period; and c) the number of occasions in the instant proceeding that the Noticee have violated the relevant provisions of the SAST Regulations/ PIT Regulations, as applicable.

20. I find that the scrip was listed on Calcutta Stock Exchange Limited (CSE) in the physical segment category and has not traded in C-STAR (CSE Online Screen-based Trading

and Reporting System) since 1997. The scrip was listed on BSE with effect from July 30, 2010. The market capitalization of the company during the relevant period was about Rs. 54 crore. The paid up capital of the company was 72,58,110 shares of Rs. 10/- each aggregating Rs. 7,25,81,100/- and during the relevant period of non-disclosure about 32% of the paid-up capital of the company was held by the Promoters and about 68% was held by Public Shareholders. As per the BSE website, there were about 700 odd shareholders in the public shareholding category during the relevant period. Further, I note that during the relevant period of non-disclosure by the Noticee in October 2011 under the applicable provisions of PIT Regulations/ SAST Regulations, 1997/ 2011, the average daily trading volumes on BSE were approx. 27,000 shares. The Noticee was required to make relevant disclosures under the requisite provisions of SAST Regulations, 2011 on one (1) occasion and under PIT Regulations on one (1) occasion. However, I find that the Noticee failed to make the relevant disclosure under PIT Regulations and SAST Regulations, 2011 on each such occasion.

21. The Noticee has *inter alia* claimed that the violation committed by her was technical in nature. However, any transaction which requires compliance of the PIT Regulations/ SAST Regulations, if not complied, is always a serious matter, and cannot be considered a mere "technical" violation, even if the transaction is otherwise in compliance, since the shareholders/ investors were deprived of the information. And, I note that under Section 15A(b) of the SEBI Act, for violation of the aforesaid Regulations, the prescribed penalty is one lakh rupees for each day during which such failure continues or one crore rupees, whichever is less.

## **ORDER**

22. After taking into consideration all the facts and circumstances of the case, I impose the following penalties under Section 15A (b) of the SEBI Act, which will be commensurate with the violations committed by the Noticee:

Name of the Noticee	Regulation Violated	Penalty (Rs.)
<b>Ms. Rajul Premal Doshi</b>	Regulation 29 (1) read with 29 (3) of the SAST Regulations, 2011	<b>2,00,000</b>
	Regulation 13(1) of the PIT Regulations	<b>2,00,000</b>

23. The Noticee named in the para above shall pay the respective amounts of penalty by way of demand draft in favour of “SEBI - Penalties Remittable to Government of India”, payable at Mumbai, within 45 days of receipt of this order. The said demand draft should be forwarded to Shri. K Saravanan, Deputy General Manager, Integrated Surveillance Department, SEBI Bhavan, Plot No. C – 4 A, “G” Block, Bandra Kurla Complex, Bandra (E), Mumbai – 400 051.

24. In terms of rule 6 of the Rules, copies of this order are sent to the Noticee and also to the Securities and Exchange Board of India.

Date: **July 25, 2014**

Place: **Mumbai**

**Anita Kenkare**  
**Adjudicating Officer**