

BEFORE THE ADJUDICATING OFFICER
SECURITIES AND EXCHANGE BOARD OF INDIA

[ADJUDICATION ORDER Ref No.: Order/AP/AS/2020-21/7504]

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) RULES, 1995.

In respect of:

Informed Technologies India Limited
(PAN: AAACK1710C)

Nirmal, 20th Floor, Nariman Point,
Mumbai - 400021.

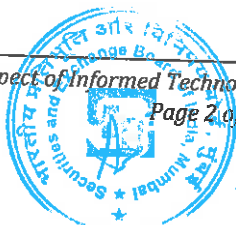
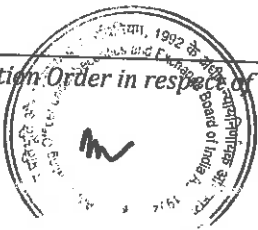
In the matter of Nagpur Power & Industries Limited

1. Nagpur Power & Industries Limited (hereinafter referred to as 'NPIL' or 'Company') is a listed company having its shares listed on Bombay Stock Exchange Limited (BSE). BSE and National Stock Exchange Limited (NSE) conducted a joint examination regarding the trading activities of certain investors (hereinafter referred to as 'Group') in certain scrips during December 15, 2011 to October 09, 2014 (hereinafter referred to as 'investigation period'), on the basis of alerts generated by their surveillance system and complaint received from Securities and Exchange Board of India ('SEBI') alleging circular trading in the scrip of Ponni Sugars (Erode) Limited by the said Group. Thereafter, BSE and NSE forwarded a joint examination report to SEBI, wherein it was observed that there were 17 scrips at BSE and NSE where Group executed/ reversed trades through bulk deals and NPIL was one of the scrip out of the 17 scrips.
2. Based on joint examination by BSE and NSE, SEBI conducted an investigation in the matter under this notice. On completion of the investigation in the said matter, SEBI had observed that one of the promoter entity (Source: <https://www.bseindia.com/stock-share-price/shp/scripcode/532362/flag/7/>) viz. Informed Technologies India Limited (hereinafter referred as 'Noticee') had bought following number of shares of the Company during different patches (Patch I – V) of the investigation period:



Transaction Date	Buy/ Sale	Value of shares (₹)	No. of Shares	Disclosure under Regulation 13(4A) of SEBI (PIT) 1992	
				Date of receipts of disclosures by the Company	Date of receipts of disclosures by the stock Exchange
Informed Technologies India Limited: a Promoter company					
19/12/2011 - 03/07/2012	Buy	549520	15492	No Disclosure	No Disclosure
04/07/2012 - 07/07/2012	Buy	538356	15301		
10/07/2012 - 23/08/2012	Buy	637588	18198		
04/09/2012 - 05/03/2013	Buy	515490	13442		
07/03/2013 - 21/07/2013	Buy	600735	14387		

3. From the above table, it was observed that, the value of the aforesaid buy transactions of the shares of the Company by the Noticee during each patch of the investigation was more than ₹5,00,000/- and thus, in terms of Regulation 13(4A) read with 13(5) of the SEBI (Prohibition of Insider Trading) Regulations, 1992 (hereinafter referred to as 'PIT Regulations'), it was under the obligation to disclose its aforesaid acquisition to the Company and BSE within two days of such acquisition.
4. It was further observed that the Noticee had not filed the disclosures the Company and BSE with respect to aforesaid acquisitions of shares of the Company by it during the different dates as per the table above. Explanation in this regard was sought from the Company by SEBI vide letter dated June 23, 2015. The Company vide its letter dated July 07, 2015, submitted that the Noticee had bought 86,088 shares in open market (BSE), however, these transactions made by the Noticee did not trigger disclosure requirements under the PIT Regulations and hence, no disclosure was made by the Company in this regard.
5. The aforesaid reply of the Company was not found tenable, as the value of the shares of the Company in said transactions of the Noticee on each acquisition exceeded the limit of ₹5 lakh prescribed under section 13(4A) of the PIT Regulations and the Noticee was under the obligation to make disclosure to the Company and BSE for each of the aforesaid acquisitions.
6. The competent authority in SEBI *prima facie* felt satisfied that there are sufficient grounds to adjudicate upon the alleged violations of the provisions of Regulation 13(4A) of the PIT Regulations by the Noticee. Accordingly, Shri Santosh Shukla, Chief General Manager had been appointed as Adjudicating Officer ('erstwhile AO') in the matter and had been advised to inquire and adjudge under Rule 5 of the SEBI (Procedure for Holding Inquiry and imposing penalties) Rules, 1995 (hereinafter referred as



'Adjudication Rules') and under section 15A(b) of the SEBI Act, of the alleged violation of the aforesaid provision by the Noticee. Subsequently, by a common *communication-order* dated January 07, 2020, this case was transferred to the undersigned with the advice that except for the change of the Adjudicating Officer, the other terms and conditions of the original orders '*shall remain unchanged and shall be in full force and effect*' and that the "*Adjudicating Officer shall proceed in accordance with the terms of reference made in the original orders*".

7. Accordingly, in terms of Rule 4(1) of the Adjudication Rules read with section 15I of the SEBI Act, the notice to show cause no. EAD-2/AP/AKS/2746/2020 dated January 21, 2020 (hereinafter referred as 'SCN') was issued to the Noticee, calling upon it to show cause as to why an inquiry should not be held against it in terms of Rule 4 of the Adjudication Rules and penalty be not imposed under Section 15A(b) of the SEBI Act for the aforesaid alleged violations of the provisions of Regulations 13(4A) read with 13(5) of the PIT Regulations. The relevant provisions of the PIT Regulations, 1992 charged in this case are reproduced hereinafter:

PIT Regulations, 1992

13. Disclosure of interest or holding in listed companies by certain persons - Initial Disclosure.

(4A) Any person who is a promoter or part of promoter group of a listed company, shall disclose to the company and the stock exchange where the securities are listed in Form D, the total number of shares or voting rights held and change in shareholding or voting rights, if there has been a change in such holdings of such person from the last disclosure made under Listing Agreement or under sub-regulation (2A) or under this sub-regulation, and the change exceeds Rs. 5 lakh in value or 25,000 shares or 1% of total shareholding or voting rights, whichever is lower.

(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.

8. The SCN was duly served upon the Noticee. Vide letter dated February 06, 2020, the Noticee requested for ten working days' extension to file its reply to the SCN as it has to check its past records to file suitable reply to the SCN. Considering the request of the Noticee and in the interest of principles of natural justice, the Noticee was granted an opportunity of personal hearing in terms of Rule 4(3) of the Adjudication Rules on February 28, 2020 and was also allowed to file its reply to the SCN by February 26, 2020 in the matter.

9. Thereafter, vide letter dated February 25, 2020 the Noticee filed its reply to the SCN and made submissions *inter alia* as follows:

- a. The Noticee bought shares of the Company from time to time. None of the individual transactions undertaken for buying the equity shares of the Company on a particular date falling during the investigation period provided in the SCN were above 25,000 shares.
- b. The Noticee interpreted that the disclosure requirement was applicable only in case of transactions hitting each of the specified thresholds for every transaction made.
- c. The number of shares held by the Noticee was being reported correctly by the Company in its shareholding pattern. Therefore, the Noticee regarded the shares disclosed by the Company as the base for last disclosure made.
- d. The Noticee did not deliberately abstain from furnishing disclosure. In view of the foregoing submissions, it humbly prayed to discharge the SCN without imposing any penalty on it.

10. On schedule date of hearing, the authorized representatives of the Noticee *viz.* Ms. Vinita Nair, Practicing Company Secretary and Ms. Nidhi Sultanpuria appeared before undersigned for hearing and made submissions on behalf of the Noticee on the lines of Noticee's reply dated February 25, 2020. The Noticee also requested for a weeks' time to provide information related to last disclosure made by the Noticee. Accordingly, the Noticee was allowed a weeks' time for the same.

11. Vide letter dated March 11, 2020, the Noticee made additional submissions *inter alia* as follows:

- a. The disclosure about the purchase of 26,242 equity shares of the Company by the Noticee was intimated by the Company to BSE vide letter dated January 13, 2011. Thereafter, BSE disseminated the said information on its website on January 17, 2011.
- b. Further, on April 12, 2011, the Company disclosed about the purchase of its shares by the Noticee i.e. 9853 (0.06%) through open market in the notes to the shareholding pattern for quarter ended March 31, 2011.
- c. The aforesaid disclosures were made by the Company and these were general disclosures and were not made under the PIT Regulations.
- d. It is to be noted that the Regulation 13(4A) of PIT Regulations was inserted on August 16, 2011 through an amendment.

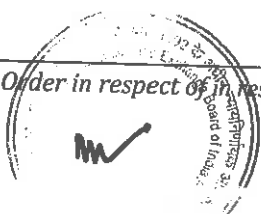


- e. The Noticee bought shares of the Company from time to time thereafter, however, none of the individual transactions undertaken for buying the equity shares of the Company on a particular day during the investigation period by it were above 25,000 shares.
- f. The number of shares held by the Noticee has been always reported correctly by the Company in its shareholding pattern on quarterly basis. Therefore, the Noticee regarded the shares disclosed by the Company as the base for last disclosure made.

12. I have considered the allegation levelled in the terms of reference, the relevant material brought on record, reply/ submissions of the Noticee and documents produced by the Noticee before undersigned. In this case, the fact about the Noticee being a promoter of the Company is an admitted position. It is also an admitted fact that the Noticee had bought shares of the Company during investigation period which resulted in change in its shareholding in the Company. The limited question for determination is as to whether the Noticee had failed to make disclosures to the Company and BSE as required under Regulation 13(4A) read with Regulation 13(5) of the PIT Regulations. In this regard, I note that Regulation 13(4A) of the PIT Regulations had been inserted *via* an amendment and came into effect from August 16, 2011. Therefore, if any delay in making disclosure to the Company or BSE by the Noticee about change in its shareholding in the Company to be accounted for in terms of Regulation 13(4A) of the PIT Regulations, same need to be accounted from August 16, 2011 onwards.

13. It is noted from the record that, first time the requirement for making disclosure to the Company and BSE triggered on July 03, 2012 and the disclosure was to be made within 2 working days i.e. by July 05, 2012. Further, there were 4 more instances during the investigation period, wherein, the Noticee failed to make disclosure to the Company and BSE under provision of Regulation 13(4A) of the PIT Regulations. In this regard, the Noticee has sought relief on the basis of interpretation of the provision of Regulation 13(4A) of the PIT Regulations, wherein, it interpreted that the disclosure requirement was applicable only in case of transactions hitting each of the specified thresholds for every transaction made and in none of the transaction it bought 25,000 shares of the Company. With regard to provision of Regulation 13(4A) of the PIT Regulations, I note that, as per the language of Regulation 13(4A) and (5), the promoter is liable to make disclosures to the company and the exchange in Form D within two working days' of the acquisition of shares, if the change exceeds ₹ 5 lakh in value or 25,000 shares or 1% of total shareholding or voting rights, whichever is lower.

14. I note that from the language of provision of Regulation 13(4A) of the PIT Regulations, it is crystal clear that, if an entity is a promoter or part of promoter group of a listed company and if it has undertaken



any transaction or transactions which resulted in change in excess of ₹5 lakh in value or 25,000 shares or 1% of total shareholding or voting rights, from last disclosure, it has to make disclosure to the Company and to BSE in Form 'D'. I also note that there is no ambiguity in terms of interpretation of the provision of Regulation 13(4A) and thus, I reject such contention of the Noticee.

15. The Noticee has submitted that the Company as a general disclosure had disclosed the shareholding of the Noticee to BSE in quarterly disclosures made during the investigation period and therefore, it considered the shareholding disclosed by the Company as the base for last disclosure made. In this regard I note that the provision of Regulation 13(4A) requires a promoter to make disclosure to the Company and to BSE in Form 'D'. Therefore, I am of view that general disclosures made by the Company to BSE can be a mitigating factor while deciding the amount of penalty, but same cannot absolve the Noticee from making disclosure as prescribed under the Regulation 13(4A) of the PIT Regulations. Thus, I reject this contention of the Noticee. Moreover, if the general disclosures are applied to disclosures under Regulation 13(4A) of the PIT Regulations, even then they are delayed.
16. I note that the disclosures mandated Regulation 13(4A) of the PIT Regulations are significant in nature as they apply to the Promoter category of shareholders and were inserted vide amendment to the PIT Regulations on August 16, 2011. Hence the disclosures requirement under Regulation 13(4A) has to be seen from different perspective than the general disclosures made by the Noticee. As noted in para 2 above, I also observed that the Noticee has not made any disclosures under Regulation 13(4A) of the PIT Regulations.
17. In view of the aforesaid facts and circumstances, it is concluded that the Noticee being a promoter of the Company has repeatedly failed in making disclosure to the Company and BSE in terms of provisions under the Regulation 13(4A) read with Regulation 13(5) of the PIT Regulations. It is observed that the default by the Noticee is repetitive in nature. In view of the above, I find that the allegation of violation of Regulation 13(4A) of the PIT Regulations by the Noticee stands established. Thus, I hold that the Noticee liable for penalty under Section 15A(b) of the SEBI Act which reads as under: -

"Penalty for failure to furnish information, return, etc.

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 a penalty of one lakh rupees for each day during which such failure continues or one crore rupees, whichever is less;"

18. While determining the quantum of penalty, it is important to consider the factors stipulated in Section 15J of the SEBI Act which reads as follows: -

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.”*

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;*

19. Having regard to the factors listed in section 15J, it is noted that it is not possible to determine the consequent loss caused to investors as a result of the default as found in this case. However, in the facts and circumstances of this case, I deem it worth relying the observations of Hon'ble SAT, vide its order dated June 09, 2014 in the matter of *Asbok Jain v/s SEBI (Appeal No. 79 of 2014)* wherein it was held that - “...disclosures have to be made irrespective of whether investors have suffered any loss or not on account of non-disclosure within the time stipulated under those regulations”. Further, in the present case, the default has occurred five times. Thus, the default is repetitive in nature.

20. The non-disclosures as found in this case have created information asymmetry, at relevant time and defeated the purpose of the provisions. In my view timely disclosures of the details of the shareholding of the promoter of the Company acquiring substantial stake in the Company is of significant importance from the point of view of the investors, as such information received by them in a time bound manner would facilitate them in taking an informed investment decision and the requirements also enable the regulators to monitor such acquisitions.

21. After taking into consideration all the facts and circumstances of the case and the mitigating factors, including the aforesaid 15J factors and exercising the powers conferred upon me under section 15I of the SEBI Act read with Rule 5 of the Adjudication Rules, I hereby impose, a monetary penalty of ₹5,00,000/- (Five Lakhs only) upon Informed Technologies India Limited under section 15A(b) of the SEBI Act. In my view, the said penalty is commensurate with the violation committed by the Noticee in this case.

22. The Noticee shall remit / pay the said amount of penalty within 45 days of receipt of this order in either of the way of demand draft in favour of “SEBI - Penalties Remittable to Government of India”, payable at

Adjudication Order
Limited.



Mumbai, or by following the path at SEBI website www.sebi.gov.in, ENFORCEMENT > Orders > Orders of AO > PAY NOW; OR by using the web link <https://siportal.sebi.gov.in/intermediary/AOPaymentGateway.html>. In case of any difficulties in payment of penalties, the Noticees may contact the support at portalhelp@sebi.gov.in

23. The Demand Draft or details and confirmation of e-payment made in the format as given in table below shall be sent to "The Division Chief, FFD-DRA-IV, Securities and Exchange Board of India, SEBI Bhavan, Plot No. C-4 A, "G" Block, Bandra Kurla Complex, Bandra (E), Mumbai - 400 051." and also to e-mail id: tad@sebi.gov.in:

1	Case Name	
2	Name of the 'Payer/Noticee'	
3	Date of Payment	
4	Amount Paid	
5	Transaction No.	
6	Bank Details in which payment is made	
7	Payment is made for (like penalties/disgorgement / recovery / settlement amount and legal charges along with order details)	

24. In the event of failure to pay the said amount of penalty within 45 days of the receipt of this Order, recovery proceedings may be initiated under section 28A of the SEBI Act, 1992 for realization of the said amount of penalty along with interest thereon, *inter alia*, by attachment and sale of movable and immovable properties.

25. In terms of Rule 6 of the Adjudication Rules, copies of this order are sent to the Noticee and also to SEBI.

Date: April 21, 2020

Place: Mumbai




Amit Pradhan

Adjudicating Officer

DATE OF CERTIFICATION: _____
TOTAL NUMBER OF PAGES CERTIFIED: _____

CERTIFIED TO BE TRUE COPY

Anur Kumar Shukla, Manager



DATE OF CERTIFICATION: 21/04/2020

TOTAL NUMBER OF PAGES CERTIFIED: _____

CERTIFIED TO BE TRUE COPY

