(2022) 04 SEBI CK 0008

In the Securities Appellate Tribunal Mumbai

Case No : Appeal No. 95 Of 2020

Man Industries (India) Ltd — APPELLANT

Vs

Securities And Exchange Board Of India — RESPONDENT

Date of Decision : 08-04-2022

Acts Referred:

Securities And Exchange Board Of India (Prohibition Of Insider Trading) Regulations, 2015 — Regulation 7(2)(a), 7(2)(b)
Securities And Exchange Board Of India Act, 1992 — Section 15A(b)

Citation : (2022) 04 SEBI CK 0008

Hon'ble Judges : Tarun Agarwala, Presiding Officer;M. T. Joshi, J;Meera Swarup, Member

Bench : Full Bench

Advocate : Vikas Bengani, Anubha Rastogi, Nishit Dhruva, Yash Garach

Final Decision : Dismissed

Judgement

Tarun Agarwala, Presiding Officer

1. The present appeal has been filed against the order dated October 30, 2019 passed by the Adjudicating Officer ("AO" for convenience) of the Securities and Exchange Board of India ("SEBI" for convenience) imposing a penalty of Rs. 5 lakhs under Section 15A(b) of the SEBI Act, 1992 for violation of Regulation 7(2)(b) of SEBI (Prohibition of Insider Trading) Regulations, 2015 ("PIT Regulations, 2015" for convenience).

2. The AO after considering the material evidence on record found that Jagdishchandra Jhamaklal Mansukhani who was a promoter sold 5,99,666 shares of the scrip of the Company on BSE Limited ("BSE") and National Stock Exchange of India Limited ("NSE") which was worth Rs. 6.2 crores during the period May 24, 2017 to January 15, 2018. The AO also found that on 17 days when the trades were executed the appellant had violated the provision of 7(2)(b) of the PIT Regulations as the sale of the securities was above Rs. 10 lakhs and, therefore, required disclosure by the Company under Regulation 7(2)(a) of the

PIT Regulations. Since, the Company failed to disclose, a penalty of Rs. 5 lakhs was imposed.

3. We have heard Shri Vikas Bengani, the learned counsel for the appellant and Ms. Anubha Rastogi, the learned counsel for the respondent.

4. The ground urged is, that there was serious dispute and differences between the two promoter groups, namely, between Jagdishchandra Jhamaklal Mansukhani ("JCM") and Ramesh Chandra Jhamaklal Mansukhani ("RCM") and the shares sold by JCM were not disclosed to the Company. It was contended that the Company was not aware of the sale made by JCM of the scrips of the Company and, therefore, in the absence of any knowledge, the Company/ the appellant being unaware could not make the disclosure.

5. In order to deal with the aforesaid issue, it would be appropriate to refer to Regulation 7(2)(a) & (b) of the PIT Regulations which are extracted hereunder:-

"7(2) Continual Disclosures.

(a). Every promoter, employee and director of every company shall disclose to the company the number of such securities acquired or disposed of within two trading days of such transaction if the value of the securities traded, whether in one transaction or a series of transactions over any calendar quarter, aggregates to a traded value in excess of ten lakh rupees or such other value as may be specified;

(b). Every company shall notify the particulars of such trading to the stock exchange on which the securities are listed within two trading days of receipt of the disclosure or from becoming aware of such information.

Explanation. - It is clarified for the avoidance of doubts that the disclosure of the incremental transactions after any disclosure under this sub-regulation, shall be made when the transactions effected after the prior disclosure cross the threshold specified in clause (a) of sub-regulation (2)."

6. This Tribunal in Avenue Supermarts Limited vs. SEBI (Appeal No. 298 of 2020 decided on 17.01.2022) analysed Regulation 7(2)(a) & (b) of the PIT Regulations and held as under:-

"10. Under 7(2)(a) every promoter, employee and director is required to disclose such securities acquired or disposed of within two trading days of such transaction to the Company if the value exceeds 10 lakhs. Under Regulation 7(2)(b) every Company shall notify the particulars of such trading to the stock exchange within two trading days of receipt of the disclosure or becoming aware of such information. In our opinion, the burden lies upon the Company to notify the particulars of such transaction to the stock exchange within two trading days from the receipt of the disclosure from the promoter, employee and director under Regulation 7(2)(a) or becoming aware of such information. The words "becoming aware of such information" does not mean the information given by the promoter, employee or director under Regulation 7(2)(a) but takes into its fold such information received from any other source. The intention of the provision is, that the moment the Company becomes aware of such transaction it triggers the disclosure requirement under Regulation 7(2)(b) of the PIT Regulations. Thus, it is not necessary that the information is required to be given to the Company in Form C from the promoter, employee or director under Regulation 7(2)(a) of the PIT Regulation. In our opinion, the information can come from any other source and not necessary in the prescribed Form C."

7. This Tribunal held that it is not necessary that the information is required to be given to the Company in Form C from the promoter and that such information can come from any other source and it is not necessary that the information has to come only under prescribed Form C.

8. In the instant case, we find that the appellant had received the information about the sale made by JCM of the scrips of the Company in the year 2016 itself and, in this regard, had issued a letter dated 16.11.2016 to JCM requiring him to disclose the details. Thus, we are satisfied that the appellant was aware of the sale of the scrips of the Company by JCM and was, therefore, required to disclose to the stock exchange under Regulation 7(2)(b) of the PIT Regulations within two trading days of the receipt of the information. Since the same was not done, the penalty was rightly imposed for violation of Regulation 7(2)(b) of the PIT Regulations.

9. For the reasons stated aforesaid, the appeal lacks merit and is dismissed with not order as to costs.

10. This order will be digitally signed by the Private Secretary on behalf of the bench and all concerned parties are directed to act on the digitally signed copy of this order. Certified copy of this order is also available from the Registry on payment of usual charges.