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CIN: L15490AP2012PLC080067

Date: 22nd April, 2023

To
The General Manager,
Department of Corporate Services,
Bombay Stock Exchange Limited,
PhirozeJeejeebhoy Towers,
Dalal Street,
Mumbai- 400001.
Scrip Code: 540692

To
The General Manager,
Listing Department,
National Stock Exchange of India Limited
Exchange Plaza, Plot No C/1, G Block,
BandraKurla Complex,
Bankdra (East), Mumbai - 400 051.
Scrip Symbol: APEX

Dear Sir/Madam,

Sub: Intimation/ Disclosure pursuant to Regulation 30 of the SEBI (Listing Obligation and Disclosure Requirements) Regulations, 2015 - Reg.

Pursuant to Regulation 30 of SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015, we wish to inform you that SEBI vide its Adjudication Order No. QJA/VIS/IVD/ID6//25067/2022-23 received on 14.04.2023 has imposed penalties and barred from markets for Two years Viz. Satyanarayana Murthy Karuturi, Padmavathi Karuturi and Mr. Ravi Kanth Sankuratri for violation of SEBI (PIT) Regulations, 2015 in connection with trading of shares of the company during period from September 2017 to December 2017. Copy of aforesaid SEBI Order is attached.

Satyanarayana Murthy Karuturi, Padmavathi Karuturi and Ravi Kanth Sankuratri are in the process of initiating an appeal to SAT against above mentioned order.

Please Note that no penalty has been levied on the company.

Kindly take the above information on record.

Thanking You,
For **Apex Frozen Foods Limited**

KARUTURI
SUBRAHMANYA
A CHOWDARY
Digitally signed by
KARUTURI
SUBRAHMANYA
CHOWDARY
Date: 2023.04.22
16:37:27 +05'30'

Karuturi Subrahmanya Chowdary
Managing Director
DIN: 03619259

Encl:A/a

**BEFORE SECURITIES AND EXCHANGE BOARD OF INDIA
EXECUTIVE DIRECTOR, SHRI V. S. SUNDARESAN**

**FINAL ORDER UNDER SECTIONS 11(1), 11(4), 11B (1), 11B(2) AND 11(4A) OF
THE SECURITIES AND EXCHANGE BOARD OF INDIA ACT, 1992 IN THE
MATTER OF INSIDER TRADING BY CERTAIN ENTITIES IN THE SCRIP OF
APEX FROZEN FOODS LTD. IN RESPECT OF:**

Table 1

Noticee No.	Name	PAN
1	Mr. Satyanarayana Murthy Karuturi	ACRPK5406D
2	Mrs. Padmavathi Karuturi	ACRPK5407C
3	Mr. Ravi Kanth Sankuratri	AYZPS7331R

Table 2

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1. Background of the Case:

1.1. Apex Frozen Foods Ltd (hereinafter referred to as “**AFF**” or “**Company**”) disclosed its financial results for the quarter ended September 30, 2017 on November 14, 2017 on BSE at 16:36 hrs. and on NSE at 16:45 hrs. respectively. It was observed from the said financial results that AFF made a profit of ₹ 2,204.32 lakh in the quarter ended September 2017 as against the profit of ₹1,664 lakh in the previous quarter.

1.2. A significant impact was observed on the price of scrip of the AFF post the said announcement. The price of the scrip moved from a closing price of ₹461.95 on November 14, 2017 to ₹485 on November 15, 2017. Thereafter, on November 16, 2017, it went up further to ₹ 509.25 and then to ₹534.70 on November 17, 2017. The price of the scrip hit the price band of 5% every day until November 22, 2017. Subsequently, in the month of November and December 2017, it kept on increasing and moved to a closing price of ₹ 841.65 on December 29, 2017 i.e. it registered a rise of 73.54% in 32 trading days after touching a high price of ₹939 on December 7, 2017.

1.3. In view of the above, Securities and Exchange Board of India (hereinafter referred to as “**SEBI**”) had conducted an investigation in the scrip of AFF to ascertain whether certain suspected entities had traded in the aforesaid scrip during the period from September 4, 2017 to February 28, 2018 (hereinafter referred to as the “**Investigation Period**”) on the basis of unpublished price sensitive information (hereinafter referred to as “**UPSI**”), in contravention of the provisions of Securities and Exchange Board of India Act, 1992 (hereinafter referred to as “**SEBI Act**”) read with Securities and Exchange Board of India (Prohibition of Insider Trading) Regulations, 2015 (hereinafter referred to as “**PIT Regulations**”).

1.4. The Company is an integrated producer and exporter of shelf stable quality aquaculture products. It supplies ready-to-cook products to a diversified customer base consisting of food companies, retail chains, restaurants, club



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frozen stores and distributors spread across the developed markets of USA, UK and various European Countries.

1.5. The Company has its Registered Office at 3-160, Panasapadu, Kakinda, East Godavari District, Andhra Pradesh – 533005. The Company was listed on September 4, 2017 on the BSE Limited (hereinafter referred to as 'BSE') and National Stock Exchange of India Limited (hereinafter referred to as 'NSE') respectively.

2. Details of relationship among the Noticees as found during the investigation period:

Table 3

Noticee No.	Name of the Noticees	Position held by the Noticee in AFF	Relationship amongst Noticees
1	Mr. Satyanarayana Murthy Karuturi	Promoter, Chairman and Managing Director	Husband of Noticee no. 2 and Father in law of Noticee no. 3
2	Mrs. Padmavathi Karuturi	Promoter	Wife of Noticee no. 1 and Mother in law of Noticee no. 3
3	Mr. Ravi Kanth Sankuratri	-	Son in law of Noticee no.1 and Noticee no. 2

3. Details of Show Cause Notices and summary of allegations made therein:

3.1. Pursuant to the investigation, a common show cause notice dated October 20, 2022 ("SCN") was issued to Mr. Satyanarayana Murthy Karuturi (Noticee No.1), Mrs. Padmavathi Karuturi ("Noticee No.2) and Mr. Ravi Kanth Sankuratri ("Noticee No.3) ("Collectively referred to as "Noticees") for the alleged violations stated therein. The summary of allegations made in the SCN is as under:

3.2. During the investigation period, Noticee No.1 was the Promoter and Chairman and Managing Director ("CMD") of the Company. Noticee. No. 2, was wife of



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Noticee No. 1 who was also the Promoter of the Company and their son Mr. Subrahmanya Chowdary Karuturi was the Whole Time Director of the Company. Noticee No.3, was son-in-law of Noticee Nos. 1 and 2.

3.3.AFF disclosed its financial results for the quarter ended September 30, 2017 on November 14, 2017 on BSE at 16:36 hrs. and on NSE at 16:45 hrs. respectively. It was observed from the said financial results that AFF made a profit of ₹ 2,204.32 lakh in the quarter ended September 2017 as against the profit of ₹1,664 lakh in the previous quarter.

3.4.In terms of regulation 2(1)(n)(i) of PIT Regulations, "financial results" of a company are covered within the definition of "unpublished price sensitive information".

3.5.AFF submitted the following chronology of events regarding preparation and approval of the aforesaid financial results:

Table 4: Chronology of events

Sr. No.	Event	Date
1	Management had informally taken concurrence of Directors to convene the Board Meeting on November 14, 2017 for considering the Unaudited financial results for the half year ended September 30, 2017	3.11.2017 and 4.11.2017
2	Company informed BSE regarding date of Board Meeting, which was to be held on November 14, 2017	5.11.2017
3	Published notice about date of board meeting in newspapers namely, Andhra Bhoomi and Deccan Chronicle respectively	5.11.2017 and 6.11.2017
4	Company sent notice of Board meeting to all the Directors	6.11.2017
5	Company informed NSE regarding date of Board Meeting, which was to be held on November 14, 2017	6.11.2017



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6	Audit committee meeting and Board Meeting held and approved unaudited financial results for the second quarter and half year ended on September 30, 2017	14.11.2017
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3.6. As per the information received from the Company vide letter/email dated September 17, 2020, the following persons were involved in the preparation and discussion of the financial information of the Company and who were privy to the UPSI for the quarter ended September 30, 2017: -

Table 5 – Persons who were privy to the UPSI

Sl. No.	Full Name	Designation
1	Ch Vijaya Kumar	CFO
2	P. Durga Prasad	Manager accounts
3	Boda Anand Kumar	Partner of Statutory Audit firm
4	R V S N Sastri	Senior Staff of Statutory Audit firm
5	Karuturi Subrahmanya Choudary	Whole-time Director
6	Karuturi Satyanarayana Murthy	Chairman & Managing Director
7	Smt. Karuturi Neelima Devi	Whole -time Director
8	M.Lakshmipathi Raju	Independent Director
9	D. Venkata Subba Raju	Independent Director
10	S.Sarojini	Company Secretary

3.7. During the investigation, the Company was advised to provide details of the various Management Information System (MIS) Reports or any other reports with regard to financial performance of the Company that were generated/ prepared during the quarter July 1 – September 30, 2017. The Company was further advised to provide the details of the Directors/ KMPs with whom such Reports were shared along with the dates. In response thereto, the company submitted that several reports were generated during the quarter namely, *Sales during the period, Purchases during the period, Inventory valuation, Outstanding debtors, Outstanding creditors and Export incentives reports*. The company further informed that these reports were shared with



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K. Satyanarayana Murthy [CMD], K. Subrahmanya Chowdary [WTD], Ch. Vijaya Kumar [CFO], P. Durga Prasad [Accounts Manager] and B. Anand Kumar [Statutory auditor] and their respective staff.

3.8. From the above information, it was observed that any recipient of the reports, generated and shared by the company with the Directors / CFO/ Auditor and their respective staff, would have had an understanding of the financial performance of the Company. Thus, by the end of the quarter, any person with whom the said reports were shared, would have known whether the Company had made profit in the said quarter. Accordingly, while the account finalization process (as per the Company) would have started from November 4, 2017, the price sensitive information regarding the company making noticeable profits during the quarter ended September 30, 2017, was known to every person who had access to the reports generated by the company as mentioned above. The Company disclosed its financial results for the quarter ended September 30, 2017 on November 14, 2017 after market hours. Considering the above, the period from October 3, 2017 to November 14, 2017 has been taken as the UPSI period.

3.9. Based on the above, the following periods have been taken as pre-UPSI, UPSI and post-UPSI periods:

Table 6 - Periods

Pre-UPSI Period	UPSI Period	Post-UPSI Period
04/09/2017 to 30/09/2017	03/10/2017 to 14/11/2017	15/11/2017 to 31/12/2017

*AFF got listed on 4/9/17; 1/10/17 and 2/10/17 were trading holidays;
30/12/17 and 31/12/17 were trading holidays*

3.10. Noticee No. 1 was the Promoter and Chairman and Managing Director of AFF during the Investigation Period. In terms of provisions of regulation 2(1)(d)(i) of PIT Regulations, he was a connected person and in terms of provisions of regulation 2(1)(g)(i) of PIT Regulations, he was an insider. Further, he also appeared in the list of insiders as provided by the Company



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and hence, he was privy to UPSI. Therefore, it was alleged that he was an “insider” in terms of definition of insider as per regulation 2(1)(g)(ii) of PIT Regulations.

- 3.11. It was observed from the trade records of Noticee No. 1 that he had purchased a total of 23,500 shares of the Company at an average price of ₹422.75 per share during UPSI period and he did not sell any share in the post-UPSI period. During the course of investigation, in response to the query seeking rationale for trading in the scrip of AFF during the UPSI period, Noticee No. 1 submitted that the trades were undertaken in the ordinary course of business. Noticee No. 1 informed during the statement recording that he did not trade in any other scrip during the UPSI period.
- 3.12. It was alleged that Noticee No. 1 has made notional unlawful gains of ₹14.62 lakh by trading in 23,500 shares during the UPSI period, calculated with reference to the price of the scrip on November 15, 2017 (i.e. next day after the disclosure to stock exchanges).
- 3.13. Noticee No. 1, being the CMD of the Company, was privy to the UPSI as he was in the supervision, control and management of the affairs of the Company.
- 3.14. In view of the above, it was alleged that Noticee No. 1 was privy to UPSI with respect to the financial results of the quarter ended September 30, 2017 and traded during the UPSI period while in possession of UPSI thereby making notional unlawful gains in violation of provisions of section 12A(d) and (e) of SEBI Act read with regulation 4(1) and regulation 4(2) of PIT Regulations.
- 3.15. It was also observed that Noticee No. 1, despite being an insider and being in possession of the UPSI, had obtained pre-clearance of the aforementioned trades by undertaking that he was not in possession of UPSI, thereby violating the provision of Clause 6 of the Minimum Standards



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for Code of Conduct to Regulate, Monitor and Report Trading by Insiders as specified in Schedule B read with Regulation 9(1) of PIT Regulations.

- 3.16. Noticee No. 2 was a promoter of AFF and wife of Noticee No. 1 and mother of Subrahmanya Chowdary Karuturi (Whole Time Director and also an insider, as per Company's response). AFF had reported Noticee No. 2 as an 'immediate relative' of Noticee No. 1 and Subrahmanya Chowdary Karuturi in terms of PIT Regulations. Further, AFF has also approved pre-trading clearance application of Noticee No. 2 on October 24, 2017 during UPSI period. Initially, vide an email dated October 23, 2020, Noticee No. 2 stated that she decided to trade on her own in the scrip. However, in her statement, she stated that it was her husband i.e. Noticee No. 1 who had handled her trading and banking activities and she had no knowledge of transactions in her trading or bank accounts. Noticee No. 1 also confirmed the same in his own statement. Therefore, it was alleged that Noticee No. 2 was 'deemed to be a connected person' in terms of Regulation 2(1)(d)(ii) of PIT Regulations and therefore, privy to UPSI. In view of the aforementioned, Noticee No. 2 was alleged to be an 'insider' in terms of 2(1)(g)(i) of PIT Regulations.
- 3.17. Noticee No. 2 had traded in 2 other scrips during the six months prior to UPSI period. However, during the UPSI period, she traded only in the scrip of AFF wherein she purchased a total quantity of 70,183 shares at an average price of ₹426.92 per share.
- 3.18. In view of the above, it was alleged on the basis of proximity/ relationship/ connection that Noticee No. 1, being the CMD of the Company, was in possession of UPSI and communicated the UPSI to Noticee No. 2, thereby violating the provision of regulation 3(1) of PIT Regulations. At the same time, by procuring the UPSI from Noticee No. 1, Noticee No. 2 allegedly violated the provisions of regulation 3(2) of PIT Regulations.
- 3.19. Further, in light of the connections between Noticee No. 1 and Noticee No. 2, pattern and timing of trades as well as the fund flow analysis, it was



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- alleged that trades in the scrip of AFF from the account of Noticee No. 2 were executed while being in possession of the UPSI, communicated to her by Noticee No. 1, thereby violating the provisions of Sections 12A(d) and (e) of SEBI Act read with regulation 4(1) and regulation 4(2) of PIT Regulations.
- 3.20. It was alleged that Noticee No. 2 made notional unlawful gains of ₹40,76,229 by indulging in the above mentioned trades when in possession of UPSI, calculated with reference to the price of the scrip on November 15, 2017 (i.e. next day after the disclosure to stock exchanges).
- 3.21. It was also observed during the course of investigation that Noticee No. 2, despite being an insider and in possession of the UPSI, applied for pre-clearance of trades by giving a false undertaking that she was not in possession of any UPSI and, thereafter, traded in the scrip of AFF while in possession of UPSI, thereby violating the provisions of Clause 6 of the Minimum Standards for Code of Conduct to Regulate, Monitor and Report Trading by Insiders as specified in Schedule B read with Regulation 9(1) of PIT Regulations.
- 3.22. Mr. Ravikant Sankuratri ('Noticee No. 3') was one of the partners of the firm, Apex Exports which was subsequently converted into "Apex Frozen Foods Private Limited" on March 30, 2012. Noticee No. 3 is also the son in-law of Noticee No. 1 and Noticee No. 2.
- 3.23. It was observed that Noticee No. 3 had purchased a total of 30,947 shares at an average price of ₹ 369.73 per share during UPSI period and sold 7,168 shares at an average price of ₹ 818.25 per share in post-UPSI period. In the pre-UPSI period also, Noticee No. 3 had purchased 94,316 shares of AFF. He placed all his trades using his online trading account.
- 3.24. As per KYC records, the income declared by the Noticee No. 3 was between ₹5 lakh to ₹10 lakh per annum. However, he was observed to have a gross traded value of ₹3.63 crore in the scrip of AFF during the investigation period.



- 3.25. It was observed that there were multiple fund transfers to the bank account of Noticee No. 3 (ICICI Bank A/c No. 016XXXXXX691) from the bank account of Noticee No. 1 (Axis Bank A/c No. 91XXXXXXXXXX287 and Kotak Bank A/c No. 961XXXX921) during the Investigation Period wherein Noticee No. 1 transferred ₹ 1 crore on August 23, 2017 through his Axis Bank account and again ₹ 2 crore on September 22, 2017 through his Kotak Bank account to Noticee No. 3.
- 3.26. It was observed that there was a transfer of ₹54.11 lakh from the account of the Company to Noticee No. 2 on August 23, 2017 and ₹ 54 lakh was further transferred to Noticee No. 3 on the same day, by Noticee No.2.
- 3.27. It was observed that during the six months prior to the above mentioned trades, Noticee No. 3 had not traded in AFF or any other scrip. Further, as noted earlier, there were fund transfers to the extent of ₹3.54 crore from the account of Noticees No. 1 and 2 to the account of Ravi Kanth Sankuratri during the period August - September, 2017. Prior to these receipts, the account of Noticee No. 3 had a balance of ₹12,73,540.61. From the bank statements of Noticee No. 3, it was also observed that he had used funds of ₹ 3.54 crore, received from Noticee No. 1 and Noticee No. 2, for trading in the shares of AFF during the UPSI period. In respect of the above mentioned fund transfers from Noticees No. 1 and 2, Noticee No. 3 submitted that he had borrowed money from Noticee No. 1 and Noticee No. 2 for trading in the shares of AFF during the period September 4, 2017 to February 28, 2018.
- 3.28. From the above discussed conduct of Noticee No. 3 and the chain of events, it was observed that Noticee No. 3, who was having an annual income in the range of ₹5-10 lakh and had no trading activity in the 6 months prior to his purchase of the shares of AFF, borrowed a huge sum (₹ 3.54 crore) from his Father-in-law (the CMD of AFF) and his Mother-in-law (wife of CMD and a promoter of AFF) at a time when AFF was getting listed (AFF got listed on September 4, 2017) and then used the entire sum for the purchase of shares



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of AFF itself. Therefore, on the basis of above discussed conduct of the Noticee No. 3 in conjunction with his proximity/ relationship/ connection/ fund transactions with Noticees No. 1 and 2, it was alleged that Noticee No. 3 had access to UPSI and therefore, was an insider in terms of Regulation 2(1)(g)(ii) of PIT Regulations. Further, it was alleged that Noticee No. 1, being the CMD of the Company, was in possession of UPSI and communicated the UPSI to Noticee No. 3, thereby violating the provision of regulation 3(1) of PIT Regulations. At the same time, by procuring the UPSI from Noticee No. 1, Noticee No. 3 allegedly violated the provisions of regulation 3(2) of PIT Regulations.

3.29. In light of the connections that Noticee No. 3 had with Noticees No. 1 and 2, who allegedly had access to UPSI, it was alleged on the basis of pattern and timing of trades and fund flow analysis among these three Noticees, that trades by Noticee No. 3 in the scrip of AFF during UPSI Period were executed while in possession of UPSI communicated by Noticee No. 1. Therefore, it was alleged that Noticee No. 3 violated the provisions of Sections 12A(d) and (e) of SEBI Act read with regulation 4(1) and Regulation 4(2) of PIT Regulations. It was further alleged that, by trading in the scrip of AFF while in possession of UPSI, Noticee No.3 has made notional unlawful gains of ₹ 35.67 lakh from such trading during the UPSI period calculated with reference to the price of the scrip on November 15, 2017 (i.e. next day after the disclosure to stock exchanges).

3.30. In view of the aforesaid alleged violations, the Noticees were called upon to show cause as to why directions under Sections 11B(1) and 11(4) read with Section 11(1) of SEBI Act, including debarment for an appropriate period and disgorgement of notional unlawful gains alleged in the SCN, should not be issued against them. Noticees Nos. 1, 2 and 3 were also called upon to show cause as to why suitable directions for imposing monetary penalty under sections 11B(2) and 11(4A) read with section 15G of SEBI Act should not be issued against them for the aforesaid violations. Further, Noticee Nos. 1 and 2 were also called upon to show cause as to why suitable directions



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for imposing monetary penalty under sections 11B(2) and 11(4A) read with section 15HB of SEBI Act should not be issued against them for the aforesaid violation of Model Code of Conduct as specified under Schedule B of PIT Regulations.

4. Summary of submissions made by the Noticees:

- 4.1. Noticee Nos. 1 and 2 submitted their separate replies to the SCN vide letters dated November 11, 2022 (received by SEBI on November 21, 2022). Noticee No. 3 submitted his reply to the SCN vide an e-mail dated November 30, 2022.
- 4.2. An opportunity of personal hearing was provided to the *Noticees* on January 18, 2023. However, the same was adjourned to February 1, 2023 at the request of the *Noticees*. On February 1, 2023, the authorized representative for the *Noticees* appeared and made submissions in line with their replies on record.
- 4.3. **Noticee No. 1:** The financial results for the quarter ended September 2017 were disclosed to and disseminated by the stock exchanges (BSE and NSE) on November 14, 2017 after market hours. The increase in price post the announcement of financial results on November 14, 2017, as discussed in Paragraph 6 of the SCN is probably due to the good financial performance of the Company in the quarter ended September 30, 2017, particularly immediately after listing which was on September 04, 2017.
- 4.4. The Company had come out with an IPO which opened on August 22, 2017 and closed on August 24, 2017. The shares of the Company were listed on September 04, 2017 and the details of the financial results as on March 31, 2017 were included in the Prospectus.



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- 4.5. Since our Company was listed only on September 04, 2017, there was no creation of MIS and other reports pertaining to the financial results in the month of September 2017.
- 4.6. The start date for the preparation of results began only on November 03, 2017 and I was not privy to the details of the financial results or the reports prior to this date.
- 4.7. With regard to my trades, I had purchased 23,500 shares on October 26, 2017 and continued to buy shares even in the month of January 2018. I have not sold any of the shares that have been acquired by me and continue to hold them till this date. All these shares were bought only for consolidating my holding and not with an intention to make profits. Hence there is no motive to make profits and I would like to rely on the Supreme Court Order dated September 19, 2022 in the matter of *Abhijit Rajan* (SC- Civil Appeal No:563 of 2020) which has stated that irrespective of whether any profit or loss has been made there should be a motive of making gains is essential.
- 4.8. The allegation that I had information with reference to positive outcome of the financial results before the end of the quarter has been made without any evidence / proof and is an allegation without any basis and would like to reconfirm that that the financial results have been prepared only from November 03, 2017 and not earlier as provided in the SCN.
- 4.9. I refute the allegation that I had made a notional gain of ₹ 14.62 lacs as I had bought the shares on October 26, 2017. I have not sold any of the shares and to take the value of the shares on November 15, 2017 and calculate gain for the shares which are still held by me is irrational and without any basis and deny the allegations that I have violated Section 12A(d) and (e) of SEBI Act and Regulation 4(1) and 4(2) of PIT Regulations.



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Noticee No 2:

- 4.10. I am one of the Promoters of Apex Frozen Foods Limited along with my husband and son Mr Satyanarayana Murthy Karturi and Mr Subramanya Choudhary Karturi, respectively.
- 4.11. Since, I was only a promoter and not involved in the day-to-day operations of the Company / Management of the Company, I am not aware of the financial performance of the Company during the quarter ended September 2017.
- 4.12. I was not involved in the management of the Company and further am not aware of the manner in which MIS / other reports were generated or shared amongst the various employees in the Company. I have also not interacted with the statutory auditors or their staff and am not aware of any of the methodologies adopted by them while auditing the company.
- 4.13. I confirm that I am the promoter of the Company and the wife of the Managing Director and the mother of the Whole Time Director of the Company. However, as I was not privy to the accounts or its preparation, I have traded in the shares only on my own accord and not on the basis of any UPSI as alleged. I am an investor in shares and since the shares were that of our own Company, I had invested in the same. I deny that my husband or son have communicated any information to me regarding the profits or performance of the Company.
- 4.14. While I purchased a total of 70,183 shares on October 26, 2017, I have not sold any of the shares till date. I acquired 5,670 shares once again in January 2018 and hold all these shares except for a sale of 3 shares on December 21, 2021. Hence I deny that I have made any notional gain as pointed out in Paragraph 23 of SCN and I am enclosing a copy of my demat statement as proof of the transactions during that period.



4.15. I deny that I have violated the provisions of Regulation 4(1) read with Regulation 4(2) of the PIT Regulations and Clause 6 of the Minimum Standards for code of conduct to Regulate, monitor and report trading by Insiders as specified in Schedule B read with Regulation 9(1) of PIT Regulations.

Noticee No 3:

4.16. Since I am not a promoter of the Company and not involved in the day-to-day operations of the Company / Management of the Company I am not aware of the financial performance of the Company during the quarter ended September 2017.

4.17. I was not involved in the management of the Company and further am not aware of the manner in which MIS / other reports were generated or shared amongst the various employees in the Company. I have also not interacted with the statutory auditors or their staff and am not aware of any of the methodologies adopted by them while auditing the company.

4.18. I confirm that I am the son-in-law of Mr. Satyanarayana Murthy and Ms. Padmavathi. I was also a partner of Apex Exports which was subsequently converted to Apex Frozen Foods Private Limited.

4.19. I confirm that I had purchased 30,947 shares and sold the same. Since I am also carrying on certain businesses and was need of money, I had borrowed some money from my father-in-law and hence these have been shown as credits to my bank account. Incidentally, since I could not commence the business as planned, I utilized the money to purchase the shares of the Company which belonged to the family. Since the share price went up, I sold the shares to pay a loan. My transactions were not motivated by being in possession of any UPSI. I deny that I have violated the provisions of Regulations 3(1) and 3(2) of PIT Regulations.



4.20. I deny that I have made the notional gain of ₹ 35.67 Lakh as pointed in the SCN and accordingly I have not violated the provisions of Section 12A(d) and (e) of the SEBI Act and Regulations 4(1) and 4(2) of PIT Regulations.

5. Issues for consideration:

5.1 On a perusal of the observations and allegations brought out in the SCN, replies filed by the Noticees, oral / written submissions filed by them and other material available on record, the following issues arise for consideration in the present proceedings:

(1) Whether the information relating to financial results of the September 2017 quarter was “unpublished price sensitive information” in terms of the provisions of PIT Regulations and if so, what was the period during which it remained in existence?

(2) Whether Noticees No. (1), (2) and (3) are “insiders” within the definition of the term under the PIT Regulations?

(3) If the answer to issues No. 1 and 2 is in the affirmative, whether the Noticees by trading in the scrip of AFF and communicating / procuring the UPSI, have violated the provisions of SEBI Act and PIT Regulations as alleged in the SCN?

(4) If the violations alleged against the Noticees have been established, what directions are required to be issued and what is the amount of monetary penalty that is required to be imposed on the Noticees?

5.2 I now proceed to address the above issues in light of the specific facts of the case and the submissions made by the Noticees.

6. Findings on issues

Issue No. 1 - Whether the information relating to financial results of the September 2017 quarter was “unpublished price sensitive information” in terms of the provisions of PIT Regulations and if so, what was the period during which it remained in existence?

7. I note that in terms of Regulation 2(1)(n)(i) of the PIT Regulations, “financial results” of a company are covered within the definition of “unpublished price sensitive information”. As defined in the said regulation, “*unpublished price sensitive information*” means any information, relating to a company or its securities, directly or indirectly, that is not generally available which upon becoming generally available, is likely to materially affect the price of the securities. On the subject of “financial results” being UPSI, the following findings of Hon’ble SAT in the matter of *Rajeev Vasant Sheth and others v. SEBI* (Order dated April 19, 2022) are noteworthy:

“10. The UPSI as provided under Regulation 2(n) means any information relating to a company or its security which is likely to materially affect the price of the securities and shall ordinarily include, namely, financial results, etc. It was urged that the word “ordinarily” does not mean that the financial results will always be considered as unpublished price sensitive information and would have to be considered on a case to case basis as to whether in the given circumstances the financial results were a price sensitive information or not. In this regard, we find that the losses had increased by 25 times from quarter ended June 2017 to quarter ended September 2017, the net loss increased from ₹ 6.62 crores to ₹ 166.80 crores which was a substantial jump and, therefore, in our opinion, the financial results for the quarter ended September 2017 was an UPSI which the appellants had in their possession.”

8. In the instant case, it is important to note that the financial results for the quarter ended September 30, 2017 (disclosed to stock exchanges on November 14, 2017) reflected an increase in net profit of AFF from ₹16.64 crore (in Quarter

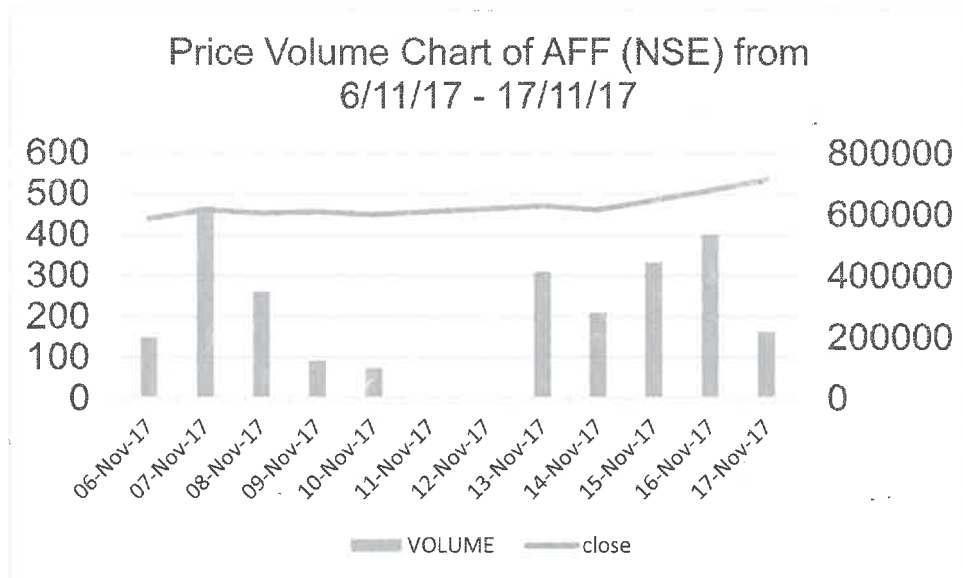


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ended June 30, 2017) to ₹ 22.04 crore (in Quarter ended September 30, 2017) i.e. an increase of 32.45% (quarter on quarter).

9. As brought out in the SCN, a significant impact was observed on the price of scrip of AFF post the announcement of financial results and the price of the scrip was observed to have moved on NSE and BSE from a closing price of ₹461.95 and ₹461.95 respectively on November 14, 2017 to ₹485 and ₹484.90 respectively on November 15, 2017. Thereafter, on November 16, 2017, it went up further to ₹ 509.25 and ₹ 509.10 respectively and then to ₹534.70 and ₹ 534.55 respectively on November 17, 2017. It is pertinent to highlight that the price of the scrip hit the upper price band of 5% on all the above mentioned days on NSE and BSE respectively. Price movement in the scrip of AFF during the week when the financial results were disclosed and a week prior to that is noted below in a chart and tabular format:

Figure 1



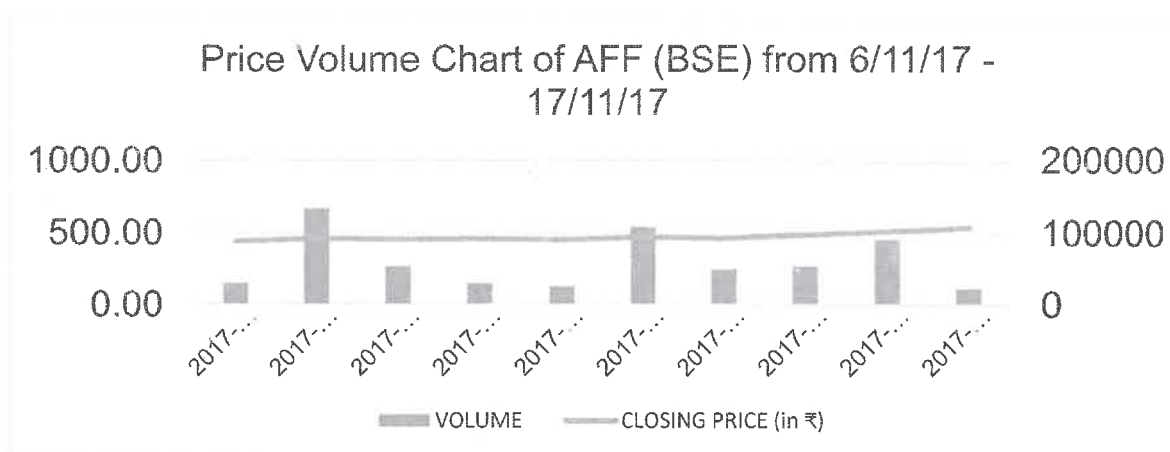
(Source: NSE)

Table 7 — Price and Volume movement in the scrip of AFF (NSE) from 6/11/17 - 17/11/17

DATE	VOLUME	CLOSEING PRICE (in ₹)	Change in Percentage (%)
17-Nov-17	217937	534.7	5.00
16-Nov-17	533720	509.25	5.00
15-Nov-17	444123	485.0	4.99
14-Nov-17	279595	461.95	-1.95
13-Nov-17	413574	471.15	4.71
10-Nov-17	97688	449.95	-1.56
09-Nov-17	122209	457.1	0.77
08-Nov-17	347870	453.6	-1.74
07-Nov-17	626282	461.65	4.99
06-Nov-17	197586	439.7	4.99

(Source: NSE)

Figure 2



(Source: BSE)

Table 8 - Price and Volume movement in the scrip of AFF (BSE) from 6/11/17 - 17/11/17

Date	Volume	Closing Price (In ₹)	Close To Previous Close %
6-Nov-17	29984	439.40	4.99
7-Nov-17	133670	461.35	5.00
8-Nov-17	53422	452.80	-1.85

9-Nov-17	29742	457.45	1.03
10-Nov-17	25411	451.95	-1.20
13-Nov-17	108181	471.55	4.34
14-Nov-17	48969	461.85	-2.06
15-Nov-17	53217	484.90	4.99
16-Nov-17	90818	509.10	4.99
17-Nov-17	22420	534.55	5.00

(Source: BSE)

10. As can be seen from the price volume charts and the tables above, the disclosure of the information relating to financial results did have a substantial positive impact on the price of the scrip. This clearly substantiates that the quarter on quarter increase in profit of AFF by 32.45% (as reflected in the financial results for quarter ended September 2017) was a positive news as brought out in the SCN and qualified as UPSI till it was eventually disclosed to the stock exchanges.

11. With the above understanding, the related question that needs to be answered in the present case is when did the "unpublished price sensitive information" relating to the financial results of AFF for the quarter ended September 30, 2017, come into existence. On this point, the Noticees have sought to rely upon the fact that the account finalisation process started from November 4, 2017 and the results were eventually disclosed on November 14, 2017 after market hours, while as alleged in the SCN, the UPSI came into existence immediately upon end of the quarter and accordingly, the UPSI period (i.e. during which the price sensitive information remained unpublished) has been reckoned from first working day thereafter i.e. October 3, 2017 to November 14, 2017. In order to address the question as to duration of the UPSI period, I find it important to note that during the investigation, AFF was asked to provide details of the various MIS Reports or any other reports with regard to its financial performance that were generated/prepared during the quarter July 1 – September 30, 2017 and also the details of the Directors/ KMPs to whom such Reports were provided along with the dates. In response thereto, AFF vide email dated September 24,



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2021 submitted that reports namely, Sales during the period, Purchases during the period, Inventory valuation, Outstanding debtors, Outstanding creditors and Export incentives reports were generated and shared, inter alia, with Noticee No. 1, his son K. Subrahmanya Chowdary, and their respective staff.

12. As brought out in the SCN, AFF is an integrated producer and exporter of shelf stable quality aquaculture products and supplies ready-to-cook products to a diversified customer base consisting of food companies, retail chains, restaurants, club frozen stores and distributors spread across the developed markets of USA, UK and various European Countries. Accordingly, considering the nature of the business of AFF, even as a layman, one can reasonably conclude that any person who had access to reports such as *purchases, sales, inventory, outstanding debtors, outstanding creditors*, etc. can estimate the ballpark financial performance of the company. Thus, I am in agreement with the inference drawn in the SCN that any recipient of the reports, generated and shared by the company with the Directors / CFO/ Auditor and their respective staff, would have had an understanding of the financial performance of the company. Hence, by the end of the quarter, any person with whom the reports mentioned earlier were shared, would have known whether the company had made profit in the said quarter. Considering the above, I am of the view that that information relating to the financial results of AFF for the quarter ended September 30, 2017 was UPSI and remained in existence during the period from October 3, 2017 to November 14, 2017 (i.e. till it was disclosed to the stock exchanges).

Issue No. 2— Whether Noticees No. (1), (2) and (3) are “insiders” within the definition of the term under the PIT Regulations?

13. In the instant case, there is no dispute as to the fact that Noticee No. 1 is the Promoter and CMD of the company and his wife (Noticee No. 2) is the Promoter of the Company, and their son Mr. Subrahmanya Chowdary Karuturi was the Whole Time Director of the Company. Noticee No. 1 being the CMD of AFF and his son being the Whole Time Director of AFF were “connected persons” within



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the definition of the term provided in regulation 2(1)(d) of the PIT Regulations. Noticee No. 2 being the immediate relative (wife) of Noticee No. 1 was also covered within the definition of “connected person” under regulation 2(1)(d)(ii)(a) of the PIT Regulations.

14. In this context, the following observations of Hon’ble SAT rendered in the context of the erstwhile PIT Regulations of 1992, but still relevant for the extant PIT Regulations of 2015, are noteworthy;

- *Shri E. Sudhir Reddy v. Securities and Exchange Board of India* (Hon’ble SAT’s order dated December 16, 2011):

“... we find that the appellant being one of the directors of the company, was a connected person with the company and falls within the definition of ‘insider’ contained in regulation 2(e) of the Insider Trading Regulations.”

- *Chintalapati Srinivasa Raju v. Securities and Exchange Board of India and other connected appeals* (majority opinion of Hon’ble SAT in order dated August 11, 2017):

“Expression ‘insider’ is defined under regulation 2(e) of the PIT Regulations to mean any person who is or was connected with the company or is deemed to have been connected with the company and is reasonably expected to have access to UPSI or a person who has actually received or has had access to such UPSI. Expression ‘connected person’ is defined under regulation 2(c) to mean (one) any person who is a Director or deemed Director under Section 2(13) and Section 307 (10) of the Companies Act, 1956 or (two) an officer/ an employee or any person who holds a position involving a professional or business relationship between himself and the company and who may be reasonably expected to have access to UPSI. It is relevant to note that the concept of ‘reasonably expected to have access to UPSI’ is not applied to Director/deemed Director, because, unlike other connected persons, Director/ deemed Director constitute part of



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the company's board and hence responsible for all the deeds/ acts of the company during the period when they were Director/ deemed Director. Thus, reading regulation 2(e) with regulation 2(c) & 2(h) of the PIT Regulations, it is evident that the expression 'insider' under regulation 2(e) covers the following persons.

- i) Director/ deemed Director who is or was connected with the company.
- ii) Officer/employee of the company or any person who on account of professional or business relationship with the company is reasonably expected to have access to UPSI.
- iii) Deemed to be connected persons who are reasonably expected to have access to UPSI.
- iv) Any person who has actually received or has had access to UPSI.

In the present case, admittedly, CSR was a Director of Satyam till 23.01.2003 and therefore, being responsible for all the acts/ deeds of Satyam, the WTM of SEBI was justified in holding that CSR was an insider under the PIT Regulations."

15. As per regulation 2(1)(g) of the PIT Regulations, 2015, "insider" means any person who is:

- i) a connected person; or
- ii) in possession of or having access to unpublished price sensitive information;

16. Since Noticee No. 1 and 2 are connected persons (as already discussed), they are covered within the definition of "insider" under clause (i) of regulation 2(1)(g).

17. As regards Noticee No. 3, the SCN treats him as an *insider, inter alia*, in light of the following facts:

17.1. He was one of the partners of the firm, Apex Exports which was subsequently converted into "Apex Frozen Foods Private Limited" on March 30, 2012.



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- 17.2. He is also the son in-law of Noticee No. 1 and Noticee No. 2.
- 17.3. As per KYC records, the income declared by the Noticee No. 3 was between ₹5 lakh to 10 lakh per annum, however he was observed to have a gross traded value of ₹3.63 crore in the scrip of AFF during the investigation period.
- 17.4. There were fund transfers to the bank account of Noticee No. 3 from the bank account of Noticee No. 1 during the Investigation Period wherein Noticee No. 1 transferred ₹ 1 crore on August 23, 2017 and again ₹ 2 crore on September 22, 2017 to Noticee No. 3.
- 17.5. Further, there was a credit of ₹ 54.11 lakh from the account of AFF to Noticee No. 2 on August 23, 2017 and ₹ 54 lakh was further transferred to Noticee No. 3 on the same day from the bank account of Noticee No. 2.
- 17.6. Prior to these receipts, the account of Noticee No. 3 had a balance of ₹12,73,540.61.
- 17.7. During the six months prior to his trades in the scrip of AFF, Noticee No. 3 had not traded in AFF or any other scrip.
- 17.8. From the bank statements of Noticee No. 3, it was observed that he had used funds of ₹ 3.54 crore, received from Noticee No. 1 and Noticee No. 2, for trading in the shares of AFF during the UPSI period.
18. In this connection, during the investigation, Noticee No. 3 informed that he borrowed funds from his in-laws i.e. Noticees No. 1 and 2 for trading in the scrip of AFF during the UPSI period. However, in his reply to the SCN, he changed his stance and submitted that since he was carrying on certain businesses and was in need of money, he had borrowed some money from his in-laws and hence these have been shown as credits to his bank account. He further submitted that since he could not commence the business as planned, he utilized the money to purchase the shares of the Company which belonged to the family, and thereafter when the share price went up, he sold the shares to pay a loan.
19. In this regard, for determining whether Noticee No. 3 was an "insider" in relation to AFF, I seek guidance from the order of Hon'ble SAT in the matter of Top Class Capital Markets Pvt. Ltd. v. SEBI (Order dated March 8, 2022) wherein the



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following was held:

“22. In our view, when a person can be called as insider and whether has traded when in possession of such UPSI is essentially a question of fact to be determined in the facts and circumstances of the each case by applying the standard of preponderance of probability albeit in higher scales.

23. It is true that the respondent has not established as to from whom the appellant had received the insider information from any of the other noticee. The facts, however, highlighted in the orders, that the appellant had begun it's career as a trader in shares with these very shares of Aurobindo Pharma, that too after obtaining a fund of Rs. 10 crores from the closely connected entity of Aurobindo Pharma and other notices, that it has no other substantial business in trading shares during the period, that no sooner the shares of Aurobindo Pharma were purchased upon publication of this information the price of the share skyrocketed and stabilized at a higher price for a long period, in absence of any acceptable counter material would necessarily show that SEBI has proved the charge on preponderance of probability. Thus the appellant has traded and purchased the shares of Aurobindo Pharma when in possession of UPSI, therefore, the appeals fail.”

20. In order to apply the above observations of Hon'ble SAT to the present case, I deem it relevant to put facts in context. I note that during the 6 months prior to the trades in the scrip of AFF mentioned in the SCN, Noticee No. 3 had not traded in AFF or any other scrip. AFF got listed on NSE and BSE on September 4, 2017. On August 23, 2017 and September 22, 2017, Noticee No. 3 received funds from Noticees no 1 and 2 (his in-laws). Noticee No. 3's KYCs indicated that he had annual income of ₹5-10 lakh but he borrowed funds to the tune of ₹3.54 crore, for investing in the shares of AFF, which he later claimed to have borrowed for investing in his businesses. However, he failed to produce any details of such business(es). Then, after AFF got listed, he invested all the borrowings into the shares of AFF.



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21. All the above facts, when considered together, lead only to one logical inference that Noticee No. 3 was intimated by the CMD of AFF (i.e. Noticee No. 1) about the positive financial performance of AFF during the September, 2017 quarter, and in connection therewith, he invested the entire sum of ₹3.54 crore borrowed from his in-laws only in the scrip of AFF. In light of the peculiar facts and circumstances, inter alia, his relationship with the promoters of AFF, his prior association with AFF, timing of his trades, absence of trades in any other scrip, proximate fund transfers to him, investment of all these funds into the scrip of AFF, etc., the preponderance of probability lies against Noticee No. 3 and thus, it is clear that Noticee No. 3 was in possession of / had access to UPSI and is therefore an "insider" in terms of regulation 2(1)(g)(ii) of PIT Regulations.

Issue No. 3—If the answer to issues no. 1 and 2 is in the affirmative, whether the Noticees by trading in the scrip of AFF and communicating / procuring the UPSI, have violated the provisions of SEBI Act and PIT Regulations as alleged in the SCN?

22. As recorded in the discussions above, it has been established that the information regarding the financial results for the September 2017 quarter was UPSI and remained in existence from October 3, 2017 to November 14, 2017, and that all the Noticees were insiders in terms of the provisions of PIT Regulations. Further, there is no dispute as to the fact that the Noticees had purchased shares of AFF during the UPSI period. What remains to be examined is whether in light of the submissions made by the Noticees, the charges of insider trading, communicating / procuring UPSI and violations of Code of Conduct, levelled in the SCN are established against the Noticees.

23. As brought out in the SCN, all the Noticees traded in the scrip of AFF during the UPSI period (i.e. 03/10/2017 to 14/11/2017), the summary whereof is as under:



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Table 9

Buy Volume	Sell Volume	Wt. Avg. Buy Price (₹)	Wt. Avg. Sell Price (₹)	Net Volume	Buy Value (₹)	Sell Value (₹)
Noticee No. 1						
23,500	0	422.75	0	23,500	99,34,625	0.00
Noticee No. 2						
70,183	0	426.92	0	70,183	2,99,62,526	0.00
Noticee No. 3						
30,947	0	369.73	0	30,947	1,14,42,034	0.00

24. It is noted that referring to the above mentioned purchase of 70,183 shares of AFF brought out in the SCN, Noticee No. 2 in her reply has submitted that she has not sold the said shares of 70,183 shares. The same is taken on record to the correction of the details mentioned in the SCN.

25. Before dealing with the submissions of the Noticees in this regard on merit, I find it pertinent to refer to the order of Hon'ble SAT in the matter of Rajiv B. Gandhi and Ors. v. SEBI (Hon'ble SAT's order dated May 9, 2008) wherein the Hon'ble SAT observed the following:

"We are of the considered opinion that if an insider trades or deals in securities of a listed company, it would be presumed that he traded on the basis of the unpublished price sensitive information in his possession unless he establishes to the contrary. Facts necessary to establish the contrary being especially within the knowledge of the insider, the burden of proving those facts is upon him. The presumption that arises is rebuttable and the onus would be on the insider to show that he did not trade on the basis of the unpublished price sensitive information and that he traded on some other basis. He shall have to furnish some reasonable or plausible explanation of the basis on which he traded. If he can do that, the onus shall stand discharged or else the charge shall stand established."

26. As observed earlier, the Noticees were “insiders” under PIT Regulations and therefore in light of the above observations of Hon’ble SAT, there is a presumption that they traded in the scrip of AFF when in possession of / on the basis of the UPSI. Consequently, it becomes necessary to consider whether the Noticees have been able to submit any material sufficient to refute the said presumption.

27. Noticee No. 2, with respect to the trading decisions, has equivocated about she being the decision maker, and also about her husband taking decisions on her behalf. In my view, the only pertinent fact in this regard is that her account was used for making the trades mentioned in the SCN. The fact whether she took the decisions to trade or she let her account to be used by her husband, has no bearing on the charges levelled in the SCN. In this regard, it is important to highlight that the Hon’ble SAT also, in the matter of Navin Kumar Tayal and others v. SEBI (Order dated August 2, 2021), acknowledged the deeming fiction under law in relation to the communication of information between husband and wife. The following observations of Hon’ble SAT made in the said matter throw light on this aspect:

“The contention that there was no distinctive material to show that the appellant Rohit Gupta was privy to UPSI and, therefore, not an insider cannot be accepted. In the instant case, on the basis of the foundational facts, it can be reasonably inferred and established on a preponderance of probability that the appellant Rohit Gupta had access to UPSI and traded on the basis of price sensitive information. This is borne out from the fact that Rohit Gupta, Sanjay Tayal (deceased) and Jyotika Tayal are close relatives. Jyotika Tayal is the sister of Rohit Gupta and was the wife of Sanjay Tayal who was involved in the merger discussions. Sanjay Tayal admittedly had inside information. By a deeming fiction of law, his wife also had inside information.”

28. Without prejudice to the above, it is noteworthy that the Noticee No. 2 in her statement recorded during investigation had stated that her husband (the CMD

of AFF) had executed the trades on her behalf. Noticee No. 1 also admitted the same in his submissions.

29. In view of the above, I find that no further deliberation would be required to establish the communication of information from Noticee No. 1 to Noticee No. 2. Accordingly, the charge on Noticee No. 1 of communicating the information to Noticee No. 2 and the charge on Noticee No. 2 of procuring the information from Noticee No. 1 is established.

30. It has been argued on behalf of Noticee nos. 1 and 2 that they did not have any motive of earning profit out of the subject transactions mentioned in the SCN. Noticee no 1 submitted that he purchased shares of AFF for consolidating his holding only and did not sell the shares that he bought. Noticee No. 2 claimed that "I am an investor in shares and since the shares were that of our own company I had invested in the same". In this regard, they have placed reliance on the judgment of Hon'ble Supreme Court in the matter of SEBI v. Abhijit Rajan (Order dated September 19, 2022). In my view, reliance on the judgment of Hon'ble Supreme Court in the matter of Abhijit Rajan is misplaced since the facts of that case and the present one are clearly distinguishable. In the Abhijit Rajan case, the promoter had sold his shareholding in the company for the purpose of providing support to its stressed parent company by investing the proceeds under a Corporate Debt Restructuring package, whereas, in the present case no rationale whatsoever has been provided to justify the purchases except for nudging consolidation of stake as a factor. Further, I am not convinced by the stated reason of consolidation as a ground for purchasing the shares for two broad reasons. Firstly, when AFF had just got listed (on September 4, 2017, which is few days before the subject transactions) and promoters had themselves knowingly diluted their shareholding in AFF, there was no practical reason for them to start consolidating immediately after listing. At this point, I find it relevant to refer to the pre-IPO and post-IPO shareholding of the promoters / promoter group in AFF as disclosed in the final offer document filed by AFF with ROC (available on SEBI website). The Table below brings out the details:

Table 10 - Pre-IPO and post-IPO shareholding of promoters and promoter group of AFF

4. Shareholding of our Promoters and Promoter Group

Sl. No	Name of the Shareholder	Pre-Issue		Post Issue	
		No. of Equity Shares	% of total shareholding	No. of Equity Shares	% of total shareholding
Promoters					
1	Karuturi Satyanarayana Murthy	9,600,000	40.00	8,875,000	28.40
2	Karuturi Subrahmanya Chowdary	9,600,000	40.00	9,600,000	30.72
	Sub – Total (A)	19,200,000	80.00	18,475,000	59.12
Promoter Group					
3	Karuturi Padmavathi	4,704,000	19.60	3,979,000	12.73
4	Karuturi Neelima Devi	24,000	0.10	24,000	0.08
5	Sankuratri Anitha Devi	24,000	0.10	24,000	0.08
6	Vallepalli Hanumantha Rao	24,000	0.10	24,000	0.08
	Sub- Total (B)	4,776,000	19.90	4,051,000	0.08
	Total (A+B)	23,976,000	99.90	22,526,000	72.08

(Source: Prospectus)

31. As can be seen from the above table, the combined shareholding of the promoters and promoter group after the IPO was 72.08%. It is noteworthy that in terms of rule 19A of the Securities Contracts (Regulation) Rules, 1957, every listed company is required to maintain a minimum public shareholding of 25%. Thus, in the instant case, the promoters and promoter group having combined shareholding of 72.08% had no ostensible reason to consolidate and in any event, they were required under law to keep their combined shareholding within 75%.

32. Secondly, and most importantly, even the said consolidation when done being in possession of UPSI is no different from any other purchase in possession of UPSI (not having such purpose of consolidation) because the advantage of buying the shares at a low price (which subsequently did go up) was anyway availed by the purchasers, and as discussed earlier, at least the CMD and his wife cannot claim that they did not have any information about the financial performance of AFF in the concerned quarter.

33. Without prejudice to the above, I also find that consolidation of stake on its own



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cannot be an objective which a person may use in his defense or which can relate to a motive since consolidation is only a term for accumulation of more and more shares. It would not be incorrect to say that consolidation of stake in a company only seeks to serve the personal objective of the promoter, and the company, as a corporate person, functions irrespective of concentration of shareholding in the hands of a few shareholders. In the instant case, it is important to note that the AFF got listed on the stock exchanges on September 4, 2017 and thus, the promoters of the company (Noticees 1 and 2) had knowingly diluted their shareholding in AFF only about a month before the subject purchases. Given that factual context, no rationale has been put forth for justifying the stated consolidation of shareholding in AFF by the promoters. Although, it may not be of any defense to the Noticees in the present case, but it is also not the case of the Noticees that they were apprehending a hostile attempt off another person / shareholder to take control of the company.

34. For the above discussed reasons, I am unable to accept the argument of the Noticees No 1 and 2 seeking to justify their purchases during UPSI in the name of consolidation.

35. Noticees No. 1 and 2 have also sought to rely on the fact that they have not sold all / majority of the shares which they bought during the period when UPSI was in existence. I find that insider trading is a fraud which has its roots in information asymmetry, and the applicable law (i.e. SEBI Act and PIT Regulations) seeks to prevent people from benefiting out of the exclusive information available with them. In a case, like the present one, wherein, the benefit arising out of the purchases, while the price of the scrip was low (before the publication of positive UPSI) had accrued to the Noticees, and the fact whether they have actualized the said benefit or not by selling the shares, is irrelevant. In other words, the fraud of insider trading is committed when a person in possession of UPSI trades in the securities, and not when he realizes the gains linked to such securities. In this regard, I place reliance on the order of Hon'ble SAT in the matter of Rupesh Kantilal Savla v. SEBI (Order dated December 16, 2021), wherein the Hon'ble SAT had upheld the disgorgement of notional gains by the appellant(s) made out



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of insider trading (purchase transactions) in the scrip of Deep Industries Ltd. A similar view has been taken by Hon'ble SAT in the matter of Top Class Capital Markets Pvt. Ltd. v. SEBI (Order dated March 8, 2022) wherein Hon'ble SAT had upheld the disgorgement of notional gains made by the appellant out of insider trading in the scrip of Aurobindo Pharma Ltd. For the sake of argument, if the above contention of the Noticees were to be accepted, it would lead to anomalous implications wherein a person in possession of UPSI can accumulate substantial number of shares in the concerned company and reap the benefits such as dividend, voting rights, capital appreciation, etc. by holding on to the shares and may be by selling them after few years, and still not be held liable for insider trading. This, in my view, surely could not have been the objective of the law on insider trading. I, therefore, do not find any merit in the submissions of the Noticees in this regard.

36. The following observations of the Hon'ble SAT in the matter of *E. Sudhir Reddy vs. SEBI* (Appeal no. 138 of 2011 decided on 16/12/2011) bring out clearly the purport of the laws on insider trading especially when they are viewed from the applicability to insiders like directors (as in the present case):

"....However, persons in the company or otherwise concerned with the affairs of the company are in possession of such information before it is actually made public. The directors of the company or for that matter even professionals like Chartered Accountants and Advocates advising the company on its business related activities are privy to the performance of the company and come in possession of information which is not in public domain. Knowledge of such unpublished price sensitive information in the hands of persons connected to the company puts them in an advantageous position over the ordinary shareholders and the general public. Such information can be used to make gains by buying shares anticipating rise in the price of the scrip or it can also be used to protect themselves against losses by selling the shares before the price falls. Such trading by the insider is not based on level playing field and is detrimental to the interest of the ordinary shareholders of the company and general public. It is with a view to



curb such practices that section 12A of the SEBI Act makes provisions for prohibiting insider trading and the Board also framed the Insider Trading Regulations to curb such practice.”

37. Noticee No. 3 in his submissions, has contended that he was not a promoter and had no role in the management of the company and for the said reasons, he had no access to any UPSI. He has not disputed his relationship with Noticees No. 1 and 2 nor has he denied the borrowings that he made from them. It is relevant to reiterate here that in the instant case, Noticee No. 3 has been found to be an “insider” within the meaning of regulation 2(1)(g)(ii) of the PIT Regulations by virtue of being in possession of / having access to UPSI, which he received from his father-in-law i.e. Noticee No. 1 (CMD of AFF). At this juncture, it is worthwhile to reiterate certain facts and circumstances to put Noticee No. 3’s trades into perspective, i.e. during the 6 months prior to the trades in the scrip of AFF mentioned in the SCN, Noticee No. 3 had not traded in AFF or any other scrip; AFF got listed on the exchanges on September 4, 2017; On August 23, 2017 and September 22, 2017, Noticee No. 3 received funds from Noticee No. 1 and 2 (his in-laws); Noticee No. 3’s KYCs indicated that he had annual income of ₹5-10 lakh but he borrowed funds to the tune of ₹3.54 crore, for investing in the shares of AFF, which he later claimed to have borrowed for investing in his business [However, he failed to produce any details of such business (es)]; Then, after AFF got listed, he invested all the borrowings only into the shares of AFF.

38. In view of the above, I have no hesitation in holding that even though the investigation did not bring out a direct communication of UPSI from Noticee No. 1 to Noticee No. 3, the conclusion that Noticee No. 3 was in possession of UPSI when he traded, is not based on a deeming fiction but is based on a series of interlinked facts and circumstances, inter alia, his relationship with the promoters of AFF, his prior association with AFF, timing of his trades, absence of trades in any other scrip, proximate fund transfers between the Noticees, investment of all these funds into the scrip of AFF, etc. which unequivocally go on to show that the purchase of shares of AFF by Noticee No. 3 were made while in possession



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of and on the basis of UPSI relating to positive financial results of AFF.

39. In view of the facts, circumstances and observations discussed above, I find that the Noticees being insiders, bought the shares of AFF when in possession of UPSI and thereby violated the provisions of sections 12A(d) and (e) of the SEBI Act and regulation 4(1) read with regulation 4(2) of PIT Regulations.
40. In addition to the above, for reasons already recorded while dealing with issues Nos. 1, 2 and 3, I also find that Noticee No. 1 communicated UPSI to Noticee No. 2 and Noticee No. 3 and, therefore, violated the provisions of section 12A(e) of SEBI Act and regulation 3(1) of PIT Regulations. Also for the same reasons, Noticee No. 2 and Noticee No. 3, by procuring UPSI from Noticee No. 1, have violated the provisions of regulation 3(2) of PIT Regulations.
41. As discussed at length while dealing with issues Nos. 1 and 2, I have already found that Noticees No. 1 and 2 were insiders in AFF and traded in the scrip of AFF while in possession of UPSI. Clause 6 of the Code of Conduct specified under Schedule B read with Regulations 9(1) of the PIT Regulations, 2015 states that no designated person shall apply for pre-clearance of any proposed trade if such designated person is in possession of unpublished price sensitive information, even if the trading window is not closed. Upon perusal of the documents available on record, I find that Noticee Nos. 1 and 2 vide letters dated October 24, 2017 sought clearance for purchase of 23,500 and 70,200 of shares of AFF respectively from the Compliance officer of AFF which was granted by Compliance Officer on the same day. As already demonstrated in the preceding paragraphs, the Noticees were well aware of the UPSI since October 03, 2017 which is before signing the aforesaid undertaking in their application for pre-clearance dated October 24, 2017. Therefore, the contents of paragraphs Nos. 1 and 2 in the said undertakings are factually incorrect and was a misrepresentation on the part of the Noticees. The pre-clearance on such applications is clearly vitiated by the serious misrepresentation made by the Noticees as stated above. Therefore, I hold that the said clearances received by the Noticees on the basis of misrepresentation of a vital fact and therefore, is in



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violation of Clause 6 of the Code of Conduct specified under Schedule B read with Regulations 9(1) of the PIT Regulations, 2015.

Issue No.4 - If the violations alleged against the Noticees have been established, what directions are required to be issued and what is the amount of monetary penalty that is required to be imposed on the Noticees?

42. It has been established in the present case that the Noticees, being insiders, bought the shares of AFF when in possession of UPSI and violated the provisions of PIT Regulations and SEBI Act. As already discussed, the charge of insider trading, is independent of the fact that the insider realizes the gains accrued to him / her or not. Insider trading is a serious violation and can cause severe damage to public confidence in the securities market. An act of insider trading, therefore, has to be viewed strictly irrespective of the subsequent conduct for the person indulging in the same. In the facts and circumstances of the present case discussed above, it becomes imperative that appropriate directions of restraint are imposed on the Noticees who have indulged in insider trading.

43. Further, I note that the SCN has indicated that Noticee No 1, 2 and 3 have respectively made notional profits of ₹14,62,875, ₹ 40,76,229 and ₹ 35,67,260 by trading in the shares of AFF in violation of provisions of SEBI Act and PIT Regulations in the manner discussed earlier. The said notional profits out of the insider trading were arrived at as the difference between the average price of purchase of shares of AFF by the Noticees and the closing price of shares of AFF on the next trading day after the announcement of financial results i.e., November 15, 2017. I note that Noticees have not disputed the calculation of notional profit, as made in the SCN. Since, the Noticees have made notional profits, as mentioned above, by violating the provisions of securities laws, they are liable to disgorge such notional profits.

44. In the present case, in addition to the above discussed directions for debarment for an appropriate period and disgorgement of notional unlawful gains, the SCN



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also envisages suitable directions for imposing monetary penalty under sections 11B(2) and 11(4A) of the SEBI Act read with Section 15G and 15 HB of SEBI Act. It is relevant to mention here that for the imposition of penalty under the provisions of the SEBI Act, guidance is provided by Section 15J of the SEBI Act. The said provision reads as follows:

***“Factors to be taken into account while adjudging quantum of penalty.
15J.***

While adjudging quantum of penalty under 15-I or section 11 or section 11B, the Board or 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 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.”

45. As has been already discussed in the preceding paragraphs, all the alleged violations of the provisions of SEBI Act and the PIT Regulations have been established against the Noticees. Such instance of insider trading and other violations of Code of Conduct on the part of the promoters of a listed company and their immediate relatives adversely impacts the interest and faith of shareholders of such listed company. It is also noteworthy here that the above stated violations by the Noticees have been noticed in the very first quarter of AFF getting listed on the Stock Exchanges (AFF got listed on September 4, 2017). I find that the above factors have to be considered for the purpose of



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arriving at the amount of penalty to be levied in the present case.

7. Directions and Penalty:

46. In view of the foregoing, I, in exercise of powers conferred upon me under sections 11(1), 11(4), 11B(1), 11B(2) and 11(4A) read with Section 19 of the SEBI Act hereby issue the following directions:

46.1. The Noticees shall be restrained from accessing the securities market and further be prohibited from buying, selling or otherwise dealing in securities, either directly or indirectly, or being associated with the securities market in any manner whatsoever for a period of two (2) years from the date of this order.

46.2. The Noticees shall, within 45 days from the date of this order, disgorge the illegal notional gains made by them as mentioned in the table below, along with interest at the rate of 12% per annum from November 15, 2017 till the date of actual payment of disgorgement amount along with interest:

Table 11

Sl. No	Name of the Noticee	Shares purchased during the UPSI period	Amount of illegal gains made by the Noticee (in ₹)
1	Satyanarayana Murthy Karuturi	23,500	14,62,875
2	Padmavathi Karuturi	70,183	40,76,229
3	Ravi Kanth Sankuratri	30,947	35,67,260

46.3. The amount mentioned in paragraph 46.2 towards disgorgement shall be deposited by the Noticees either **by way of a demand draft in favour of "SEBI – Investor Protection and Education Fund", payable at Mumbai, or** by e-payment to SEBI account as detailed below:



Table 12

Bank	Branch	RTGS Code	Beneficiary Name	Beneficiary Account No.
Bank of India	Bandra Kurla Complex	BKID 0000122	SEBI – Investor Protection and Education Fund	012210210000008

47. Further, in exercise of powers conferred upon me under sections 11(4A) and 11B(2) read with section 15G and 15HB of the SEBI Act, I hereby impose the following monetary penalty on the Noticees :

Table 13

Sl. No	Name of the Noticee	Provisions violated	Penal Provision	Penalty Amount (₹)
1	Satyanarayana Murthy Karuturi	Section 12A(d) and (e) of SEBI Act and regulation 3(1), 4(1) read with regulation 4(2) of PIT Regulations	15G	10,00,000
		Clause 6 of the Minimum Standards for Code of Conduct to Regulate, Monitor and Report Trading by Insiders as specified in Schedule B read with Regulation 9(1) of PIT Regulations	15HB	1,00,000
2	Padmavathi Karuturi	Section 12A(d) and (e) of SEBI Act and regulation 3(2), 4(1) read with regulation 4(2) of PIT Regulations	15G	10,00,000
		Clause 6 of the Minimum Standards for Code of Conduct to Regulate, Monitor and Report Trading by Insiders as specified in	15HB	1,00,000



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		Schedule B read with Regulation 9(1) of PIT Regulations		
3	Ravi Kanth Sankuratri	Section 12A(d) and (e) of SEBI Act and regulation 3(2), 4(1) read with regulation 4(2) of PIT Regulations	15G	10,00,000

48. The Noticees shall remit / pay the said amount of penalties within forty-five (45) days from the date of receipt of this order. The Noticees shall remit / pay the said amount of penalties either by way of a Demand Draft in favour of "SEBI - Penalties Remittable to Government of India", payable at Mumbai, or through online payment facility available on the website of SEBI, i.e. www.sebi.gov.in by clicking on the payment link: ENFORCEMENT -> Orders -> Orders of ED/CGM (Quasi-Judicial Authorities) -> PAY NOW. In case of any difficulties in online payment of penalties, the said Noticees may contact support at portalhelp@sebi.gov.in. The demand draft or the details/ confirmation of e-payment should be sent to "The Division Chief, Division of Post-Inspection Enforcement Action, Market Intermediaries Regulation and Supervision Department, Securities and Exchange Board of India, SEBI Bhavan II, Plot no. C-7, "G" Block, Bandra Kurla Complex, Bandra (E), Mumbai - 400 051" and also to e-mail id: -tad@sebi.gov.in in the format as given in table below:

Table 14

Case Name	
Name of Payee	
Date of Payment	
Amount Paid	
Transaction No.	
Payment is made for : (like penalties /disgorgement /recovery/settlement amount/legal charges along with order details)	

49. The Noticees are directed not to dispose of or alienate any assets, whether



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movable or immovable, or any interest or investment or charge on any of such assets held in their name, individually or jointly, including money lying in bank accounts except with the prior permission of SEBI until the disgorged amount at sub para 46.2 and penalty amount at para 47 are deposited with SEBI.

50. The Noticees are directed to provide a full inventory of all assets held in their name, individually or jointly, whether movable or immovable, or any interest or investment or charge on any of such assets, including details of all bank accounts, demat accounts and mutual fund investments, within two weeks from the date of receipt of this order.

51. Obligation of the Noticees, in respect of settlement of securities, if any, purchased or sold in the cash segment of the recognized Stock Exchange (s), as existing on the date of this Order, can take place irrespective of the restraint/prohibition imposed by this Order, only in respect of pending unsettled transactions, if any. Further, all open positions, if any, of the Noticees in the F & O segment of the stock exchange, are permitted to be squared off, irrespective of the restraint/prohibition imposed by this Order.

52. This Order shall come into force with immediate effect. The order shall be served upon the Noticees for ensuring compliance with the above directions.

53. A copy of this Order shall be forwarded to all recognized Stock Exchanges, Depositories and Registrar and Transfer Agents to ensure necessary compliance.



A handwritten signature in blue ink, appearing to read 'V. S. Sundaresan', is written over the printed name.

V. S. SUNDARESAN
EXECUTIVE DIRECTOR

Date: March 28, 2023

Place: Mumbai

SECURITIES AND EXCHANGE BOARD OF INDIA