BEFORE THE ADJUDICATING OFFICER
SECURITIES AND EXCHANGE BOARD OF INDIA

[ADJUDICATION ORDER No.: ORDER/AP/SK/2020-21/9436]

UNDER SECTION 15-I OF SECURITIES AND EXCHANGE BOARD OF INDIA ACT, 1992 READ WITH RULE 5 OF SEBI (PROCEDURE FOR HOLDING INQUIRY AND IMPOSING PENALTIES BY ADJUDICATING OFFICER) RULES, 1995.

In respect of:

Ms. Vandana Singh
(PA No. ARGPS3639E)
20th KM Hosur Road,
Electronics City,
Bangalore – 560100.

In the matter of Biocon Limited

1. Biocon Limited (hereinafter referred as "Biocon" or "the company"), is a company having its shares listed on BSE Ltd. ('BSE') and National Stock Exchange of India Ltd. ('NSE'). Securities and Exchange Board of India ("SEBI") conducted investigation to ascertain whether there was any disclosure and code of conduct violation of the Securities and Exchange Board of India (Prohibition of Insider Trading) Regulations, 2015 (hereinafter referred to as "PIT Regulations") by Ms. Vandana Singh ("Noticee"), a designated person of Biocon, with respect to her transactions during the period August 31, 2018 to October 01, 2018. Pursuant to the investigation, following are the observations:

Observations on not obtaining pre-clearance from the Compliance Officer of the Company:

a) Noticee, employed as General Manager Regulatory Affair, of the Company and a "Designated Person" under the Company's Code of Conduct for prevention of insider trading, who held 9550 equity shares of the company, acquired through exercise of stock options, sold 3550 equity shares of the Company from May 29, 2018 to September 28, 2018 without seeking pre-clearance from the Compliance Officer. The details of the trade are as under:

Date (From transaction statements provided by NSDL & CDSL)	Transaction Type	Buy Qty	Sell Qty	Sell Value (in Rs)@	Cumulative Sale Value (in Rs.)	Disclosure requirement	Due date of disclosure	Date of Disclosure to company (from BSE/ NSE disclosure data)	Date of Disclosure to Exchanges by the Company
03-Sep-2018	Pledge Invocation		250	156635.74	156635.74	Regulation 7(2)(a) of the	14-Sep-2018	03-Oct-2018	05-Oct-2018

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07-Sep-2018	Pledge Invocation		1,000	650727.02	807362.76	PIT Regulations		03-Oct-2018	05-Oct-2018
12-Sep-2018	Pledge Invocation		450	294883.83	1102246.59			03-Oct-2018	05-Oct-2018
17-Sep-2018	Pledge Invocation		150	97872.49	97872.49	Regulation 7(2)(a) of the PIT Regulations	26-Sep-2018	03-Oct-2018	05-Oct-2018
18-Sep-2018	Pledge Invocation		200	132389.42	230261.91			03-Oct-2018	05-Oct-2018
19-Sep-2018	Pledge Invocation		500	337724.14	567986.05			03-Oct-2018	05-Oct-2018
24-Sep-2018	Inter depository Receipt (off market)	4500		1376988*	1944974.05			25-Sep-2018	27-Sep-2018
26-Sep-2018	Pledge Invocation		400	278908.73	278908.73	-	-	03-Oct-2018	05-Oct-2018
28-Sep-2018	Pledge Confiscate		200	141076.39	419985.12	-	-	03-Oct-2018	05-Oct-2018
01-Oct-2018	Pledge Confiscate		400	276771.27	696756.39	-	-	03-Oct-2018	05-Oct-2018

@ Value as per Contract Note as provided by ECL Finance Limited vide email dated. November 19, 2019.
**Value as provided by the Company vide email dated. November 20, 2019 and provided by Ms. Vandana Singh vide email dated November 20, 2019.*

b) From the above table, it was observed that pledges for 3550 shares had been invoked in the account of the Noticee on various dates i.e. on September 03, 2018, September 07, 2018, September 12, 2018, September 17, 2018, September 18, 2018, September 19, 2018, September 26, 2018, September 28, 2018 and October 01, 2018 by Edelweiss. The reasons for not seeking the pre-clearance for the above sale transactions were sought by the Compliance Officer vide an email dated October 01, 2018. In response to the same, the Noticee, *inter-alia*, stated that she did the transaction during the aforesaid period and did not take prior approval before selling due to oversight and in urgency to clear the loan amount taken from Edelweiss. In view of the said facts, it has been alleged that the Noticee had violated the provisions of Clause 6 of Code of Conduct under Schedule B of Regulation 9(1) and (2) of the PIT Regulations which required her to obtain pre-clearance from the Compliance Officer of the Company.

Observations on making delayed disclosures under the PIT Regulations:

c) It was also observed that 1,700 shares of Biocon pledged by the Noticee was invoked by ECL Finance Ltd on September 03, 2018, September 07, 2018 and September 12, 2018 in three tranches of 250 shares, 1,000 shares and 450 shares, respectively. The cumulative value of the said pledged securities invoked by ECL Finance Ltd was in excess of Rs. 10 lakh i.e. Rs. 11,02,246.59 and thus, triggered the disclosure requirement under Regulation 7(2) (a) of the PIT Regulations. Although the disclosure was required to be made to the Company on or before September 14, 2018, the disclosures were however made to the Company on October 03, 2018 i.e. with a delay of 19 days. In view of the said delayed disclosures of 19 days for the said three transactions, it has been alleged that the Noticee had violated the provisions of Regulation 7(2) (a) of the PIT Regulations.

d) Further, it was observed that 850 shares of Biocon pledged by the Noticee was invoked by ECL Finance Ltd on September 17, 2018, September 18, 2018 and September 19, 2018 in three tranches of 150 shares, 200 shares and 500 shares, respectively. Also, it was seen that ESOPs of 4,500 shares had been transferred to the Noticee on September 24, 2018. The cumulative value of the said pledged securities invoked by ECL Finance Ltd as well as the value of ESOPs was in excess of Rs. 10 lakh i.e. Rs. 19,44,974.05 and thus, triggered the disclosure requirement under Regulation 7(2) (a) of the PIT Regulations. Although the disclosure was required to be made to the Company on or before September 26, 2018, the disclosures were however made to the Company on October 03, 2018 i.e. with a delay of 7 days. In view of the said delayed disclosures of 7 days for the said transactions, it has been alleged that the Noticee had violated the provisions of Regulation 7(2) (a) of the PIT Regulations.

2. The text of the aforementioned provisions alleged to be violated by the Noticee at the relevant time read as under:

PIT Regulations

Disclosures by certain persons.

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;

Code of Conduct.

9. *(1) The board of directors of every listed company and market intermediary shall formulate a code of conduct to regulate, monitor and report trading by its employees and other connected persons towards achieving compliance with these regulations, adopting the minimum standards set out in Schedule B to these regulations, without diluting the provisions of these regulations in any manner.*

NOTE: It is intended that every company whose securities are listed on stock exchanges and every market intermediary registered with SEBI is mandatorily required to formulate a code of conduct governing trading by its employees. The standards set out in the schedules are required to be addressed by such code of conduct.

(2) Every other person who is required to handle unpublished price sensitive information in the course of business operations shall formulate a code of conduct to regulate, monitor and report trading by employees and other connected persons towards achieving compliance with these regulations, adopting the minimum standards set out in Schedule B to these regulations, without diluting the provisions of these regulations in any manner.

NOTE: This provision is intended to mandate persons other than listed companies and market intermediaries that are required to handle unpublished price sensitive information to formulate a code of conduct governing trading in securities by their employees. These entities include professional firms such as auditors, accountancy firms, law firms, analysts, consultants etc., assisting or advising listed companies, market intermediaries and other capital market participants. Even entities that normally operate outside the capital market may handle unpublished price sensitive information. This provision would mandate all of them to formulate a code of conduct.

SCHEDULE B

[See sub-regulation (1) and sub-regulation (2) of regulation 9]

Minimum Standards for Code of Conduct to Regulate, Monitor and Report Trading by Insiders

1. ….

…….

6. When the trading window is open, trading by designated persons shall be subject to preclearance by the compliance officer, if the value of the proposed trades is above such thresholds as the board of directors may stipulate. 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.

3. Vide a *communication-order* dated February 13, 2020, it has been informed that the competent authority in SEBI is satisfied that there are sufficient grounds to inquire into the affairs and adjudicate upon the alleged violations by the Noticee as under:

Sl. No.	For the violations as mentioned in para	Penalty provision charged
1.	2 (a) to 2 (b) – regarding not obtaining pre-clearance	Section 15HB of the Securities and Exchange Board of India Act, 1992 ("SEBI Act")
2.	2 (c) to 2 (d) – regarding disclosures	Section 15A (b) of the SEBI Act

4. Vide the aforesaid *communication-order* dated February 13, 2020, it has also been informed that competent authority has appointed the undersigned as Adjudicating Officer under Section 15-I (1) of the SEBI Act, 1992 read with Rule 3 of SEBI (Procedure for Holding Inquiry and Imposing Penalties by Adjudicating Officer) Rules, 1995 (hereinafter referred to as 'the Adjudication Rules') to inquire into and adjudge the alleged violations by the Noticee under Section 15HB and Section 15A (b) of the SEBI Act. The said provisions of the SEBI Act read as under:

SEBI Act

Penalty for contravention where no separate penalty has been provided.

15HB. *Whoever fails to comply with any provision of this Act, the rules or the regulations made or directions issued by the Board thereunder for which no separate penalty has been provided, shall be liable to a penalty which shall not be less than one lakh rupees but which may extend to one crore rupees.*

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,-*

(a) …..

(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;

5. Accordingly, after receipt of records of these proceedings, a notice to show cause no. EAD-2/AP-SKS/OW/12834/1/2020 dated July 14, 2020 ('the SCN') was issued to the Noticee in terms of Rule 4(1) of the Adjudication Rules read with section 15I of the SEBI Act calling upon her to show cause as to why an inquiry should not be held against her in terms of rule 4 of the Adjudication Rules and penalty be not imposed under Section 15HB and Section 15A (b) of the SEBI Act for the aforesaid alleged violations. The SCN was sent at the last known address of the Noticee through Speed Post with Acknowledgment Due as well as the e-mail id of the Noticee *viz.* vandana.singh@biocon.com. The same was duly served.

6. In response to the SCN, vide letter dated August 21, 2020, the Noticee filed her reply and availed the opportunity of personal hearing granted to her through WebEx platform on September 16, 2020, when Mr. Ravichandra Hegde, Advocate, Authorized Representative ('AR') of the Noticee appeared on her behalf and made oral submissions on the lines of written reply filed by the Noticee vide letter dated August 21, 2020 and explained the contents thereof. Subsequently, the Noticee filed her post-hearing written submissions vide letter dated September 18, 2020, on the limited point of leniency. The replies/submissions of the Noticee are *inter-alia* as follows:

a) The transactions in question are not commercial in nature, and they were in no manner motivated by any inside events or unpublished price sensitive information ("UPSI") of Biocon.

She has not gained any benefit, monetary or otherwise from the same and no harm has been caused to the investors as a result. The lapse, at most was technical and inconsequential in nature, which does not contravene the provisions of the PIT Regulations when viewed in the spirit of the Regulations.

b) She joined Biocon on October 4, 2010 as a Senior Manager. Pursuant thereto, she got promoted twice, to the positions of Deputy General Manager and General Manager, Regulatory Affairs. Since July 2017 till date, she is holding the position of General Manger, Regulatory Affairs.

c) She is employed with Biocon for the last ten years. It is an admitted position that she is not involved in the day to day affairs or management of Biocon. Her track record in her employment history has been spotless till the present ill-fated occasion. Since the beginning, she never had any experience or exposure in share trading. This is the rarest instance where she had participated in stock investments.

d) As per the Company policy, Biocon offered the subject employee stock option plans ("ESOPs") to her at the time of joining. She had exercised the ESOPs in 2016 when they were about to expire, keeping in view the future financial requirements on her family front. Since she did not have the requisite funds for purchasing the ESOPs, she had approached Edelweiss Finance Limited ("Edelweiss") for availing a loan that would enable her acquisitions. Accordingly, in February 2018, she entered into a loan facility with Edelweiss whereby she was granted funds to the extent of Rs. 17,50,000/- for acquiring 5,400 ESOPs of Biocon ("Loan"). Once again, on September 6, 2018, she obtained further financial assistance to the extent of Rs. 13,76,988 from Edelweiss for acquiring another 4,500 ESOPs of Biocon. Edelweiss had insisted on keeping the Biocon shares as collateral for the Loan granted and therefore, all her shares were kept as collateral with Edelweiss. In this regard, she provided copies of the documents pertaining to the loan transactions between her and Edelweiss.

e) A bare perusal of the Loan documents will demonstrate that though the shares were purchased by her, the same were pledged with Edelweiss, whereby all rights of disposal remained with Edelweiss. In view thereof, she had no control over the shares so acquired and it was Edelweiss who were in actual control of shares.

f) At the time of repayment as per the terms of the Loan, she was facing liquidity constraints, and therefore, she requested Edelweiss to grant her some extension of time for being able to arrange for funds. Initially, Edelweiss agreed to grant her an extension, but however, it had abruptly started invoking her shares on September 3, 2018. Being under tremendous pressure, she

remained occupied in trying to convince Edelweiss to stop the invocation process and to expeditiously arrange for the requisite funds. However, since she was not able to honor her obligation under the Loan facility and arrange for the necessary funds on an immediate basis, Edelweiss continued its invocation process. Considering the transaction is question was not executed by herself but was executed by Edelweiss, at the time when she was negotiating with them to not take such a drastic step, the question of taking preclearance does not arise.

g) It may be noted that hardly any notice was given to her before the pledge was invoked and the impugned shares were transferred to the account of Edelweiss. Amidst all the pressure and harassment she was facing, she failed to look into the compliance requirements prescribed under the PIT Regulations. In fact, at this juncture, all her time and energy were vested in the attempts to arrange the funds so that the pledge is not invoked. Moreover, since the invocation of pledge and transfer shares occurred in intermittent tranches during which she was under acute pressure, she failed to calculate and keep track of the exact day the Rupees 10 lakh limit as prescribed under Regulation 7(2) of the PIT Regulations was breached.

h) As soon as she realized the mishap, she immediately approached the compliance officer of Biocon, Mr. Satish Kumar SS and informed him of what had transpired. She even addressed an apology letter to him on October 4, 2018. Thereafter, she made post transaction disclosures to the Company in designated Form C. Following which, in due compliance of Regulation 7(2)(b) of the PIT Regulations, appropriate disclosures with regards her trades were immediately made to the stock exchanges by the Company.

i) The Company conducted disciplinary proceedings before its Audit and Risk Committee of the Board of Directors on October 25, 2018. Finally, noting that-(a.) this was the first time she had missed to seek pre-clearance from the compliance officer before executing trades; (b.) she was not in possession of any UPSI; and (c.) that the trades in question were executed during a non-window closure period, the compliance officer excused her by giving her a warning and directing her to attend training programs on the subject code.

j) On December 11, 2019, she was in receipt of a notice offering summary settlement in respect of her disclosure violations. It was directed that she should pay a sum of Rs. 4,82,812.50/- to get the matter settled and closed. However, despite being keen to settle and conclude the matter, she was unable to accept the settlement offer since the same was beyond her financial capacity. Therefore, vide my e-mail dated January 18, 2020, she requested the concerned officer of SEBI to reconsider the settlement offer in view of the facts that led to the violation in question. However, she did not receive any revised settlement offer thereafter till date.

k) The Impugned transactions were never directed or intended by her, which would have allowed her to plan actions and comply with all the procedural prescriptions of law. The sale transactions were in the nature of distress sale that occurred under unplanned and unpleasant circumstances. Therefore, it was impossible for her to seek due pre-clearance from the compliance officer of Biocon beforehand in terms of Clause 6 of the Code of Conduct. On the other hand, on account of acute pressure and stress she was going through, she even failed to make relevant disclosures to Biocon within the time prescribed under Regulation 7(2)(a) of the PIT Regulations. As stated above, she even could not calculate and track the exact date when the Rupees 10 lakh threshold was breached.

l) She placed reliance on the case of *Vitro Commodities Private Limited vs. SEBI [*Appeal No. 118 of 2013], wherein the Hon'ble Securities Appellate Tribunal ("SAT") had also recognized that when a transaction has taken place beyond the control of the Noticee and the Noticee is not an 'active trader,' no monetary penalty is attracted. In view of the said findings, she submitted that since the Impugned transactions had taken place without her having any control over it, imposing a penalty upon her would not be just and commensurate.

m) She is not a regular investor in the securities market. She does not deal in shares nor she is a market player in any manner. For the first time, she had acquired the ESOPs on loan taking into account the future financial needs of her family. As far as the Impugned transactions are concerned, she has not even received any consideration for the 'sale' of her shares, let alone, making any profit. Further, she also did not have access to any UPSI with respect to the Company. Therefore, the question of her deriving any advantage over the public investors of Biocon does not arise.

n) Despite such invocation of pledge and confiscation of shares by Edelweiss there was still an outstanding amount of around Rs 7 lakhs under the Loan, which also she had cleared by selling further Biocon shares. In a situation of such financial exigency, attribution of any further liability to pay any penalty amount will create extreme difficult situations for her. She reiterated that her existing adverse financial position makes her completely incapacitated to bear further burden of penalty and accordingly, request that the case be viewed with kind and merciful sight.

o) Though she was aware of the compliance requirements prescribed under the PIT Regulations, it completely missed her mind in view of the mental distress she was undergoing. Moreover, her lack of any prior experience in trading has also contributed to this unintentional oversight. However, as rightly noted by the compliance officer of Biocon, since she was not in possession of any UPSI, her mistakes did not have any detrimental impact on the Company or its investors even in terms of the PIT Regulations. Having said this, she is aware of the requirements of the

subject Regulations and their significance and impact on the general investor interests in the securities market. In view of the same, she ensured that such a lapse is never repeated by her and that she will take utmost care while dealing in the securities market in the future.

p) The presumption under the allegations under PIT Regulations is that when an insider trades or deals in securities of a listed company, he/she does so on the basis of UPSI and the burden of proof lies on the insider to establish the divergent view. The same was held by the SAT in the in the case of *Chandrakala Vs. SEBI [Appeal 209 of 2011]*. wherein the SAT further goes on to give an elaborate explanation on the basic tenets and principles of these Regulations. The SAT endorses the legal principle for the applicability of PIT Regulations that the trading by an insider should be *induced by* the UPSI, and accordingly, in the said case the SAT concluded that the appellant was not guilty of insider trading despite having traded while in possession of UPSI, merely because such trade was not *induced by* the UPSI. Accordingly, the penalty imposed on the Appellant by the adjudicating officer was suspended.

q) It is urged that a similar view based on the spirit and not letter of law be taken in this case as well, since the infractions in this case were not with any intention or to violate the principles underlying the PIT Regulations. Even the SCN does not state the contrary. The impugned transactions lacked commercial intent and were merely done for the purpose of repayment of loan. There is also no impact of the Impugned Transactions on the market value of the Biocon scrip, and the same is not even alleged anywhere in the SCN.

r) In view the aforementioned submissions, the Noticee submitted that she had not violated any provision under the PIT Regulations when looked at its quintessence. At most, she can be held accountable for mere negligence as she was acting in haste and under pressure. In this regard, she drew attention to the views taken by the SEBI Adjudicating Officer in the case of *Utsav Pathak* (decided on August 30. 2019), wherein despite holding the Noticee guilty of insider trading, no penalty was imposed.

s) She is just a salaried employee of Biocon with no other shares or investments. This impugned sale is an inadvertent error that happened because of certain unfortunate events that occurred in haste and her lack of expertise. She pleaded not to take any adverse actions and expose her to such financial burden that will put her in an irreparable condition and that she will undertake to be more careful in future.

t) Without prejudice to the above, a lenient view may be taken while determining the quantum of penalty and a bare minimum penalty be imposed in light of the mitigating factors stated above as per the below mentioned precedents:

i.) In an order dated August 26, 2020, In *Suprajit Engineering Limited*, where for identical allegations, the Learned AO imposed a penalty of only Rs. 2 lacs.

ii.) The Hon'ble SAT in the case of *Naishadh Desai* (Appeal 404/2019), taking cognizance of the factors under Section 15 J, reduced the penalty imposed on said Appellant from Rs. 12 lacs to Rs. 2 lacs.

iii.) In an order dated August 29, 2017, in the case of *Wipro Limited*, the Learned AO considering the mitigating factors in favour of the Noticee, had imposed a monetary penalty of Rs. 2 lacs.

7. I have considered the allegations and charges levelled against the Noticee, submissions of the Noticee and the relevant material available on record. As per Regulation 9 (1) of the PIT Regulations, the onus lies on the board of directors of every listed company to formulate a code of conduct to govern, regulate, monitor and report trading by its employees and other connected persons towards achieving compliance with PIT Regulations, adopting the minimum standards as set out in Schedule B to the PIT Regulations without diluting the provisions of PIT Regulations in any manner. The standards set out in the Schedule B are required to be addressed by such code of conduct. Whereas Regulation 9 (2) of the PIT Regulations mandate persons other than listed companies and market intermediaries that are required to handle UPSI to formulate a code of conduct governing trading in securities by their employees. These entities include professional firms such as auditors, accountancy firms, law firms, analysts, consultants etc., assisting or advising listed companies, market intermediaries and other capital market participants. Hence, Regulation 9 (2) of the PIT Regulations does not apply in the facts and circumstances of this case as it relates to persons other than listed companies and market intermediaries. As per Clause 3 of Code of Conduct under Schedule B to the PIT Regulations, "designated persons" are employees and connected persons designated on the basis of their functional role in the organisation and they are governed by an internal code of conduct governing dealing in securities. The board of directors shall in consultation with the compliance officer specify the designated persons to be covered by such code on the basis of their role and function in the organisation and due regard shall be had to the access that such role and function would provide to UPSI in addition to seniority and professional designation. Clause 6 of Code of Conduct under Schedule B to the PIT Regulations mandates that when the trading window is open, trading by designated persons shall be subject to preclearance by the compliance officer, if the value of the proposed trades is above such thresholds as the board of directors may stipulate. No designated person shall apply for pre-clearance of any proposed trade if such designated person is in possession of UPSI even if the trading window is not closed. The charges in this case clearly falls under the said Clause 6, as the Noticee is designated as a designed

person of Biocon during the reference period and is bound to execute trades subject to compliance with the PIT Regulations.

8. As regards the charge on not obtaining preclearance from the compliance officer of Biocon, it is an admitted position that pledges for 3550 shares had been invoked in the account of the Noticee on various dates i.e. on September 03, 2018, September 07, 2018, September 12, 2018, September 17, 2018, September 18, 2018, September 19, 2018, September 26, 2018, September 28, 2018 and October 01, 2018 by Edelweiss. From the letter of the Company dated October 30, 2018, I also note that when the reasons for not seeking the pre-clearance for the above sale transactions were sought by the Compliance Officer vide an email dated October 01, 2018, the Noticee had, *inter-alia*, stated that *"I had done the transaction…in the period April to September 2018 and did not take prior approve before selling ESOPs due to oversight and in urgency to clear the loan amount taken from Edelweiss. Please note this has happened for the first time and my sincere apologies for same. Henceforth, I will ensure to take approval and compliance as per the policy."* The Noticee, being a designated person, has not disputed the transactions in question. At this point of time, it is relevant to mention that on one hand, the Noticee had responded to the company that she did not take prior approval before selling ESOPs due to oversight and on the other hand, contended that the transactions in question were not executed by her but was executed by Edelweiss at the time when she was negotiating with them to not take such a drastic step and hence, the question of taking preclearance does not arise. The statements before the company and before the undersigned during this proceeding are in sharp contradiction to each other. In view of the facts recorded hereinabove, I conclude that the Noticee by not obtaining preclearance from the compliance officer of Biocon for the transactions in question has violated the provisions of Clause 6 of Code of Conduct under Schedule B of Regulation 9(1) of the PIT Regulations. Therefore, in my view, the failure of the Noticee as found in this case deserves imposition of monetary penalty under section 15HB of the SEBI Act.

9. Further, as per Regulation 7(2) (a) of the PIT Regulations, 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. In the instant case, cumulative value of the pledged securities of Noticee which was invoked by ECL Finance Ltd as well as the value of ESOPs was in excess of Rs. 10 lakh on two occasions. As such, Regulation 7(2) (a) of the PIT Regulations is applicable in the facts and circumstances of the case. As regards the charge on making delayed disclosures under the PIT Regulations, in the first instance, the cumulative value of the said pledged securities invoked by ECL Finance Ltd was in excess of Rs. 10 lakh i.e. Rs. 11,02,246.59 when 1,700 shares of Biocon pledged by the Noticee was invoked by ECL Finance

Ltd on September 03, 2018, September 07, 2018 and September 12, 2018 in three tranches of 250 shares, 1,000 shares and 450 shares, respectively. In the second instance, the cumulative value of the said pledged securities invoked by ECL Finance Ltd as well as the value of ESOPs was in excess of Rs. 10 lakh i.e. Rs. 19,44,974.05 when 850 shares of Biocon pledged by the Noticee was invoked by ECL Finance Ltd on September 17, 2018, September 18, 2018 and September 19, 2018 in three tranches of 150 shares, 200 shares and 500 shares, respectively. In this regard, in the first instance, when the disclosure was required to be made to the Company on or before September 14, 2018, the disclosures were made by the Noticee to the Company on October 03, 2018 i.e. with a delay of 19 days. In the second instance, when the disclosure was required to be made to the Company on or before September 26, 2018, the disclosures were made by the Noticee to the Company on October 03, 2018 i.e. with a delay of 7 days. The Noticee has not disputed the delay in making disclosures. The Noticee in her defence claimed that she failed to calculate and keep track of the exact day the Rupees 10 lakh limit as prescribed under Regulation 7(2) (a) of the PIT Regulations was breached. The oversight on the part of the Noticee cannot be considered as an excuse from compliance with the PIT Regulations. Thus, this is a case of failure on the part of the Noticee, as a designed person of Biocon during the reference period, who is bound to execute trades subject to compliance with the PIT Regulations. Therefore, in my view, the repeated failures of the Noticee as found in this case deserves imposition of monetary penalty under section 15A (b) of the SEBI Act.

10. The intent and objective behind framing of the PIT Regulations is to ensure that no one would gain by trading on 'insider' or 'unpublished information' i.e. information that is not available to all market participants. The PIT Regulations intend to prevent abuse by trading when in possession of UPSI. Further, the purpose of the disclosure requirements under the PIT Regulations is to place the information of the occurrence of the trade in the public domain in order that the transaction does not take place in a discreet manner to the detriment of the general investors. Therefore, disclosure is mandated at two levels; one is the immediate disclosure of any material information and the other is the disclosure of transactions undertaken. While the former is meant to prevent insider trading, the latter is for revealing insider trading, if any. Insiders and the company are obligated to disclose all the price sensitive/ material information to the public at the earliest. The objective is to create a level playing field by making information accessible to all market participants i.e. the shareholders and proposed investors. Resultantly, when the information is equally available to all, there is no distinct advantage that insiders can capitalize on. The violations by a designated person, as found in this case, would defeat the purpose of principles enshrined under the PIT Regulations keeping in mind the mandate of protecting the interest of investors. The reliance placed by the Noticee on the views taken by the SEBI Adjudicating Officer in the case of *Utsav Pathak* is

out of place as that case involve charge on communication of UPSI which is not the charge in this matter.

11. The Noticee has submitted that after the event has transpired, she had immediately approached the compliance officer of Biocon and addressed an apology letter to him and also made post transaction disclosures to the Company in designated Form C following which in due compliance of Regulation 7(2)(a) of the PIT Regulations, appropriate disclosures with regards her trades were made immediately to the stock exchanges by the Company. The Noticee also submitted that the Company conducted disciplinary proceedings before its Audit and Risk Committee of the Board of Directors and noting that this was the first time she had missed to seek pre-clearance from the compliance officer before executing trades and that the trades in question were executed during a non-window closure period, the compliance officer excused her by giving a warning and directing her to attend training programs on the subject code. All these post corrective measures taken by the Noticee may only be a mitigating factor for adjudging the quantum of penalty. While determining the quantum of penalty, it is also important to consider the factors stipulated in Section 15J of the SEBI Act which are as under:

    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.

12. Having regard to the factors listed in section 15J and the guidelines issued by Hon'ble Supreme Court of India in *SEBI Vs Bhavesh Pabari Civil Appeal No(S).11311 of 2013* vide judgement dated February 28, 2019, it is noted that from the material available on record, any quantifiable gain or unfair advantage accrued to the Noticee or the extent of loss suffered by the investors as a result of the default in this case cannot be computed. Further, the material brought on record shows that the acts of the Noticee as observed in this case are repetitive in nature. Having said the same, and considering the mitigating factors, I am of the view that this case deserves imposition of monetary penalty for the reasons recorded above.

13. Taking into consideration all the facts and circumstances of the case 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 consolidated monetary penalty of ₹ 3,00,000/- (Rupees Three Lakh Only) on the Noticee in totality for both the violations i.e. not obtaining pre-clearance as well as making delayed disclosures which attracts section 15HB and 15A (b) of the SEBI Act, respectively. In my view, the said penalty is commensurate with the violations committed by the Noticee in this case.

14. The Noticee shall remit / pay the said total 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 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 Noticee may contact the support at portalhelp@sebi.gov.in

15. The Demand Draft or details and confirmation of e-payment made in the format as given in table below should be sent to "*The Division Chief, EFD-DRA-III, Securities and Exchange Board of India, SEBI Bhavan, Plot no. C- 4A, "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 along with order details)	

16. 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.

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

Date: October 23, 2020
Place: Mumbai

Amit Pradhan
Adjudicating Officer