

BEFORE THE ADJUDICATING OFFICER

SECURITIES AND EXCHANGE BOARD OF INDIA

[ADJUDICATION ORDER NO. SRP/RK/AO- 91/2010]

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

In respect of  
Madhav Marbles and Granites Limited

(PAN: AAACM9243N)

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**BACKGROUND IN BRIEF**

1. The Securities and Exchange Board of India (hereinafter referred to as “SEBI”) conducted investigations into the alleged irregularity in the trading/dealings in the shares of Madhav Marbles and Granites Limited (hereinafter referred to as “MMGL/ Company”). During the relevant period, the shares of MMGL were listed on the Bombay Stock Exchange Ltd. (BSE) and the National Stock Exchange of India Ltd. (NSE).
2. The investigations, prima facie, revealed that Shri Ashok Doshi, the Managing Director of the Company, who was holding 5.52% shares/voting rights in MMGL, further acquired 45,000 shares of the Company on September 29, 2009 for a total consideration of Rs.12,08,550/-. The relevant details in regard to the shares acquired by Shri Ashok Doshi are given below :

No. and % of shares/voting rights held by Shri Ashok Doshi prior to acquisition	Date of Acquisition	No. of shares /voting rights acquired	No. and % of shares / voting rights post acquisition	Stock Exchange on which the purchase transaction was executed	Buy value (in Rs.)
4,93,900 5.52%	29.09.2009	20,000	5,13,900 6.02%	NSE	5,34,800
5,13,900 6.02%	29.09.2009	25,000	5,38,900 6.17%	BSE	6,63,750

3. Vide letter dated December 24, 2009, Shri Ashok Doshi informed SEBI that he had made the required disclosures, in the prescribed format, to the Company under regulation 13(4) of the SEBI (Prohibition of Insider Trading) Regulations, 1992 (hereinafter referred to as '**PIT Regulations**') on September 30, 2009 for further disclosure to the stock exchanges. However, NSE and BSE vide their communication to SEBI dated November 10, 2009 and November 30, 2009 respectively, have stated that the Company has not made the required disclosures to them regarding the aforesaid acquisition within the prescribed time.
4. Therefore, it has been alleged that the Noticee has failed to make the required disclosures under regulation 13(6) of the PIT Regulations to BSE and NSE in regard to acquisition of shares of the Company on September 29, 2009 by its Managing Director, Shri Ashok Doshi. This alleged violation/contravention of the provisions of the PIT Regulations, if established, makes the Noticee liable for penalty under section 15A (b) of the Securities and Exchange Board of India Act, 1992 (hereinafter referred to as '**SEBI Act**').

#### **APPOINTMENT OF ADJUDICATING OFFICER**

5. The undersigned has been appointed as Adjudicating Officer vide order dated March 4, 2010 under section 15 I of the SEBI Act read with rule 3 of the SEBI (Procedure for Holding Inquiry and Imposing Penalty by Adjudicating Officer) Rules, 1995 (hereinafter referred to as "**Rules**") to inquire into and adjudge under section 15A (b) of the SEBI Act, the alleged violation/contravention of the provisions of the PIT Regulations, by the Noticee.

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

6. Show Cause Notice No. EAD-1/SRP/DSL/200080/2010 dated March 29, 2010 (hereinafter referred to as "**SCN**") was issued to the Noticee under rule 4 of the Rules to show cause as to why an inquiry be not held against it and penalty be not imposed under sections 15A (b) of the SEBI Act for the alleged violation of the provisions of regulation 13(6) of the PIT Regulations.
7. The Noticee replied to the SCN vide its letter dated April 8, 2010. In order to conduct an inquiry in terms of rule 4(3) of the Rules, the Noticee was granted an opportunity of

hearing on June 28, 2010 vide notice dated June 10, 2010. Ms. Priyanka Manawat, company secretary and compliance officer of MMGL attended the hearing on behalf of the Noticee and made written and oral submissions. The submissions made by the Noticee are mainly to the following effect :

- *Mr. Ashok Doshi, Managing Director of the company, had acquired 45,000 shares on September 29, 2009 from his spouse Mrs. Aruna Doshi and the Company had received necessary disclosures, as stipulated under PIT Regulations, from Mr. Ashok Doshi and his spouse Mrs. Aruna Doshi on September 30, 2009.*
- *The Company defaulted in submitting the above mentioned disclosures to the concerned stock exchanges due to oversight and work pressure relating to distribution of dividend. The non-compliance was unintentional.*
- *The Company has filed the aforesaid disclosures given by Mr. Ashok Doshi and Aruna Doshi to the concerned stock exchanges on January 4, 2010 after receiving a letter from SEBI.*
- *The Noticee has requested to take a lenient view in the matter by stating that the mistake was unintentional and further that it has been complying with all the disclosure requirements since its listing in 1994. It has also stated that the Company is regularly paying dividend to its share holders since last eight years and the number of investor grievances are also very less.*

#### **CONSIDERATION OF ISSUES AND FINDINGS**

8. I have carefully examined the written and oral submissions made by the Noticee and the documents/material available on record. The issues that arise for consideration in the present case are whether the Noticee has failed to comply with the provisions of regulation 13 (6) of the PIT Regulations and whether non-compliance, if any, attract penalty under section 15A (b) of the SEBI Act?
9. Before moving forward, it would be appropriate to refer to the relevant provisions of the PIT Regulations :

***Regulation 13: Disclosure by company to stock exchanges.***

*(6) Every listed company, within two working days of receipt, shall disclose to all stock exchanges on which the company is listed, the information received under sub regulations (1), (2), (3) and (4) in the respective formats specified in Schedule III.*

10. It is observed from the documents available on record that Shri Ashok Doshi was the Managing Director of the Company during the relevant period and was holding 5.52% shares/voting rights in MMGL. On September 29, 2009, he further acquired 45,000 shares of the Company for a total consideration of Rs.12, 08,550/-. Thus, he was required to make disclosures under regulation 13(4) of the PIT Regulations to the company and to the concerned stock exchanges.
11. The Noticee has not disputed the fact that the disclosure under regulation 13(4) of the PIT Regulations, in the prescribed format, was received by it on September 30, 2009 from Shri Ashok Doshi. In the circumstances, the Noticee was under obligation to inform the stock exchanges viz., NSE and BSE about the aforesaid acquisition by its director; however, the exchanges have stated that they have not received any disclosure under PIT Regulations with regard to the purchase of shares on September 29, 2009 by Mr. Ashok Doshi.
12. The Noticee has admitted that the disclosure was not made within the stipulated time in the prescribed form. It has submitted that a delayed disclosure regarding this acquisition was made on January 4, 2010.
13. Above details, clearly indicate that there has been a delay of approximately three months on the part of the Noticee in making the required disclosures to the Stock Exchanges under the PIT Regulations.
14. In light of all the above facts, I am of the opinion that the Noticee has violated/contravened the provisions of regulation 13 (6) of the PIT Regulations, which makes it liable for monetary penalty under Section 15A (b) of the SEBI Act, which states as under -

*15A. Penalty for failure to furnish information, return, etc. - If any person, who is required under this Act or any rules or regulations made there under, -*

*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.*

15. While determining the quantum of penalty under section 15 A (b) of the SEBI Act , I have considered the factors stipulated under section 15J of the SEBI Act, which reads as under:-

*15J - Factors to be taken into account by the adjudicating officer while adjudging quantum of penalty under section 15-I, the adjudicating officer shall have due regard to the following factors, namely:-*

*(a) the amount of disproportionate gain or unfair advantage, wherever quantifiable, made as a result of the default;*

*(b) the amount of loss caused to an investor or group of investors as result of the default;*

*c) the repetitive nature of the default.*

16. In this regard, I would like to mention that from the material available on record, it is not possible to ascertain the disproportionate gain or unfair advantage which may have accrued to the Noticee or the loss that the investors would have incurred as a result of the aforesaid default by the Noticee. However, I am of the opinion that the change in the shareholding and timely disclosure thereof, is of prime importance from the point of view of shareholders/investors as that would have prompted them in making decision on investment or otherwise. It would also be difficult to come to a firm conclusion as to how the general shareholders would have reacted on knowing the aforesaid change in the shareholding. On account of failure on the part of the Noticee to make the necessary disclosures on time, the fact remains that the investors and other market participants were deprived of the important information at the relevant point of time. However, there is nothing on record to indicate that the violation committed by the Noticee is repetitive in nature.

17. Therefore, in consideration of all the facts and circumstances of the case as well as the submissions made by the Noticee, I am of the view that a penalty of Rs.25, 000/- on the Noticee shall be commensurate with the violations committed by it.

## **ORDER**

18. In exercise of the powers conferred upon me under Section 15 I of the Act and rule 5 of the Rules, I impose penalty of Rs.25, 000/- (Rupees twenty five thousand only) on the Noticee in terms of the provisions of Section 15 A (b) of the Act for the violation of the provisions of regulation 13(6) of the PIT Regulations. In the facts and circumstances of the case, I am of the view that the said penalty is commensurate with the violations committed by the Noticee.

19. The Noticee shall pay the said amount of penalty by way of demand draft in favour of "SEBI – Penalties Remittable to Government of India", payable at Mumbai, within 45 days of receipt of this order. The said demand draft should be forwarded to the Chief General Manager, Integrated Surveillance Department, Securities and Exchange Board of India, SEBI Bhavan, Plot No. C – 4 A, "G" Block, Bandra Kurla Complex, Bandra (E), Mumbai – 400 051.
20. In terms of rule 6 of the Rules, copies of this order are sent to the Noticee and also to the Securities and Exchange Board of India.

**Date : July 01, 2010**

**Place : Mumbai**

**Satya Ranjan Prasad**

**Adjudicating Officer**