WTM/MB/IVD/ID2/13175/2021-22

BEFORE THE SECURITIES AND EXCHANGE BOARD OF INDIA

CORAM: MADHABI PURI BUCH, WHOLE TIME MEMBER

FINAL ORDER

Under Sections 11(1), 11(4) 11 (4A), 11B (1) and 11B (2) of the Securities and Exchange Board of India Act, 1992

In the matter of Zee Entertainment Enterprises Ltd.

In re SEBI (Prohibition of Insider Trading) Regulations, 2015

In respect of:

Sl. No.	Name of the Entity	PAN
1.	E-City Hi-Tech Projects LLP	AAFFE1378J
2.	Mr. Atul Goel	AAEPG2532P

Background

1. Zee Entertainment Enterprises Ltd. ("**ZEEL / Company**") was founded in 1982 and was formerly known as Zee Telefilms Ltd. It changed its name to Zee Entertainment Enterprises Ltd. in January 2007. ZEEL is a global media and entertainment conglomerate with a presence across television broadcasting, movies, music, live entertainment and digital businesses.

2. SEBI observed that post the open letter of assurance written by ZEEL Chairman, Dr. Subhash Chandra on January 25, 2019 and press release on January 27, 2019 wherein it was informed that the Essel Group had arrived at an agreement with its Lenders, the fall in the price of ZEEL which took place on January 25, 2019, was arrested on January 28, 2019. SEBI initiated an investigation to ascertain whether certain persons / entities have traded in the scrip of ZEEL while they were in possession of the information regarding the steps taken by Essel Group of which

ZEEL is a part and were thus in violation of the provisions of the Securities and Exchange Board of India, Act 1992 ("**SEBI Act**") and SEBI (Prohibition of Insider Trading) Regulations, 2015, ("**PIT Regulations**"). The investigation period is January 1, 2019 to January 31, 2019 ("**investigation period**"). However, wherever deemed necessary, reference has been made to outside this period.

Show Cause Notice

3. Consequent to the investigation, a common show cause notice dated August 3, 2020 ("**SCN"**) was served on E-City Hi-Tech Projects LLP ("**Noticee No. 1**") and Mr. Atul Goel ("**Noticee No. 2**") in the extant matter. The SCN *inter alia* alleged as follows:

   3.1. Investigation observed that an article was published in The Wire on January 24, 2019, reporting that a link has emerged between Essel Group and a company which is being probed for suspected demonitisation deposits. The news also appeared on January 25, 2019 in economictimes.indiatimes.com quoting "*A report in Wire said that a link has emerged between Essel Group and a company being probed for suspect demonetisation deposits*".

   3.2. Subsequent to the publication of news article the share price of ZEEL, the main operating listed company of the Essel Group, had an intra-day fall of more than 30% on January 25, 2019, before making a recovery.

   3.3. Pursuant to the fall in price of the scrip of ZEEL, an open letter of assurance was written by Dr. Subhash Chandra in his capacity as Chairman of ZEEL and Essel Group to the Lenders of Promoter/ Promoter entities and a meeting with Lenders was called on January 26, 2019 to dissuade them from taking any precipitative action including sale of shares in open market. The information related to the above events are price sensitive information and before they were published, were unpublished price sensitive information ("**UPSI**") in terms of regulation 2 (1)(n) of PIT Regulations.

3.4. Based on the chronology of events leading up to the publication of the open letter and press release dated January 27, 2019, it was alleged that the period from 3 pm till the publication of open letter at 6:15 pm on January 25, 2019 is the first UPSI period. The second UPSI period is from 3 pm on January 25, 2019 till the press release at 8:20 pm on January 27, 2019.

3.5. From the Essel Group website, it was observed that Noticee No. 1 is part of the Essel Group, whose Chairman is Dr. Subhash Chandra. The designated partners of Noticee No. 1 during the period January 1, 2018 to June 30, 2019 were Noticee No. 2 and E-City Real Estates Private Limited through its nominee Mr. Ankit Goel and they are first cousins of Mr. Punit Goenka, MD & CEO of ZEEL (son of Dr. Subhash Chandra). Noticee No. 2 is also one of the Promoters of Essel Group.

3.6. During UPSI period, Noticee No. 1 had bought 3,00,000 shares of ZEEL on NSE on January 25, 2015 between 15:18:06 hours to 15:20:25 hours and sold the same number of ZEEL shares during post-UPSI period on NSE on January 28, 2019 between 9:33:48 hours to 9:35:44 hours.

3.7. It was alleged that as prospects of Essel Group companies were inherently linked with ZEEL, as most of the funding to the Essel Group companies were primarily secured against the shares of ZEEL and post the publication of Morgan Stanley Report and IL&FS debacle, there was financial stress in the Essel Group, it was reasonably expected that Noticee No. 2 being one of the Promoters of the Essel Group, was in frequent conversation with officers / management of the company. Thus, considering the close connection of Noticee No. 2 and Mr. Ankit Goel with Essel Group as well as with Dr. Subhash Chandra and Mr. Punit Goenka, it was alleged that Noticee No. 2 and Mr. Ankit Goel were directly / indirectly associated / connected with the company.

3.8. Furthermore, as the news articles were pertaining to the Essel Group and a clarification was to be given by the Essel Group, it is reasonable to infer that

Noticee No. 2 being one of the Promoter of the Essel Group, is reasonably expected to have access to the steps taken by the Essel Group to assure the lenders. The same is corroborated by the text of press release of January 27, 2019 which stated that "*a detailed meeting of the Essel Group Promoters with the lending entities comprising of Mutual funds, NBFCs and Banks was conducted*" and by trading activity / pattern of the Noticee No. 1 during the UPSI period.

3.9. Thus, it was alleged that Noticee No. 2 during the six months prior to the trading activity of Noticee No. 1 has been associated with the company, indirectly, by reason of frequent communication with its officers and because of his close connection with Essel Group as well as with Dr. Subhash Chandra and Mr. Punit Goenka and is reasonably expected to have access to the UPSI. Therefore, it was alleged that Noticee No. 2 is a connected person in terms of regulation 2(1)(d)(i) of PIT Regulations.

3.10. Further, Noticee No. 1 being LLP is an artificial person that acts through its designated partners. Noticee No. 2 being one of its designated partners was alleged to be connected with the company. The second designated partner of Noticee No. 1 is E-City Real Estates Private Limited through its nominee Mr. Ankit Goel. Mr. Ankit Goel is also similarly placed as Noticee No. 2 being one of the Promoter of Essel Group. Hence, it was alleged that being Promoter of the Essel Group, it is reasonable to infer that he would also be like other Promoters of Essel Group, involved in the discussions pertaining to the negative reports in the media. Thus, it was alleged that he also had access to UPSI. Considering both of Noticee No 1's designated partners are alleged to be connected persons and Noticee No. 2 being the one who placed order on its behalf for trading in the scrip of ZEEL during UPSI period, Noticee No. 1 was also alleged to be indirectly associated with the company and is reasonably expected to have access to the UPSI. Therefore, Noticee No. 1 was

a connected person in terms of regulation 2(1)(d)(i) of PIT Regulations. Accordingly, it was alleged that both the Noticees are insiders in terms of regulation 2(1)(g)(i) of PIT Regulations.

3.11. Noticee No. 2 being an insider had placed orders on behalf of Noticee No. 1 during the UPSI period in the scrip of ZEEL when he was possession of UPSI. In view of the above, it was alleged that Noticee No. 2 has, indirectly, engaged in insider trading activity in the scrip of ZEEL. Moreover, it was also alleged that Noticee No. 1 being an insider has directly traded in the securities of ZEEL during the UPSI period when Noticee No. 1 was in possession of UPSI. Thus, it was alleged that Noticee No. 1 has engaged in insider trading activity in the scrip of ZEEL. Thus, it is alleged that both the Noticees have violated regulation 4(1) of PIT Regulations and Section 12A (d) of SEBI Act. Further, it was also alleged that by dealing in securities of ZEEL while in possession of material and non-public information, the Noticees have also violated Section 12A(e) of SEBI Act.

3.12. Further, Noticee No. 1 would not have traded but for the access that Noticee No. 2 had to the UPSI. Thus, it was alleged that the Noticees have dealt in the securities of ZEEL on the basis of UPSI and hence have been alleged to have violated Section 15G(i) of SEBI Act. Moreover, it was alleged that for engaging in wrongful act of insider trading, Noticee No. 2 was jointly and severally liable with Noticee No. 1 under Sections 27 (2) read with 28 (2) of The Limited Liability Partnership Act, 2008 ("**LLP Act**").

3.13. It was observed on the basis of investigation that Noticee No. 1 traded in the scrip of ZEEL when in possession and on the basis of UPSI and made wrongful gain of Rs. 55,07,555/-.

3.14. In view of the above, the Noticees were called upon to show cause as to why suitable directions under Sections 11B (1) and 11(4) read with Section 11(1) of SEBI Act, and disgorgement of wrongful gain should not be issued against

them for the alleged violations of the aforementioned provisions of SEBI Act and PIT Regulations for trading in the scrip of ZEEL during the UPSI period. The Noticees 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(i) of SEBI Act should not be issued against them for the alleged violation of Section 15G(i) of SEBI Act.

Reply & Hearing

4. In response to the SCN, Noticees vide their letter dated September 3, 2020 submitted a reply wherein *inter alia* they stated as follows:

   4.1. For the last number of years, the operations of Noticee No.1 have been conducted efficiently and Noticee No. 1 has not availed loans and debt from any Lenders, including Lenders of ZEEL or the entities controlled by Dr. Subhash Chandra.

   4.2. It is pertinent to note that none of these companies wherein Noticee No. 2 is a Promoter / Director are the constituents of the companies promoted and controlled by Dr. Subhash Chandra and/or Mr. Punit Goenka. There are no cross holdings of shares in the companies / entities controlled by the Noticee No. 2 and the companies / entities controlled by Dr. Subhash Chandra and/or Mr. Punit Goenka.

   4.3. Significantly, none of the Noticees are classified or designated as "Promoter/Promoter Group" of ZEEL and are not considered as "associate companies" of ZEEL under the Companies Act, 2013.

   4.4 In the facts at hand, Noticee No. 2 does not have any capacity or association with ZEEL. He is neither a director or an officer of ZEEL during the period of the alleged in the SCN nor has he been, as during the six months prior to the alleged trades in the SCN been associated with ZEEL, in any capacity including by reason of frequent communication with its officers. Further, Noticee No. 2 does not fall within the ambit of the definition of "immediate relative" under PIT Regulation.

4.5. Noticees state that they were not privy to the letter dated November 19, 2019 issued by ZEEL save and except via media reports and publications. Further, they are neither privy to the meetings conducted by Dr. Subhash Chandra nor participated in the same as the Noticees are neither the "Promoters/Promoter Group" of ZEEL nor is Notice No. 2 a "connected person".

4.6. It may be noted that 'Essel Group' is neither a corporate entity nor is it an umbrella holding entity which is considered as the "Promoter/Promoter Group" of ZEEL.

4.7. Dr. Subhash Chandra in his open letter dated January 25, 2019 unequivocally mentioned that there was a family separation and it was successfully implemented. All the brothers and their respective children are financial independent and are conducting their respective businesses without being "Promoter or Promoter Group" of each other's companies/entities. This fact is also reported by newspapers articles.

4.8. The Essel Group website enumerates and informs about different corporate entities that are using the brand name "Essel", which is merely a name and phonetic representation of the letter "S" and "L"; neither does the website nor any other filings states that the Noticees are "connected persons" or "Promoter/Promoter Group" of ZEEL and the same cannot be inferred. Also in the "Our Companies" section of the Essel Group website, each of the companies of the Essel Group are specifically linked to the name of the concerned family member. The details of such specific links are highlighted in set out in the Annexure.

4.9. Noticees deny that the Noticees were in frequent touch with Dr. Subhash Chandra and with Mr. Punit Goenka. None of the companies managed and operated by Noticee No 2 have taken any loans where the collateral security is the ZEEL shares. In fact, all companies managed by Noticee No 2 have no external debt.

4.10. It may be noted that the Noticees actively trade in securities of listed companies. In other instances, also the Noticees have undertaken opportunistic

trades. The Noticees have traded in the securities of ZEEL several times prior and after the investigation period. This demonstrates that the Noticees are frequent traders in ZEEL shares.

4.11. Trading in ZEEL shares was done in the normal course of the activities of the Noticees which during course of financial year 2018-2019 ended up in losses from share trading to the tune of Rs. 5,21,30,809/-. It is therefore evident that the Noticees have not made any undue profit or gain from the trading in ZEEL shares.

5. Considering the facts and circumstances of the case, Noticees were granted an opportunity of hearing in the matter on November 11, 2020 via Webex. The said hearing notice was sent to the Noticees vide email dated October 10, 2020.

6. At the time of hearing, authorised representatives of the Noticees appeared for the hearing. The authorised representatives reiterated the submissions made in the reply submitted in response to the SCN and *inter alia* submitted as follows:

6.1. The family business has been divided between the four brothers as per an agreement/ deed in 2008. All brothers were allowed to use the name Essel Group. Noticee No. 2 belongs to the Essel (Laxmi Narain Goel) Sub-Group and not to the Essel (Subhash Chandra) Sub-Group.

6.2. Noticee No. 2 has not been involved with ZEEL since 2008 and would have met Mr. Subhash Chandra and Mr. Punit Goenka on social occasions only, maybe once in 7-8 months.

6.3. With respect to the trading pattern alleged in the SCN, Noticee No. 2 submitted that in the past, he has entered into similar such trades in other securities as well.

6.4. Noticees were advised to submit the following on or before November 26, 2020:

6.4.1. To submit an affidavit with relevant documents in respect of agreement / deed entered into by four brothers in 2008. Details of any cross-holdings,

direct/ indirect shareholdings, common directors/ lenders between the Sub-Groups of the Essel group to also be provided.

6.4.2. To provide details of trades to substantiate Noticees trading pattern.

7. Post hearing, Noticees vide an affidavit dated November 25, 2020, *inter alia* submitted as follows:

7.1. A list of 17 entities in which Noticee No. 2 along with his family members and related companies, are Promoters. Dr. Subhash Chandra and/or Mr. Punit Goenka do not directly or indirectly hold any shareholding in the said 17 entities. Similarly, the said 17 entities do not directly or indirectly hold any shareholding in any companies in which Dr. Subhash Chandra and/or Mr. Punit Goenka are Promoters or are part of Promoter group, other than the insignificant public shareholding in Dish TV (Noticee No. 1 [0.17% acquired in August, 2019] and Noticee No. 2 [0.06% acquired in March, 2020]).

7.2. Noticee No. 2 is neither a Director nor does he hold any key management position in any of the companies in which Dr. Subhash Chandra and/or Mr. Punit Goenka are designated or identified as Promoters and vice-versa.

7.3. An illustrative list of short term trading transactions during the last 24 months is annexed to substantiate that purchase and sale of shares of ZEEL was done in normal course of activities of Noticees.

8. Subsequently, SEBI vide an email dated January 22, 2021 sought certain clarifications along with evidence with respect to separation of Essel Group into different groups.

9. In response to the aforesaid SEBI email, Noticees vide their undated letter (received by SEBI on February 1, 2021) *inter alia* made the following submissions:

9.1. Essel Group is not a corporate entity. It is a symbol and an identity of the family name heritage. The family members are running their own business ventures in factions which have no cross holdings whatsoever and are independent ventures.

9.2. Noticees apart from referring to the website of Essel Group also made reference to the book published by Dr. Subhas Chandra in the year 2016 name "the Z Factor" wherein at pages 227 and 228, he refers to separation amongst his brothers.

9.3. The shares of ZEEL were bought and sold purely as an investment when ZEEL being a blue chip shares fell by 25%. It was bound to rebound in a short period of time and there was no insider trading.

Findings and Consideration

10. I have perused the SCN, written and oral submissions and other materials available on record. On perusal of the same, the following issues arise for consideration.

i. Whether information relating to the open letter of assurance written by Dr. Subhash Chandra to Lenders and the meeting called with Lenders was unpublished price sensitive information, in terms of PIT Regulations?

ii. If the information relating to the open letter of assurance written by Dr. Subhash Chandra to Lenders and the meeting called with Lenders was unpublished price sensitive information, whether the first period of unpublished price sensitive information was from 3 pm on January 25, 2019 till the publication of open letter at 6:15 pm on January 25, 2019 and the second period of unpublished price sensitive information was from 3 pm on January 25, 2019 till the press release at 8:20 pm on January 27, 2019, as alleged in the SCN?

iii. Whether Noticees are 'insiders' in terms of PIT Regulations?

iv. If Noticees are 'insiders' in terms of PIT Regulations, whether the Noticees have

violated the applicable provisions of insider trading under PIT Regulations and SEBI Act, as alleged in the SCN?

v. *If the answer to the aforesaid question is in affirmative, whether directions as proposed in the SCN and direction of penalty, if any, needs to be issued against the Noticees?*

11. I now proceed to deal with the issues as enumerated earlier.

Issue No. 1- *Whether information relating to the open letter of assurance written by Dr. Subhash Chandra to Lenders and the meeting called with Lenders was unpublished price sensitive information, in terms of PIT Regulations?*

12. Before proceeding further, it will be appropriate here to refer to the definition of UPSI as mentioned under regulation 2(1)(n) of PIT Regulations. The same reads as follows:

2(1) In these regulations, unless the context otherwise requires, the following words, expressions and derivations therefrom shall have the meanings assigned to them as under:
…
(n) "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 and shall, ordinarily including but not restricted to, information relating to the following: –
(i)…
…

NOTE: It is intended that information relating to a company or securities, that is not generally available would be unpublished price sensitive information if it is likely to materially affect the price upon coming into the public domain. The types of matters that would ordinarily give rise to unpublished price sensitive information have been listed above to give illustrative guidance of unpublished price sensitive information.

13. Thus, from the aforesaid definition of unpublished price sensitive information, it is

observed that the following three ingredients are essential to qualify an information as an unpublished price sensitive information:

13.1. The information must be directly or indirectly related to a company or its securities;

13.2. The information must not be generally available;

13.3. The information upon becoming generally available, is likely to materially affect the price of the securities.

14. In the present matter, the information that has been alleged in the SCN as UPSI are (a) information related to an open letter of assurance dated January 25, 2019 written by Dr. Subhash Chandra in his capacity as Chairman of ZEEL and Essel Group to the Lenders of Promoter/ Promoter entities which was published at 6:15 pm on January 25, 2019 and (b) a meeting with Lenders which was called on January 26, 2019 to dissuade them from taking any precipitative action including sale of shares in open market, leading to a press release on January 27, 2019. It is observed from the submissions of the Noticees that though they have generally denied all the allegations levelled against them in the SCN, however, they have not disputed specifically that the aforesaid information are not UPSI.

15. I now proceed to examine whether the aforesaid information satisfies the three criteria mentioned in the preceding paragraph.

Open letter of assurance dated January 25, 2019

16. With respect to the first criterion, it is observed from the open letter of assurance dated January 25, 2019 that it informed the Lenders as well as the investors among other things about how certain negative forces over a period of few months have attacked the price of scrip of operating companies of Essel Group including ZEEL

and the intention of Promoters of ZEEL to have a strategic sale of their shares in ZEEL. Thus, the information related to the open letter of assurance pertains directly to ZEEL.

17. To meet the second criterion, the information should not be "generally available". The phrase, "generally available information" has been defined under regulation 2 (1)(e) of PIT Regulations, as follows:

"generally available information" means information that is accessible to the public on a non-discriminatory basis;

NOTE: It is intended to define what constitutes generally available information so that it is easier to crystallize and appreciate what unpublished price sensitive information is. Information published on the website of a stock exchange, would ordinarily be considered generally available.

18. The aforesaid definition which essentially means that the information should be equally accessible to the public on a non-selective and in a transparent manner i.e., accessible to the public. To put it differently, for an information to be held as generally available, the information must be uniformly and universally disseminated. One of the ways of doing so is publishing it on the official website of the stock exchange.

19. In the instant matter, the information was published by the company at 6:15 pm on January 25, 2019. The information being published was uniformly and universally accessible to the public on a non-discriminatory basis. There is no evidence to show that the information regarding open letter of assurance, was generally available to the public prior to January 25, 2019.

20. As per the third criterion, the information upon becoming generally available, is likely to materially affect the price of the securities. It is observed that the price of

the scrip of ZEEL on January 25, 2019 had seen a intra day fall of 30%. It is in this context, a series of steps was taken by the company to assuage its Lenders to not react in haste and one such step was an open letter written by Dr. Subhas Chandra, Chairman of ZEEL. The open letter also highlighted the following:

20.1. The steps taken to counter the negative forces which are in play since May / June, 2018.

20.2. Due interest and principal was paid to the Lenders till December.

20.3. Dr. Subhash Chandra had returned last night from London after holding positive meetings with potential suitors in London for the stake sale in ZEEL.

20.4. Post stake sale, positively the entire dues will be repaid.

20.5. All operating companies especially ZEEL were performing exceptionally well and were under no stress whatsoever. The debt burden was at Promoter level.

21. From the above, it is noted that not only the open letter informed the creditors and investors that there has been no defaulted in paying loan till date but also the steps taken by the Promoter of the company so as to not default in paying the loan in future. Thus, the open letter threw light on the financial health of ZEEL and also showed that the fall in the price of the scrip was not related to the financial health of ZEEL. Hence, the aforesaid information which has a bearing on the financials of ZEEL and creditworthiness of Promoters of ZEEL, was not generally available and upon becoming generally available was likely to materially affect the price of the shares of ZEEL.

22. In view of the aforesaid discussions, it has been demonstrated that all the three ingredients of the definition of UPSI have been met by the information relating to the open letter of assurance dated January 25, 2019 and hence, it can be concluded

that the aforesaid information was an UPSI, in terms of regulation 2(1)(n) of PIT Regulations.

Meeting with the Lenders which was called on January 26, 2019

23. With respect to the first criterion, it is not in dispute that the information related to the meeting with the Lenders which was called on January 26, 2019 pertains directly to ZEEL as the Lenders were having pledge on shares held by Promoters of ZEEL.

24. To meet the second criterion, the information should not be "generally available". In the instant matter, the information was published by the company by way of a press release at 8:20 pm on January 27, 2019. The information being published was uniformly and universally accessible to the public on a non-discriminatory basis. There is no evidence to show that the information regarding meeting with the Lenders which was called on January 26, 2019, was generally available to the public prior to January 26, 2019.

25. As per the third criterion, the information upon becoming generally available, is likely to materially affect the price of the securities. As observed in the preceding paragraphs that the price of the scrip of ZEEL on January 25, 2019 had seen a intra day fall of 30%. It is in this context, a series of steps was taken by the company to assuage its Lenders to not react in haste and one such step was calling a meeting with the Lenders to dissuade them from taking any adverse action or treat the event as a default. If the meeting is not called to dissuade the Lenders then it may have resulted in panic sale by them resulting in further drop in price of the scrip of ZEEL and its overall market capitalisation. Hence, the aforesaid information which pertains to the financial viability of the Essel Group companies including ZEEL and their operations as a going concern, was not generally available and upon becoming generally available was likely to materially affect the price of the shares of ZEEL.

26. In view of the aforesaid discussions, it has been demonstrated that all the three ingredients of the definition of UPSI have been met by the information relating to the meeting with the Lenders which was called on January 26, 2019 and hence, it can be concluded that the aforesaid information was an UPSI, in terms of regulation 2(1)(n) of PIT Regulations.

Issue No. 2 *- If the information relating to the open letter of assurance written by Dr. Subhash Chandra to Lenders and the meeting called with Lenders was unpublished price sensitive information, whether the first period of unpublished price sensitive information was from 3 pm on January 25, 2019 till the publication of open letter at 6:15 pm on January 25, 2019 and the second period of unpublished price sensitive information was from 3 pm on January 25, 2019 till the press release at 8:20 pm on January 27, 2019, as alleged in the SCN?*

27. SCN alleges that the first period of UPSI was from 3 pm on January 25, 2019 till the publication of open letter at 6:15 pm on January 25, 2019 and the second period of UPSI was from 3 pm on January 25, 2019 till the press release at 8:20 pm on January 27, 2019. It is observed from the submissions of the Noticees that though they have generally denied all the allegations levelled against them in the SCN, however, they have not disputed specifically disputed the aforesaid UPSI periods. The chronology of events leading up to the press release dated January 27, 2019, based on the submissions made by the company and corporate announcements on exchange website, is as follows:

Date	Particulars
Jan 24, 2019 (before 07:00 hrs)	News article published in The Wire (https://thewire.in) which reported that "Essel Group Link Emerges to Company Being Probed for Suspect Demonetisation Deposits".
Jan 25, 2019	News appeared in economictimes.indiatimes.com quoting "A report in Wire said that a link has emerged between Essel Group and a company being probed for suspect demonetisation deposits".

Date	Particulars
Jan 25, 2019 (around 15:00 hrs)	At around 03:00 PM, Mr. Subhash Chandra decided to issue clarifications on media reporting and started drafting the open letter.
Jan 25, 2019 (15:21 hrs)	NSE, observing the significant decrease in price of the scrip, had written to ZEEL in the interest of investors.
Jan 25, 2019 (15:45 hrs)	BSE sought clarification from ZEEL w.r.t. news appeared in economictimes.indiatimes.com dated January 25, 2019.
Jan 25, 2019 (17:06 hrs)	BSE disseminated the clarification provided by ZEEL, wherein it was *inter-alia* mentioned that the company is unaware of the news item appeared in economictimes.indiatimes.com or its source or factual correctness of the information contained therein.
Jan 25, 2019 (17:08 hrs)	NSE disseminated the clarification provided by ZEEL.
Jan 25, 2019 (18:15 hrs)	Open Letter of Mr. Subhash Chandra, Chairman ZEE and Essel Group, was published at around 06:15 PM, wherein he *inter-alia* stated that the negative forces have attacked ZEELs share price today, he urged lenders to promoter/ promoter entities to maintain patience and provided assurance that all dues of lenders will be paid.
Jan 25, 2019 (18:30 hrs)	ZEEL informed BSE & NSE regarding Conference Call organized at 06:45 PM on January 25, 2015 to answer investors questions regarding the developments related to the stock price movement on January 25, 2019.
Jan 26, 2019	Meeting of lenders (comprising of Mutual Funds, NBFCs and Banks) was conducted in Essel Group Office to address issues in joint forum and to assure them about the recoverability of their dues through various means including stake sale by the promoter/ promoter entities in ZEEL.
Jan 27, 2019	Another meeting with lenders was conducted at office of ICICI Mutual Fund to discuss the way forward. In the same meeting press release dated January 27, 2019 was discussed and finalized.
Jan 27, 2019 (13:53 hrs)	ZEEL submitted further clarification to BSE & NSE on communication dated January 25 2019, wherein it was *inter-alia* stated that the company which is getting probed by SFIO (i.e. Nityank lnfrapower and Multiventures Ltd.) is an independent company and does not belong to Essel Group. Further, it was also stated that the media report(s) alleging involvement of Essel Group entities in the SFIO investigation

Date	Particulars
	against Nityank is being done only with malicious intent and legal action as advised / appropriate are being initiated in this regard.
Jan 27, 2019 (20:20 hrs)	Press release was published at around 08:20 PM by Essel Group with title "Essel Group arrives at an agreement with the Lenders".
Jan 28, 2019 (07:56 hrs)	ZEEL informed BSE & NSE about the conference call organized at 08:30 AM to answer investors questions w.r.t. Essel Group press release dated January 27, 2019 in connection with agreement reached with its lenders having pledge of Promoters Shares and submitted copy of the same.

28. Based on the chronology of events leading up to the publication of open letter of assurance, it is observed that the news article in "The Wire" had appeared on January 24, 2019. However, as the decision to write an open letter was triggered by intra day fall in the price of the scrip on January 25, 2019, it is observed from the material available on record that the following was the price movement on January 25, 2019 in the scrip of ZEEL:

Time Upto	**Total Traded Qty (cumulative)**	**% of Total Traded Qty to Total Issued Capital**	**LTP**	**% Increase / Decrease vis-à-vis Previous Close**
9:30 hours	613034	0.06	432.25	(0.37)
13:30 hours	8066224	0.84	411.85	(5.07)
14:30 hours	41266609	4.3	350.7	(19.17)
15:30 hours	73945146	7.7	299.7	(30.92)

It is observed from the above table that the price in the scrip of ZEEL on January 25, 2019 at 2:30 pm had fallen significantly by 19.17% compared to its previous day closing price. Seen in this context the submission of the company that Dr. Subhash

Chandra around 3:00 pm decided to issue clarifications on media reporting and had started drafting the open letter, is acceptable. The said open letter was published at 6:15 pm on January 25, 2019.

29. Considering the aforesaid discussion and the timelines as noted in the preceding paragraphs, it is held that the period of first UPSI is from 3:00 pm on January 25, 2019 to 6:15 pm on January 25, 2019.

30. With respect to the second UPSI period, it is observed that calling a meeting with Lenders was one of the series of steps that was taken by the Promoters of Essel Group / ZEEL to arrest the slide of the price in the scrip of ZEEL. It has been noted in the preceding paragraphs that the process was initiated ta 3:00 pm. Moreover, as noted from the replies of the company dated November 19, 2019 and December 7, 2019 that on January 25, 2019, the Promoter Group engaged with various Lenders over calls who had started calling the representatives of the Promoter Group under panic, post intraday fall of more than 30% in share price of ZEEL, asking about clarifications on media news articles. The Lenders, who called after 5 pm, were told that a meeting on January 26, 2019 has been called to discuss with all Lenders various issues at a single location. Thus, it can be reasonably inferred that the decision to call for a meeting with the Lenders was taken before 5:00 pm on January 25, 2019 and was one of the steps taken by the Promoter Group along with the decision to write an open letter by Dr. Subhash Chandra, to calm the Lenders and investors. It is observed that a press release pursuant to the meeting with the Lenders was published at 8:20 pm on January 27, 2019.

31. Considering the aforesaid discussion and the timelines as noted in the preceding paragraphs, it is held that the period of second UPSI is from 3:00 pm on January 25, 2019 to 6:15 pm 8:20 pm on January 27, 2019.

Issue No. 3 **-** *Whether the Noticees are 'insiders' in terms of PIT Regulations?*

32. Here, it will be appropriate to refer to the relevant provision pertaining to the definition of 'insider'. In terms of regulation 2 (1) (g) (i) of PIT Regulations, 'insider' means any person who is:

    (i) a connected person; or

    (ii) …

    Connected person has been defined under regulation 2 (1) (d) (i) of PIT Regulations to mean as follows: "*any person who is or has during the six months prior to the concerned act been associated with a company, directly or indirectly, in any capacity including by reason of frequent communication with its officers or by being in any contractual, fiduciary or employment relationship or by being a director, officer or an employee of the company or holds any position including a professional or business relationship between himself and the company whether temporary or permanent, that allows such person, directly or indirectly, access to unpublished price sensitive information or is reasonably expected to allow such access*".

33. SCN has alleged that the Noticees are insider in terms of regulation 2 (1) (g) (i) of PIT Regulations. Noticees on the other hand have submitted that pursuant to a separation agreement / deed, the brothers of Dr. Subhash Chandra had divided the various ventures of Essel Group amongst themselves, such that ventures belonging to one brother group does not have cross holdings in other brother's group ventures. Further, Noticee No. 2 is not a Director or Promoter or key managerial personnel in any of the ventures of Essel (Subhas Chandra) Group and hence he is not in frequent communication with Dr. Subhas Chandra and / or Mr. Punit Goenka. Moreover, none of the companies managed and operated by Noticee No 2 have taken any loans where the collateral security is the ZEEL shares. Furthermore, Noticees have undertaken opportunistic trades in other scrips also.

34. I now proceed to examine whether Noticees can be termed as insiders as per regulation 2 (1) (g) (i) of PIT Regulations. To come under the ambit of the aforesaid regulation, following two parameters of a "connected person" as mentioned under regulation 2 (1) (d) (i) of PIT Regulations must be satisfied:

34.1 The person must be directly or indirectly associated with a company in any capacity.

34.2 The person must have direct or indirect access to UPSI or is reasonably expected to have access to UPSI.

35. It is observed that the SCN has alleged that Noticee No. 2 is one of the Promoters of Essel Group and cousin of Mr. Punit Goenka. It is observed from the print outs of the webpages of Essel Group website submitted by the Noticees that Essel Group consists of several ventures which have been divided among Dr. Subhas Chandra and his three brothers. ZEEL belongs to the Essel (Subhas Chandra) Group. Though the current website of Essel Group does not reflect all the ventures of Essel Group and shows only ventures belonging to Essel (Subhash Chandra) Group (except one, Dish TV which pertains to Essel [Jawahar Lal Goel] Group), as submitted by the Noticees, but from the web archive pages (https://web.archive.org) dated June 9, 2020, it is observed under "Our Companies" section under sub-section "Entertainment", there are four ventures and each venture belongs to one of the brothers. Further, from the shareholding pattern for the quarter ended December 2018 (trades were executed on January 25, 2019), it is observed that there are 7 corporate bodies who are Promoters of ZEEL. The 17 companies / ventures submitted by Noticee No. 2 where he or his family members are Promoters / Directors, do not feature amongst the said 7 corporate bodies. Noticee No. 2 vide his email dated July 1, 2020 has submitted that family members are running their own business ventures in factions which have no cross holdings whatsoever and are independent ventures. From the details of the aforesaid 17 companies, it is observed

that only Noticee No. 2 / his immediate family members / companies have a shareholding in them. To put it differently, Dr. Subhas Chandra and his family members or his companies, do not have any cross holdings in the said 17 companies of Noticee No. 2. Moreover, there is no evidence available on record to show otherwise. It is noted from the past Director details of ZEEL that Noticee No. 2 was not a Director in ZEEL. There is also no evidence available on record to show that Noticee No. 2 was associated with ZEEL in any other capacity. The aforesaid when seen along with the open letter dated January 25, 2020 which mentions about the family separation, newspaper articles submitted by the Noticee along with the extracts of book, "The Z Factor" written by Dr. Subhash Chandra (published in the year 2016) shows the following:

35.1 Essel Group is not a corporate entity.

35.2 Various ventures of Essel Group have been divided among Dr. Subhas Chandra and his 3 brothers during the relevant period.

35.3 Noticee No. 2 is not a Promoter of ZEEL and was not associated with ZEEL in the capacity of a Director or in any capacity, during the relevant period.

36. With respect to the fact that Noticee No. 2 is cousin of Mr. Punit Goenka, it is noted that under regulation 2 (1)(f) of PIT Regulations immediate relative means a spouse of a person, and includes parent, sibling, and child of such person or of the spouse, any of whom is either dependent financially on such person, or consults such person in taking decisions relating to trading in securities. Thus, "cousin brother" does not fall within the definition of immediate relative. Further, Noticee No. 2 has his own partnership firms / companies and thus is not dependent financially on Mr. Punit Goenka. Moreover, there is no evidence to show that Noticee No. 2 consults Mr. Punit Goenka for matters related to trading in securities. Hence, for the purposes of PIT Regulations, Noticee No. 2 is not an immediate relative of Mr. Punit Goenka.

37. Thus, from the aforesaid it is held that Noticee No. 2 is not directly associated with ZEEL and the family ties that Noticee No. 2 shares with Dr. Subhas Chandra / Mr. Punit Goenka does not fall within the ambit of PIT Regulations. Further, there is no evidence available on record to show that Noticee No. 1 has any shareholding in ZEEL or it has any contractual / business relationship with ZEEL. Thus, it can be held that Noticee No. 1 is also not directly associated with ZEEL.

38. It has been alleged that ZEEL being the flagship company of Essel Group, its shares were pledged to fund Promoter entities / their affiliates. In this regard, Noticee No. 2 vide his email dated July 1, 2020 has submitted that companies in which Noticee No. 2 is a Promoter or part of the management, have not taken any loan whatsoever against the shares of ZEEL from any Lenders. Further, from the list of the entities who have attended the meeting with Lenders, it is observed that key managerial personnel of ZEEL, ZEE5 and 2 Promoter Entities of ZEEL had attended the said meeting. The same shows that ZEEL and its related companies were part of the Lenders meeting and there was no representative from Essel (Laxmi Narain Goel) Group of which Noticee No. 2 is a part. Therefore, on a preponderance of probability basis, it can be held that Noticees / companies of Noticee No. 2 have not taken loan by pledging shares of ZEEL. Hence, it can be held that Noticees are not indirectly associated with ZEEL.

39. I note that though on the basis of material available on record a direct or indirect association of Noticees could not be established with ZEEL but in matters of insider trading, direct substantive evidence will not always be present. In such situations the immediate and proximate facts and circumstances surrounding the events on which the charges/allegations are founded have to be taken into consideration before arriving at a conclusion that the entity has not trades when he is possession of UPSI, as held by Hon'ble Supreme Court of India in the matter of *SEBI* vs *Kishore R Ajmera* decided on February 23, 2016. One such vital circumstance is the trading

pattern / behavior of the entity. The reason being that an insider takes the advantage of information asymmetry and in order to encash that advantage, the entity trades in a certain way / pattern. For e.g., if an insider was in possession of positive UPSI about a company and traded while in possession of such UPSI, he would be expected to buy the shares of the company before such information became public. Once the information became public, since it was positive in nature, it would be expected that the share price of the company would go up and the insider would then sell the shares at such higher price, thereby making a profit using the UPSI. It may be noted though, that the policy of the PIT Regulation is to prevent dealing in securities, while in possession of UPSI irrespective of whether the UPSI is positive or negative and irrespective of whether profit is made or not.

40. Similarly, if the UPSI happened to be negative, then the insider would be expected to sell the shares of the company at a particular price before the UPSI became public (including short selling if he did not already hold the shares). Once the information became public, since it was negative in nature, it would be expected that the share price of the company would fall and the insider would then buy the shares at such lower price, thereby closing his short selling position at a profit (sold higher, bought back lower), using the UPSI.

41. The aforesaid insider trading behaviour which is executed in the cash segment of the market can be also mirrored in the derivative segment of the market.

42. It is observed that Noticee No. 1 had bought 3,00,000 shares of ZEEL on NSE on January 25, 2015 between 15:18:06 hours to 15:20:25 hours and sold the same number of ZEEL shares during post-UPSI period on NSE on January 28, 2019 between 9:33:48 hours to 9:35:44 hours. In this regard, Noticee No. 1 has stated that it has executed such opportunistic trades previously also. To determine whether one of the aspects of Noticee No. 1's trading behaviour is executing opportunistic

trades, the parameters which have to considered have to be same as that of its impugned trades in ZEEL i.e., gross buy value, duration of holding scrips and whether Noticee No. 1 buys in bulk quantity or has a staggered approach while buying etc.

43. The following trades have been submitted by the Noticee No. 1 to show its trading pattern / behaviour:

Sl. No.	Scrip Name	Buy Date	Buy Qty	Buy Value (Rs.)	Sell Date	Sell Qty	Sell Value	Holding Period
1	Jai Prakash Associates	21/7/2017	9,00,000	2,20,67,040	26/7/2017	9,00,000	2,64,79,530	5 days
2	Jai Prakash Associates	4/8/2017	10,00,000	2,47,52,500	7/8/2017	10,00,000	2,90,25,140	3 days
3	Reliance Communication	21/12/2017	5,00,000	96,74,650	28/12/2017	5,00,000	1,54,52,850	7 days
4	Reliance Communication	27/12/2017	5,00,000	1,47,89,130	1/1/2018	5,00,000	1,75,78,873	5 days
5	HDFC Bank Ltd.	31/5/2018	14,250	3,01,49,371	1/6/2018	14,250	3,02,24,077	1 day
6	Aurobindo Pharma Ltd.	21/9/2018	26,400	2,00,23,681	25/9/2018	26,400	1,97,98,375	4 days
7	Deewan Housing Finance Corporation Ltd.	1/10/2018	1,70,000	4,98,41,670	1/10/2018	1,70,000	5,21,45,658	Intra day
8	Reliance Industries Ltd.	4/10/2018	52,000	5,96,49,925	4/10/2018	52,000	5,82,49,833	Intra day
9	Deewan Housing Finance Corporation Ltd	5/10/2018	1,64,000	4,99,04,370	5/10/2018	1,64,000	4,58,14,999	Intra day
10	Yes Bank Ltd.	11/10/2018	2,00,000	4,94,73,690	11/10/2018	2,00,000	5,02,79,593	Intra day
11	Yes Bank Ltd.	17/10/2018	57,500	1,33,76,047	17/10/2018	57,500	1,37,12,343	Intra day
12	Deewan Housing Finance Corporation Ltd.	31/10/2018	3,63,352	7,91,25,426	31/10/2018	3,63,352	8,09,78,253	Intra day
13	Deewan Housing Finance Corporation Ltd.	1/11/2018	4,25,000	9,90,04,880	2/11/2018	4,25,000	9,98,70,728	1 day
14	ICICI Bank Ltd.	2/11/2018	2,75,000	9,78,93,053	2/11/2018	2,75,000	9,73,72,885	Intra day
15	Jet Airways	16/11/2018	86,000	2,99,02,824	16/11/2018	86,000	3,00,20,803	Intra day
16	ZEE Entertainment Ltd.	8/5/2019	5,00,000	16,52,19,920	9/5/2019	5,00,000	17,23,97,560	1 day

17	Titan Industries Ltd.	9/5/2019	22,676	2,47,90,812	9/5/2019	22,676	2,51,24,415	Intra day
18	Titan Industries Ltd.	9/5/2019	1,27,324	13,94,22,493	10/5/2019	1,27,324	14,08,94,898	1 day
19	Indiabulls Housing Finance Ltd.	20/5/2019	1,18,000	9,92,89,575	23/5/2019	1,18,000	9,58,06,942	3 days
20	Reliance Industries Ltd.	20/5/2019	1,50,000	19,72,34,033	23/5/2019	1,50,000	20,79,17,237	3 days
21	Interglobe Aviation Ltd.	21/5/2019	66,000	9,85,68,352	23/5/2019	66,000	10,06,76,174	2 days
22	ZEE Entertainment Ltd.	1/7/2019	1,12,790	3,80,44,429	1/7/2019	1,12,790	4,02,68,875	Intra day
23	HDFC Bank Ltd.	23/9/2019	77,000	9,77,00,639	23/9/2019	77,000	9,80,91,544	Intra day
24	ZEE Entertainment Ltd.	23/9/2019	2,05,000	5,76,98,698	23/9/2019	2,05,000	6,11,72,023	Intra day
25	HDFC Bank Ltd.	4/2/2020	60,000	7,36,73,783	5/2/2020	60,000	7,43,73,953	1 day
26	Indusind Bank Ltd.	18/2/2020	80,000	8,98,60,457	18/2/2020	80,000	9,15,24,571	Intra day
27	Indusind Bank Ltd.	13/3/2020	21,106	1,32,96,963	13/3/2020	21,106	1,56,16,878	Intra day

44. From the above table, it is observed that one of the trading strategies of Noticee No. 1, appears to be to buy shares in bulk quantity of significant value and then square it off either the same day or within few days, similar to Noticee No. 1's trade in the scrip of ZEEL in the extant matter. In other words, Noticee No. 1 in the aforesaid trades has exhibited short term trading behavior wherein Noticee No. 1 is trying to take advantage of the price movement in the scrip over a small period. Moreover, Noticee No. 1 has shown the said trading behavior across multiple scrips. It is also observed that Noticee No. 1 has traded in a similar way (on 3 instances) post January 25, 2019 in the scrip of ZEEL. The aforesaid when seen along with the fact that Noticee No. 1 has bought 3,00,000 shares on January 25, 2019 when the price in the scrip had seen a fall of more than 20% that too towards the end of trading hours (15:18:06 hours to 15:20:25 hours at an average buy price of Rs. 323.29) and subsequently sold it the next trading day (between 9:33:48 hours to 9:35:44 hours at an average sell price of Rs. 341.65) as price in the scrip was on the rise (scrip opened at Rs. 351.25 compared to previous day closing price of Rs. 319.35), on a preponderance of probability basis shows that the trading behavior / pattern of

Noticee No. 1 in the scrip of ZEEL for the impugned trades is not dissimilar from many other trades of the Noticee following a short term opportunistic trading strategy. Thus, a benefit of doubt needs to be given to the Noticees for the impugned trades.

45. I note that in an allegation of insider trading, in respect of an insider by virtue of being a "connected person" the onus of establishing that they were not in possession of unpublished price sensitive information is on such insider. It is also relevant that such presumption arises when the materials on record support the allegation that Noticees are "connected persons". Therefore, what evidences are available on record which leads to the fact of a "connected person" is relevant. However, in insider trading cases, as discussed above, direct evidence may not be available. In such a scenario various circumstantial evidences have to be considered in totality. In the facts and circumstances of the case, one or a few of the circumstances may have higher weightage in view of their degree of probability of impact on the inference to be drawn as compared to others i.e., some circumstances would be more relevant than others. The weightage to be given to any circumstance is further dependent on the existence of other circumstances which may have the effect of nullifying the inference altogether or may lessen the degree of inference or strengthen the same. Therefore, what matters in assessment of what inference can be taken out of several circumstances, is not independent assessment of circumstances but joint assessment of various circumstances and their joint product on the relevant fact that all of them are capable of leading to. In this context, weightage has to be given for trading pattern also as a circumstantial evidence for establishing the fact of whether the Noticees are "connected person" among other circumstances such as their relationship and frequent communication. If any of the factors are compelling, they can compensate for other factors which may not have the same weightage.

46. In the instant case, the Noticees were able to present evidence which impairs the basis of allegation that the Noticees are connected persons. Noticees were able to discharge their onus that they are not directly or indirectly associated with ZEEL and therefore they were not reasonably expected to have access to UPSI. This was also corroborated by their trading pattern. In view of the aforesaid discussion, the Noticees have been reasonably able to refute the basis that they are insiders in terms of regulation 2 (1) (g) (i) of PIT Regulations. Further, on the basis of circumstantial evidence of trading behavior / pattern also, benefit of doubt needs to be given to the Noticees that when trades were executed from the trading account of Noticee No. 1 by Noticee No. 2, Noticees were not in possession of UPSI. Similarly, it can be held that the impugned trades were not executed on the basis of UPSI by the Noticees but on the basis of an oft-used trading strategy.

Issue No. 4 *- If Noticees are 'insiders' in terms of PIT Regulations, whether the Noticees have violated the applicable provisions of insider trading under PIT Regulations and SEBI Act, as alleged in the SCN?*

47. The conclusion that has been arrived at the preceding paragraphs is that the Noticees are not insiders in terms of regulation 2 (1) (g) (i) of PIT Regulations. Therefore, a benefit of doubt has been given to the Noticees that the impugned trades were not executed when the Noticees were in possession of UPSI and the impugned trades have not been executed on the basis of UPSI. In light of the said conclusions, it can further be held that in facts and circumstances of the extant matter, the allegation in the present form against the Noticees with respect to the violation of provisions of PIT Regulations and SEBI Act, as alleged in the SCN, does not stand established.

Issue No. 5- *If the answer to the aforesaid question is in affirmative, whether directions as proposed in the SCN and direction of penalty, if any, needs to be issued against the Noticees?*

48. Since issue no. 4 has been answered in negative, issue no. 5, does not arise.

Order

49. In the facts and circumstances of the case, I, in exercise of the powers conferred upon me in terms of Section 19 of the Securities and Exchange Board of India Act, 1992, hereby dispose of the show cause notice dated August 3, 2020 issued to E-City Hi-Tech Projects LLP and Mr. Atul Goel, without any directions or monetary penalty.

50. The order shall come into force with immediate effect.

-sd-

DATE: August 27, 2021
PLACE: Mumbai

MADHABI PURI BUCH
WHOLE TIME MEMBER
SECURITIES AND EXCHANGE BOARD OF INDIA