

**BEFORE THE ADJUDICATING OFFICER OF**  
**SECURITIES AND EXCHANGE BOARD OF INDIA**

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**ADJUDICATION ORDER (Ref No.: Order/AP/VS/2020-21/10007) UNDER SECTION**  
**15-I OF SECURITIES AND EXCHANGE BOARD OF INDIA ACT, 1992**

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In respect of:

**Mr. Chetan Parekh**  
**(PAN No. AFSP8275M)**  
2007, Shankar Plaza,  
Nanpura, Timaliawad,  
Surat, Gujarat-395001

In the matter of **Gujarat Cotex Limited**

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1. Gujarat Cotex Limited (hereinafter referred to as 'GCL'), a company listed on the Bombay Stock Exchange Limited (hereinafter referred to as 'BSE'). BSE vide letter dated November 08, 2017, informed that Mr. Chetan Parekh (hereinafter referred to as "the Noticee") is a promoter of GCL and has not made disclosure under regulation 31(2) of SEBI (Substantial Acquisition of Shares and Takeovers) Regulations, 2011 (hereinafter referred to as "the SAST Regulations") with release of encumbrance on 8,15,000 shares of GCL on March 28, 2017.
  2. SEBI vide letter dated August 28, 2019 and reminder letter dated September 11, 2019 advised Noticee to inform SEBI about the disclosures submitted to BSE and the GCL with in stipulated time as per regulation 31(2) of SAST Regulations. The Noticee vide letter dated September 13, 2019 *inter alia* submitted that: "...I had taken overdraft facility from M/s. The Surat People Cooperative Bank Ltd. against shares held in my demat account and I had given the authority for pledge of shares held by me in Reliance Communications Ltd. and Tata Motors Ltd. I never intended to pledge the shares of Gujarat Cotex Ltd. in which I am director and promoter, Infact Gujarat Cotex Ltd. is not an approved security for grant of overdraft limit by the above bank since the company is not coming in Top 500 List of BSE and NSE. The shares of Gujarat Cotex Ltd. have been inadvertently marked as pledged..."
  3. However, National Securities Depository Limited (hereinafter referred to as "NSDL") vide letter dated November 14, 2019, provided the demat account statement of the Noticee with respect to creation and closure of pledge of the GCL. It is observed from the demat account statement that on October 19, 2015 pledge was created on 8,15,000 shares of GCL and pledge on same was closed on March 28, 2017.

4. BSE, vide its email dated November 14, 2019 submitted that it had not received any disclosures under SAST Regulations from the Noticee in respect of aforesaid creation /disclosures of pledge of 81,50,000 shares of GCL.
5. In view of the above, it has been alleged that the Noticee has violated the provisions of regulation 31(1) and 31(2) read with regulation 33(3) of the SAST Regulations. The relevant provisions of the SAST Regulations are reproduce as follows:

**Disclosure of encumbered shares.**

*31(1) The promoter of every target company shall disclose details of shares in such target company encumbered by him or by persons acting in concert with him in such form as may be specified.*

*(2) The promoter of every target company shall disclose details of any invocation of such encumbrance or release of such encumbrance of shares in such form as may be specified.*

*(3) The disclosures required under sub-regulation (1) and sub-regulation (2) shall be made within seven working days from the creation or invocation or release of encumbrance, as the case may be to,—*

- (a) every stock exchange where the shares of the target company are listed; and*
- (b) the target company at its registered office.*

6. SEBI felt satisfied that there are sufficient grounds to inquire and adjudicate upon the alleged violations of the provisions of the SAST Regulations by the Noticee. By a *communication-order* dated January 15, 2020, the undersigned has been appointed as Adjudicating Officer to inquire into and adjudge under section 15A(b) of the SEBI Act for the alleged violations by the Noticee. After the receipt of the records, the notice to show cause vide letter no. EAD-2/AP/VS/2795/2020 dated January 21, 2020 (hereinafter referred to as ‘SCN’) was issued to the Noticee in terms of rule 4(1) of the SEBI (Procedure for Holding Inquiry and Imposing Penalties) Rules, 1995 (hereinafter referred to as ‘the Adjudication Rules’) read with section 15I of the SEBI Act. The SCN was sent at the last known address of the Noticee through Speed Post Acknowledgment Due, which was, duly served upon him. In the said SCN, the Noticee was asked to reply within a period of 14 days. However, no reply was received from the Noticee. The Noticee was given additional opportunity to file reply to the SCN and was also granted an opportunity of personal hearing on February 28, 2020 in terms of rule 4(3) of the Adjudication Rules and the same was communicated vide notice dated February 11, 2020. The Noticee vide his letter dated February 23, 2020 filed his primarily reply to the SCN and requested time for additional submission and adjournment of the personal hearing as scheduled on February 28, 2020. The request of the Noticee was acceded to and vide letter dated February 27,

2020 granted another opportunity of personal hearing to the Noticee on March 18, 2020. The Noticee further requested for the adjournment of the hearing and accordingly the hearing was scheduled on March 26, 2020. Subsequently, due to ongoing worldwide pandemic situation the scheduled hearing was adjourned. Thereafter, on betterment of the pandemic situation the hearing was again scheduled on September 18, 2020 and an additional opportunity of filing reply to the SCN was granted to the Noticee. The Noticee vide his email dated September 16, 2020 submitted his reply dated September 15, 2020 to the SCN. The Noticee vide its reply dated September 15, 2020 *inter-alia* submitted as follows:

- a) The Noticee made an application on October 17, 2015, to the Surat Peoples' Co-operative Bank (Bank) for an overdraft facility of ₹10,00,000/- against the following shares held in his demat account:
    - i. Reliance industries Limited
    - ii. Tata Motors Limited
    - iii. Reliance Communication Limited
    - iv. Gujarat Cotex Limited.
  - b) As per the policy of the bank the Noticee was required to offer all shares in his demat account. The Bank accepted the application of the Noticee and sanctioned the overdraft facility to the Noticee.
  - c) On November 28, 2018 Bank withdrew the overdraw limit since the share of the GCL is not coming in top 500 list of BSE and NSE, therefore the shares of the GCL of the Noticee's were released.
  - d) The Noticee tendered the copy of the letter sent to Bank for the clarification in this regard.
7. On scheduled date i.e., September 18, 2020, the Noticee along with Mr Kunjal Dalal appeared before undersigned through video-conferencing and reiterated the Noticee's reply dated September 15, 2020. The Noticee also requested to submit additional documents in support of his reply. However, no additional documents have been submitted by the Noticee till date.
8. I have carefully considered the allegations and charges levelled against the Noticee, the Noticee's representation and materials relied upon by SEBI and proceeded to examine the facts and circumstances and the material available on record.

9. I note from the submission of the Noticee that the only contention of him is that he has not pledged his shares to the bank in lieu of availing the overdraft facility of the Bank. The Noticee was never aware of the creation of the pledge and release of his shares of GCL by the Bank. In this regard I note that Noticee has filed the application for availing over draft facility of the Bank on October 17, 2015, the Bank vide its letter dated February 18, 2020 has confirmed that the overdraft facility was sanctioned to Noticee on October 17, 2015. Further from the letter dated November 28, 2018 of the Bank it is inferred that the Noticee has enjoyed the overdraft facility of the Bank till November 28, 2018. Further, vide letter dated November 28, 2018 the Bank had informed the Noticee about the withdrawal of its overdraft facility and also asked Noticee, for repayment of his reducing limit amount within stipulated days.
10. I note that the Noticee has submitted that he has never intended to pledge his shares. Whereas, as per the submission of the Noticee himself suggest that one of the Bank's condition for the granting overdraft facility is in lieu of the shares available in the demat account of the Noticee. Further, I am of the view that an overdraft facility by the Bank is advanced to customers when they pledge their securities. The value of the overdraft limit that is advanced to customers is determined on the basis of the securities that are pledged. Therefore, it is concluded that the Noticee was well aware of the fact that the overdraft facility of the Bank shall be given to him only in lieu of the shares available in his demat account. Therefore, the contention of the Noticee is not tenable.
11. Further as per the regulation 31(1) and 31(2) of the SAST Regulations, the Noticee being a promoter of GCL was obligated to disclose his encumbrance or invocation of his encumbrance with in stipulated time as mentioned in regulation 31(3) of the SAST Regulations. I note that the Noticee has denied his intention to pledge his shares, however, from the material available on record it is matter of the fact that the shares were pledged by the Noticee in lieu of availing the overdraft facility from the Bank. Further, from the Bank's letter dated November 28, 2018 it is clear that the Bank has informed the Noticee about filing an application for the release of the share which confirms that the shares of GCL was pledged by the Noticee.
12. It is pertinent to mention that the disclosures requirements under the respective regulations serve very important purposes. The stock exchange is informed so that the investing public will come to know of the position enabling them to stick on with or exit from the company. Timely disclosures of the details of the shareholding of the persons acquiring/transferring substantial stake is of significant importance as such disclosures also enable the regulators to monitor such acquisitions.

Hon'ble SAT in the matter of Coimbatore Flavors & Fragrances Ltd. vs SEBI (*Appeal No. 209 of 2014 order dated August 11, 2014*), has held that “*Undoubtedly, the purpose of these disclosures is to bring about more transparency in the affairs of the companies. True and timely disclosures by a company or its promoters are very essential from two angles. Firstly; investors can take a more informed decision to invest or not to invest in a particular scrip secondly; the Regulator can properly monitor the transactions in the capital market to effectively regulate the same.*” Further in the matter of Appeal No. 66 of 2003 -Milan Mahendra Securities Pvt. Ltd. vs. SEBI—the Hon’ble SAT, vide its order dated April 15, 2005 also held that, “*the purpose of these disclosures is to bring about transparency in the transactions and assist the Regulator to effectively monitor the transactions in the market.*” In the facts and circumstances of this case, the failure to make disclosure as found in this case would defeat the purpose of the provisions of regulation 31(1) and 31(2) read with 31(3) of the SAST Regulations. The statutory timeline stipulated in regulation 31(3) of the SAST Regulations is mandatory. Considering these facts and circumstances, I hold that this case deserves imposition of monetary penalty upon the Noticee under Section 15A (b) of the SEBI Act which reads as following:-

**Penalties and Adjudication**

***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 or who furnishes or files false, incorrect or incomplete information, return, report, books or other documents, he shall be liable to a penalty which shall not be less than one lakh rupees but which may extend to one lakh rupees for each day during which such failure continues subject to a maximum of one crore rupees.*

13. For the purpose of adjudging the quantum of penalty it is relevant to mention that under section 15I of the SEBI Act imposition of penalty is linked to the subjective satisfaction of the Adjudicating Officer. The words in the section that "*he may impose such penalty*" are of considerable significance, especially in view of the guidelines provided by the legislature in section 15J of the SEBI Act. Further, while adjudging the quantum of penalty the adjudicating officer has discretion and such discretion should be exercised having due regard to the factors specified in section 15J. The factors stipulated in Section 15J, which reads as follows:-

**“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 investor/ +s as a result of the default;*
- (c) the repetitive nature of the default.*

*Explanation-*

*For the removal of doubts, it is clarified that the power of an adjudicating officer to adjudge the quantum of penalty under sections 15A to 15E, clauses (b) and (c) of section 15F, 15G, 15H and 15HA shall be and shall always be deemed to have been exercised under the provisions of this section.”*

14. Having regard to the factors listed in section 15J, it is noted that from the material available on record, that 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. The default as observed in this case is not repetitive. However, at the same time I consider that timely disclosures to the company and the stock exchange as required under the SAST Regulations, are of significant importance from the point of view of the investors and regulators.
15. 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 monetary penalty of ₹1,00,000/ (Rupees One Lakh only) upon Noticee viz. Mr. Chetan Parekh under section 15A(b) of the SEBI Act. In my view, the said penalty is commensurate with the violation committed by the Noticee in this case.
16. 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](http://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](mailto:portalhelp@sebi.gov.in)
17. The Demand Draft or details and confirmation of e-payment made in the format as given in table below shall be sent to "The Division Chief, EFD-DRA-3, Securities and Exchange Board of India,

SEBI Bhavan, Plot no. C- 4 A, "G" Block, Bandra Kurla Complex, Bandra (E), Mumbai - 400 051.”

and also to e-mail id :- [rad@sebi.gov.in](mailto:rad@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/disgorgement / recovery/ settlement amount and legal charges along with order details)	

18. 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.

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

**Date: December 28, 2020**

**Place: Mumbai**

**Amit Pradhan**  
**Adjudicating Officer**