BEFORE THE ADJUDICATING OFFICER
SECURITIES AND EXCHANGE BOARD OF INDIA

[ADJUDICATION ORDER No.: ORDER/AP/SK/2020-21/9492]

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:

Mr. P Ravishankar
(PA No. AFFPR9565P)
No. 309, Sriraghvendra Swami Nilaya,
11th A Main, Classic Paradise Layout,
Begur Road, Begur, Bengaluru,
Karnataka-560068.

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 Mr. P Ravishankar ("Noticee"), a designated person of Biocon, with respect to his 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 –Projects in the Company and a "Designated Person" under the Company's Code of Conduct for prevention of insider trading, who held 19500 equity shares of the company, acquired through exercise of stock options, sold 5,000 equity shares of the Company on September 26, 2018 aggregating to the value of Rs. 35,37,785.25/- without seeking pre-clearance from the Compliance Officer. Apart from the said sale transaction of 5,000 equity shares of the Company on September 26, 2018, it was also observed that the Noticee, without seeking pre-clearance from the Compliance Officer, had sold 2,000 shares of the Company on September 06, 2018 (Sale value greater than Rs. 10,00,000), bought 2,000 shares of the Company on September 12, 2018 (Purchase value greater than Rs.

10,00,000), sold 1,000 shares on September 17, 2018, exercised ESOPs on September 24, 2018 and sold 1000 shares on September 26, 2018. The details of the trades are as under:

Date (From BSE/ NSE Trade data)	**Transaction Type**	**Buy Qty**	**Sell Qty**	**Buy value (in Rs)**	**Sell Value (in Rs)**	**Cumulative Sale Value**	**Disclosure requirement**	**Due date of disclosure**	**Date of Disclosure to company (from BSE/ NSE disclosure data)**	**Date of Disclosure to Exchanges by the Company**
06-Sep-2018	ON mkt	0	2000	0	12,82,696.8	12,82,696.8	Regulation 7(2)(a) of the PIT Regulations	10-Sep-2018	-	-
12-Sep-2018 *	ON mkt	2000	0	12,43,046	0	12,82,696.8	Regulation 7(2)(a) of the PIT Regulations	14-Sep-2018	-	-
17-Sep-2018 *	ON mkt	0	1000		6,65,588.5	6,65,588.5	Regulation 7(2)(a) of the PIT Regulations	26-Sep-2018	-	-
24-Sep-2018	Inter depository Receipt (off market)	19500	0	61,96,259*		68,61,847.5*			25-Sep-2018	27-Sep-2018
26-Sep-2018 *	ON mkt	0	1000		7,05,000	7,05,000	Regulation 7(2)(a) of the PIT Regulations	01-Oct-2018	-	
27-Sep-2018	Pledge Confiscate	0	5000		35,37,785.25 @	42,42,785.25			-	-

** Value as provided by the Company vide email dated. November 20, 2019.*

@ Value as per Contract Note as provided by ECL Finance Limited vide email dated. November 19, 2019.

b) Vide email dated August 27, 2019, the Company intimated SEBI that the threshold value for seeking pre clearance of trade by the designated persons from the Compliance Officer is Rs 10 lakhs and that when the trading of the designated persons, cumulatively, whether in one transaction or a series of transactions, in any financial year exceeds Rs 10 lakh (market value), pre clearance is needed.

c) The reasons for not seeking the pre-clearance for the above sale transactions were sought by the Compliance Officer vide an email dated September 26, 2018. In response to the same, the Noticee, *inter-alia*, stated that he raised the request for 19,500 numbers ESOP exercise under ESOP grant VI on September 05, 2018 through Edelweiss Finance Company. On September 25, 2018 all the shares got deposited to his DP account. On September 26, 2018, he requested

Edelweiss to sell 5000 shares for his urgency and sold, by oversight he forgot to take preapproval for the said transaction.

d) In view of the facts stated above detailing the instances in which the Noticee had entered into buy and sell transactions in the shares of the Company without seeking pre-clearance from the Compliance Officer, 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 him to obtain pre-clearance from the Compliance Officer of the Company.

Observations on contra trades:

e) From the table above, it is further observed that the Noticee sold 2,000 shares of the Company on September 06, 2018 (Sale value greater than Rs. 10,00,000 i.e. Rs. 12,82,696.80) and bought 2,000 shares of the Company on September 12, 2018 (Purchase value greater than Rs. 10,00,000 i.e. Rs. 12,43,046/-). As the Noticee had entered into contra trades of buying shares and selling shares in less than 6 months of the prior transaction, it has been alleged that the Noticee had violated the provisions of Clause 10 of Code of Conduct under Schedule B of Regulation 9(1) and 9(2) of the PIT Regulations.

Observations on failure to make disclosures under the PIT Regulations:

f) From the table above, it is also observed that the cumulative traded value of the securities acquired or disposed of by the Noticee were in excess of Rs. 10 lakh. Resultantly, the disclosure requirement under Regulation 7(2) (a) of the PIT Regulations was triggered. However, it was observed that no disclosures were made by the Noticee under Regulation 7(2) (a) of the PIT Regulations for his sale transaction dated September 6, 2018, purchase transaction dated September 12, 2018, sale transaction dated September 17, 2018, September 26, 2018 and pledge confiscation of 5000 shares dated September 27, 2018. In view of the said facts, it has been alleged that the Noticee had failed to make the requisite disclosures and had thus, violated the provisions of Regulation 7(2) (a) of the PIT Regulations.

Observations on making wrong disclosures under the PIT Regulations:

g) Further, the Noticee vide email dated July 15, 2019 provided SEBI the Form C dated September 29, 2018, which he had submitted to the company disclosing sale of 5000 shares for the period August 01, 2018 to September 25, 2018. Subsequently, vide email dated July 17, 2019, the Noticee had provided SEBI the details of number of shares sold/ bought by him

during the period July 01, 2018 to October 31, 2018. From the data provided by the Noticee, it was observed that only 3000 shares were sold by him.

h) Upon seeking clarification, the Noticee vide email dated July 29, 2019 stated that the 3000 shares sold by him on September 6, 2018 & September 17, 2018 are of Grant-IV (Older Esops) for which he had not disclosed Form C and after discussion with Finance on September 29, 2018, he understood that he needed to provide Form C for all the sold transactions which has been submitted same day for 5000 shares. However, he did not provide any details of the remaining 2000 shares sold by him for which he had submitted the disclosure dated September 29, 2018. Again upon seeking clarification, the Noticee *inter-alia* stated that he had not disclosed Form "C" for 3000 shares which was sold on September 6, 2018 & September 17, 2018 are of Grant-IV(Older ESOPs), he had disclosed Form "C" on September 29, 2018 for 5000 shares which was sold on September 26, 2018 Grant-2014, he had taken loan from Edelweiss to buy Biocon shares under grant 2014 (Shares 19500) and hence, the same was pledged with them and he had not disclosed Form C for 1000 shares which was sold on September 26, 2018. On perusal of the Form C provided by the Noticee vide email dated July 15, 2019, it is seen that that the intimation on September 29, 2018 was given by him to the Company for sale of ESOPs from August 01, 2018 to September 25, 2018. Hence, the statement stated by him vide email dated July 31, 2019, that the disclosure was provided by him for sale of 5000 shares dated September 26, 2018 is not true.

i) In view of the above, it was observed that the reply provided by the Noticee vide emails dated July 29, 2019 and July 31, 2019 were contradictory to each other and thus, it has been alleged that the Noticee gave a wrong disclosure to the Company under the provisions of Regulation 7(2) (a) of the PIT Regulations for sale of 5000 shares from August 01, 2018 to September 25, 2018, when he had actually sold only 3000 shares.

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.

7…..

10. The code of conduct shall specify the period, which in any event shall not be less than six months, within which a designated person who is permitted to trade shall not execute a contra trade. The compliance officer may be empowered to grant relaxation from strict application of such restriction for reasons to be recorded in writing provided that such relaxation does not violate these regulations. Should a contra trade be executed, inadvertently or otherwise, in violation of such a restriction, the profits from such trade shall be liable to be disgorged for remittance to the Board for credit to the Investor Protection and Education Fund administered by the Board under the Act.

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.	1 (a) to 1 (e) – regarding not obtaining pre-clearance and contra trades	Section 15HB of the Securities and Exchange Board of India Act, 1992 ("SEBI Act")
2.	1 (f) to 1 (i) – 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.

5. Accordingly, after receipt of records of these proceedings, a notice to show cause no. EAD-2/AP-SKS/OW/12835/1/2020 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 him to show cause as to why an inquiry should not be held against him 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.* ravishankar.rao@biocon.com. The SCN sent through Speed Post returned undelivered. However, the SCN sent to the email id of the Noticee was duly delivered and the same was acknowledged by the Noticee.

6. In response to the SCN, vide digitally signed e-mail dated August 21, 2020, the Noticee filed his reply and availed the opportunity of personal hearing granted to him through WebEx platform on September 16, 2020, when Mr. Ravichandra Hegde, Advocate, Authorized Representative ('AR') of the Noticee appeared on his 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 his 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.

He 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) He joined Biocon on April 01, 2002 as an executive in the instrumentation department and has been employed with the Company for the around eighteen years. In July 2018, he was promoted to the designation of General Manager of the project department. Including his exposure in Biocon, he has around twenty-seven years of experience in electronics, ceramics and pharmaceutical industries.

c) It is an admitted position that he is not involved in the day to day affairs or management of Biocon. Being a General Manger of the projects department, his responsibility is limited to completion of the projects assigned to him. His track record in his employment history has been spotless till the present ill-fated occasion.

d) On August 01, 2014, Biocon released its employee stock options scheme wherein he was offered the Company's ESOPs as an appreciation and recognition of his performance in the Company. It was on account of the relentless hard work and sincerity that the management of Biocon decided to allot him the ESOPs. He was interested in acquiring the shares of Biocon through ESOPs being vary of the future financial requirements on his family front. The details of his trading history in the scrip of Biocon is tabulated below: -

Sr. No.	Date	Buy	Sell
1.	September 6, 2018		2000
2.	September 12, 2018	2000	
3.	September 17, 2018		1000
4.	September 24, 2018	19500	
5.	September 26, 2018		1000
6.	September 27, 2018		5000 *(disclosure given within specified time frame)*

e) Due to an inadvertent error on his part, he failed to take pre-clearance before executing the Impugned Transactions. He realized that the mishap had occurred when he discussed the stipulations of Biocon's COC with the finance team on September 29, 2018. This was when he became aware of the requirements for disclosure of my transactions with the compliance officer of the Company in the prescribed Form C. On the same day, he submitted the Form C with

regard to his transactions taken place on September 27, 2018 to the compliance officer of the Company. Following which, in due compliance of Regulation 7(2)(b) of the PIT Regulations, appropriate disclosures with regard to his trades were immediately made to the stock exchanges by the Company. In support of his claim, he provided a copy of Form C submitted by him with regard to the transaction taken place on September 27, 2018.

f) As evident from the above, he had approached the compliance officer of Biocon and apprised him of his inadvertent oversight and addressed an explanation letter to him on October 3, 2018. Accordingly, the Company conducted disciplinary proceedings before its Audit and Risk Committee of the Board of Directors on October 25, 2018. Finally, noting that (a.) it was that the first instance that he failed to seek pre-clearance from the compliance officer; (b) that he 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 him by giving him a warning and directing him to attend training programs on Biocon's COC.

g) On August 28, 2019, the compliance officer of Biocon approached him and directed him to deposit a sum of Rs.63,752/- to SEBI' IPEF and a sum of Rs.4,15,098/- to 'Biocon Foundation' towards penalty in terms of the disciplinary provisions given under Biocon's COC. Accordingly, he has duly paid the penalty amounts as directed. In order to take all corrective measures possible, he had also submitted his disclosures in the prescribed Form C's in respect of the remaining Impugned Transactions dated September 6, 2018, September 12, 2018, September 17, 2018 and September 26, 2018. Copies of the letter dated August 28, 2019 issued to him by the compliance officer of the Biocon and the extracts of the bank statements evidencing deposition of the penalty amounts and copy of the disclosures made in Form C pertaining to the remaining Impugned Transactions are provided.

h) He submitted that he had inadvertently violated the provisions of the PIT Regulations read with Biocon's COC. It is submitted that the same was a technical and venial breach, occasioned by his genuine and bona fide belief that no compliance requirements were expected of him. However, as soon he became aware of the default, he took all necessary corrective steps and took all compliance measures possible.

i) Necessary disciplinary action has also been taken against him by Biocon whereby commensurate penalty has been imposed upon him and he had made due payments of the same. In view thereof, it is urged that imposition of further penalty is not warranted in the facts of the present case. In this regard, he placed reliance on the case of *Gautam Anand* (decided on July 20, 2016) and *Marksans Pharma Limited* (decided on October 31, 2018) wherein, the SEBI

adjudicating officer appreciated the fact that the company had imposed adequate penalty over the noticees and therefore did not subject the noticees to any further penalty. It is humbly requested that a similar view be taken in the present case as well.

j) Moreover, he is not a regular investor in the securities market. His lack of experience in making trades in the status of a 'designated employee' further contributed to his inadvertent oversight. It ought to be appreciated that it was the first time that he had transacted in the shares of Biocon after being promoted into the category of 'designated employees.'

k) However, as rightly noted by the compliance officer of Biocon, since he was not in possession of any UPSI, his mistakes did not have any detrimental impact on the Company or its investors even in terms of the PIT Regulations. Having said this, he submitted that he was aware of the requirements of the subject Regulations read with the COC and their significance and impact on the general investor interests in the securities market. In view of the same, he submitted that he will ensure that such a lapse is never repeated by him and he will take utmost care while dealing in the securities market in the future.

l) 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.

m) It is urged that a similar view based on the spirit and not letter of law be taken in his 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. 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. In any event, he has already paid a heavy monetary penalty that was imposed upon him by the Company and imposing any further penalty would be prejudicial and unjust.

n) In this regard, it is submitted that the intention of imposition of monetary penalty is to retract the gains, if any, made by a noticee and also to impose a deterrent to discourage the repetition of similar violations. The objective is satisfied when penalty is imposed regardless of which is the penalty imposing authority. The PIT Regulations have itself empowered companies to conduct disciplinary proceedings and impose necessary penalties upon their designated employees for violations, if any. In terms of such powers, Biocon has taken necessary disciplinary action against the Noticee, and pursuant thereto, the Noticee has made due payments to Biocon as well as to SEBI Investor Protection and Education Fund and that he had also attended internal sessions on compliance norms under the PIT Regulations as directed by the Audit Committee of Biocon.

o) Considering, none of the factors listed in section 15J of the SEBI Act are applicable to him, it is an earnest request to kindly not take any stringent action against him and dispose of the proceeding by issuing a warning, which will serve the ends of justice. He submitted that he is only a salaried employee, with no other source of income. The transaction in question is not commercial in nature and the he has made no secret profits. In light thereof, it is submitted that this is not a case that warrants imposition of further penalty. In this regard, he 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 as no profit was derived by the Noticee.

p) 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. Further, Clause 10 of Code of Conduct under Schedule B to the PIT Regulations mandates that code of conduct shall specify the period, which in any event shall not be less than six months, within which a designated person who is permitted to trade shall not execute a contra trade. Clause 10 also specifies that the compliance officer may be empowered to grant relaxation from strict application of such restriction for reasons to be recorded in writing provided that such relaxation does not violate the PIT Regulations. Clause 10 further mandates that if a contra trade is executed, inadvertently or otherwise, in violation of such a restriction, the profits from such trade shall be liable to be disgorged for remittance to the Board for credit to the Investor Protection and Education Fund administered by the Board under the Act. The charges in this case clearly falls under the said Clause 6 and Clause 10, 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 the Noticee who held 19500 equity shares of the company, acquired through exercise of stock options, sold 5,000 equity shares of the Company on September 26, 2018 aggregating to the value of Rs. 35,37,785.25/- without seeking pre-clearance from the Compliance Officer. Apart from the said sale transaction of 5,000 equity shares of the Company on September 26, 2018, the Noticee had also sold 2,000 shares of the Company on September 06, 2018 (Sale value greater than Rs. 10,00,000), bought 2,000 shares of the Company on September 12, 2018 (Purchase value greater than Rs. 10,00,000), sold 1,000 shares on September 17, 2018, exercised ESOPs on September 24, 2018 and sold 1000 shares on September 26, 2018 without seeking pre-clearance from the Compliance Officer. The Noticee, being a designated person, has not disputed the transactions in question.

9. From the letter of the Company dated October 30, 2018, addressed to SEBI, I note that vide an email dated October 01, 2018, when the compliance officer of the company sought reasons for not seeking the pre-clearance for the sale transaction of 5,000 equity shares of the Company on September 26, 2018, the Noticee had, *inter-alia*, stated that *"I have raised the request for 19500 numbers ESOP exercise under ESOP grant VI on 5th September 2018 through edelweiss finance company, on 25th September 2018 all the shares got deposited to my DP account, on September 26, 2018. I have made request to edelweiss to sell 5000 shares for my urgency and sold, by oversight I forgot to take preapproval for the said transaction and it was not intentional to breach company code of conduct. I recognised the situation and send the Post trading confirmation to Finance on 28th September 2018. Herewith I confirm and make sure not to repeat the issue and meet all compliance for the future transactions."* In this regard, considering the explanation provided by the Noticee, the compliance officer had issued a warning letter to the Noticee cautioning him against repeating any violations in future under the Code of Conduct and had also directed the Noticee to attend training programs on the subject code to gain a better insight of the Code and adhere to compliances. At this juncture, from the letter dated August 28, 2019, provided by the Noticee as part of his submissions, I note that the said letter was addressed by the Company to the Noticee wherein it was *inter-alia* mentioned that *"Subsequently, SEBI while investigating the case during July & August 2019, has obtained clarifications from you on above said non-compliance. During investigation, you had disclosed to SEBI that you had undertaken few more additional transactions for which you had not made any disclosures to the Company. Hence, the Company has received a communication from SEBI on additional violations committed by you under the Code, wherein you had traded in the securities of the Company without seeking pre-clearance of trade & indulging in contra trade…."*. At this point of time, it is relevant to mention that on the first instance when the Company sought explanation from the Noticee for the sale transaction of 5,000 equity shares of the Company on September 26, 2018, he had responded to the company that he had requested edelweiss to sell 5000 shares for his urgency and sold by oversight and forgot

to take preapproval for the said transaction and it was not intentional to breach company code of conduct. It is to be noted that even at that point of time in spite of attending the internal sessions on compliance norms under the PIT Regulations as directed by the Audit Committee of Biocon, Noticee had not disclosed about his other transactions i.e. sale transaction of 2000 shares dated September 6, 2018, purchase transaction of 2000 shares dated September 12, 2018, sale transaction of 1000 shares dated September 17, 2018 and sale transaction of 1000 shares dated September 26, 2018, for which he had not made any disclosures to the Company as well as not obtained pre-clearance from the Company and had also indulged in contra trades of buying shares and selling shares in less than 6 months of the prior transaction i.e. he sold 2,000 shares of the Company on September 06, 2018 (Sale value greater than Rs. 10,00,000 i.e. Rs. 12,82,696.80) and bought 2,000 shares of the Company on September 12, 2018 (Purchase value greater than Rs. 10,00,000 i.e. Rs. 12,43,046/-). These facts came into light only when SEBI investigated the case during July and August 2019. Subsequent to the disciplinary action taken by the Company, as a post corrective measure, he had submitted his disclosures in the prescribed Form C in respect of the remaining impugned transactions dated September 06, 2018, September 12, 2018, September 17, 2018 and September 26, 2018 on September 06, 2019 i.e. almost a year later than the date of remaining transactions in question and had also deposited a sum of Rs.63,752/- to SEBI' IPEF and a sum of Rs.4,15,098/- to 'Biocon Foundation' towards penalty in terms of the disciplinary provisions given under Biocon's COC.

10. Thus, from the facts recorded in the preceding paragraphs, I am of the view that the Noticee cannot plead ignorance of the requirements of PIT Regulations since in spite of attending the internal sessions on compliance norms under the PIT Regulations as directed by the Audit Committee of Biocon for not seeking the pre-clearance for the sale transaction of 5,000 equity shares of the Company on September 26, 2018, he had not disclosed about his other transactions i.e. sale transaction of 2000 shares dated September 06, 2018, purchase transaction of 2000 shares dated September 12, 2018, sale transaction of 1000 shares dated September 17, 2018 and sale transaction of 1000 shares dated September 26, 2018, for which he had not made any disclosures to the Company as well as not obtained pre-clearance from the Company and had also indulged in contra trades. 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 and by indulging in contra trades for the sale transaction of 2000 shares on September 06, 2018 and buy transaction of 2000 shares on September 12, 2018 has violated the provisions of Clause 10 of Code of Conduct under Schedule 'B' of Regulation 9(1) of the PIT Regulations.

11. 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 2000 shares sold by the Noticee on September 06, 2018 was in excess of Rs. 10 lakh i.e. Rs. 12,82,696.80/-. In the second instance, the cumulative value of 2000 shares bought by the Noticee on September 12, 2018 was in excess of Rs. 10 lakh i.e. Rs. 12,43,046/-. In the third instance, the value of 1000 shares sold by the Noticee on September 17, 2018 was Rs. 6,65,588.50/-. In the fourth instance, the value of 1000 shares sold by the Noticee on September 26, 2018 was Rs. 7,05,000/-. In the fifth instance, the value of 5000 shares sold on September 27, 2018 by way of pledge confiscation was Rs. 35,37,785.25/- as a result the cumulative value was in excess of Rs. 10 lakh.

12. In this regard, in the first instance as mentioned in preceding paragraph, when the disclosure was required to be made to the Company on or before September 10, 2018, the disclosures were made by the Noticee to the Company on September 06, 2019. In the second, third and fourth instance, when the disclosure was required to be made to the Company on or before September 14, 2018, September 26, 2018, and October 01, 2018, respectively, the disclosures were made by the Noticee to the Company on September 06, 2019. In all the above four instances, the disclosures were made by the Noticee to the Company on September 06, 2019 i.e. with a delay of almost 1 year. These facts came into light only when SEBI investigated the case during July and August 2019 and consequential communication sent by the company to the Noticee vide letter dated August 28, 2019. In the fifth instance, when the disclosure for sale of 5000 shares on September 27, 2018 by way of pledge confiscation was required to be made to the Company on or before October 01, 2018, the disclosures were made by the Noticee to the Company on September 29, 2018 after realizing that the mishap had occurred when he discussed the stipulations of Biocon's Code of Conduct with the finance team on September 29, 2018 as claimed by the Noticee. In support of his claim, he provided a copy of Form C submitted by him with regard to the transaction taken place on September 27, 2018. I note that only for this particular transaction, the Noticee has made the disclosures to the Company on time. I also note that the Noticee has not disputed the failure and consequential delay in making disclosures with regard to the first four instances. The Noticee

in his defence claimed that he had inadvertently violated the provisions of the PIT Regulations read with Biocon's Code of Conduct and resultantly, in order to take all corrective measures possible, he had also submitted his disclosures in the prescribed Form C's in respect of the remaining impugned transactions dated September 06, 2018, September 12, 2018, September 17, 2018 and September 26, 2018. In support of his claim, he provided a copy of Form C submitted by him to the Company on September 06, 2019. As regards the allegation on wrong disclosures under the PIT Regulations, I note that the defect has been subsequently cured by the Noticee by filing the requisite disclosures for his aforesaid four transactions on September 06, 2019. In view of the facts recorded hereinabove, I conclude that the Noticee by making the requisite disclosures on September 06, 2019 i.e. with a delay of almost 1 year in respect of the impugned transactions dated September 6, 2018, September 12, 2018, September 17, 2018 and September 26, 2018 had violated the provisions of Regulation 7(2) (a) of the PIT Regulations.

13. Thus, this is a case of failure on the part of the Noticee, as a designated 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 15HB and section 15A (b) of the SEBI Act which reads 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;

14. 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. Further, the reliance placed by the Noticee on the views taken by the SEBI Adjudicating Officer in the case of *Gautam Anand* and *Marksans Pharma Limited* is also out of place as the facts and circumstances of those cases are distinguishable from the facts and circumstances of this instant case.

15. The Noticee has submitted that after the pledge confiscation event had transpired on September 29, 2018, he had approached the compliance officer of Biocon and apprised him of his inadvertent oversight and addressed an explanation letter to him on October 3, 2018 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. 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 he 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 him by giving a warning and directing him to attend training programs on the subject code. I note that the exact facts came into light only when SEBI investigated the case during July and August 2019 and consequential communication sent by the company to the Noticee vide letter dated August 28, 2019, directing him to deposit a sum of Rs.63,752/- to SEBI' IPEF and a sum of Rs.4,15,098/- to 'Biocon Foundation' towards penalty in terms of the disciplinary provisions given under Biocon's Code of Conduct. The Noticee claimed that he has duly paid the penalty amounts as directed and in order to take all corrective measures possible, he had also submitted his disclosures in the prescribed Form C's in respect of the remaining impugned transactions dated September 6, 2018, September 12, 2018, September 17,

2018 and September 26, 2018. All these post corrective measures taken by the Noticee may only be a mitigating factor for adjudging the quantum of penalty.

16. 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.

17. 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. The non-serious and casual approach on the part of the Noticee towards compliance with the PIT Regulations as found in this case is unbecoming a conduct of a designated person. Further, the conduct of the Noticee as observed in the case is apparently negligent as the Noticee had grossly failed to adhere to legal norms which a normal careful person would do in a similar situation. However, one important mitigating factor is that the Noticee has been disgorged of the undue profit made by him by the Company by invoking Clause 6 (i) and 7 (iii) of its Code of Conduct. Having said the same, and considering the mitigating factors, I am of the view that non-adherence to the laid down obligations under the PIT Regulations by the Noticee, being a designated person, as observed in this case would compromise the regulatory framework and should be dealt with by imposing monetary penalty so as to serve as an effective message.

18. 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 all the three violations i.e. not obtaining pre-clearance for his trades, entering into contra trades and making delayed disclosures which attracts penalty under 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.

19. 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

20. 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)	

21. 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.

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

Date: October 28, 2020
Place: Mumbai

Amit Pradhan
Adjudicating Officer