

WTM/AB/IVD/ID3/9771/2020-21

**SECURITIES AND EXCHANGE BOARD OF INDIA
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 READ WITH SECURITIES AND EXCHANGE BOARD OF INDIA (PROCEDURE FOR HOLDING INQUIRY AND IMPOSING PENALTIES) RULES, 1995

In respect of:

S. No.	Name of the entity	PAN No.
1.	Mr. Srinivas Maddineni	AJGPM9951K

In the matter of Divi's Laboratories Ltd.

1. Securities and Exchange Board of India (hereinafter referred to as '**SEBI**') had conducted an investigation into suspected insider trading activities of certain entities in the scrip of Divi's Laboratories Limited (hereinafter referred to as '**Divi's / the Company**') for the period July 07, 2017 to July 10, 2017 (hereinafter referred to as '**Investigation Period**') to ascertain whether certain entities had traded in the scrip on the basis of unpublished price sensitive information ('**UPSI**') in contravention of the provisions of Securities and Exchange Board of India Act, 1992 (hereinafter referred to as "**SEBI Act, 1992**") read with SEBI (Prohibition of Insider Trading) Regulations, 2015 (hereinafter referred to as '**Insider Trading Regulations, 2015**').
2. On the conclusion of the aforesaid investigation, an ex-parte Impounding Order was passed by SEBI on July 1, 2020 against eight entities. The said Impounding Order was also in the nature of a show cause notice *inter alia* calling upon the entities therein why appropriate directions under Sections 11 (1), 11(4), 11(4A), 11B (1) and 11B (2) of the SEBI Act, 1992 should not be issued against them. I note that the entities against whom the said show cause notice was issued had applied for settlement of the said proceedings and upon the acceptance of their

settlement application, a Settlement Order dated October 21, 2020 came to be passed. In the meantime, in the same matter, a separate show cause notice dated July 14, 2020 (hereinafter referred to as **“the SCN”**) under Sections 11 (1), 11(4), 11(4A), 11B (1) and 11B (2) of the SEBI Act, 1992 read with Securities and Exchange Board of India (Procedure for Holding Inquiry and Imposing Penalties) Rules, 1995 (hereinafter referred to as **“the Rules”**), was issued to Mr. Srinivas Maddineni (hereinafter referred to as **“the Noticee”**), for the alleged violation of, (i) Section 12A(d) & 12A(e) of SEBI Act, 1992 read with Regulation 4(1) of Insider Trading Regulations, 2015; (ii) Clause 6 of the Minimum Standards for Code of Conduct to Regulate, Monitor and Report Trading by Insiders as specified in Schedule B read with Regulation 9(1) of Insider Trading Regulations, 2015; and (iii) Regulation 7(2)(a) of Insider Trading Regulations, 2015.

3. The brief findings of the investigation and the allegations made, as contained in the SCN, are as follows:

- a. Investigation observed that Divi's had made announcement on July 10, 2017 during market hours on the exchange platform titled “USFDA to Lift Import Alert 99-32 on the company's Unit-II at Visakhapatnam”. The said announcement had material impact on the scrip price of Divi's as the closing price on the day of announcement in the scrip had increased by 7.77% when compared with the opening price on the day of announcement and the volume of trades on the day of the announcement had also increased by 32 times when compared with the previous day.
- b. It was observed that the aforesaid announcement was disclosed by the Company under Regulation 30 of SEBI (LODR) Regulations, 2015. Regulation 30 of SEBI (LODR) Regulations, 2015 states *“Every listed entity shall make disclosures of any events or information which, in the opinion of the board of directors of the listed company, is material.....”*. Therefore, the aforesaid announcement was related to material event as it was disclosed under Regulation 30 of SEBI (LODR) Regulations, 2015. Thus, in terms of Insider Trading Regulations, 2015, the said announcement was considered as UPSI as per Regulation 2(1)(n)(vi) of Insider Trading Regulations, 2015, where

material event in accordance with the listing agreement comes under the definition of UPSI.

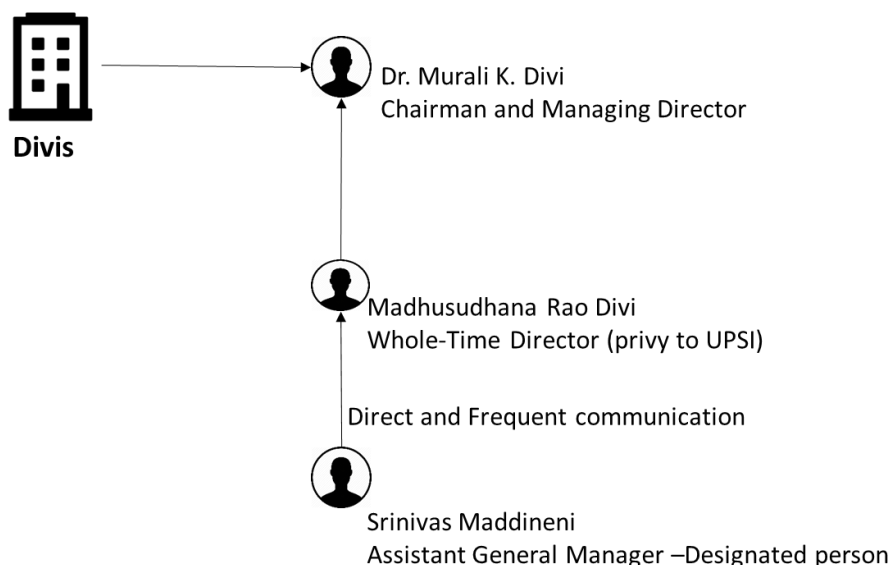
- c. From the submission of Divi's vide emails dated May 31, 2019 and June 18, 2019), the chronology of events relating to the aforesaid announcement, is as under –

Table 1	
Date and Time(IST)	Particulars/Events
July 7 2017 at 04:36:23 am	Email received by Divis (Kiran Devi) from its Regulatory Counsel (who interacted with US FDA) that 99–32 import alert is being lifted.
July 7 2017 at 06:52 am	The aforementioned email was forwarded by Kiran Divi to four other in Divis including YTS Prasad, General Manager.
July 7 2017 at 8:23 am	YTS Prasad forwards aforementioned email to six other people in the Company including Madhusudhana Rao Divi, Whole Time Director
July 7 2017 at 8:43 am	YTS Prasad forwards aforementioned email to two more people in the Company
July 10, 2017 around 10:00 am-11:40 am	Materiality of the information is discussed in a meeting. The text of the draft announcement to the exchanges is approved by about 11:40 am
July 10, 2017 11:40 am	After conclusion of the meeting, submission is made to the stock exchange.

- d. It was observed that the aforesaid announcement was published on BSE exchange on July 10, 2017 at 11:50:35. Therefore July 07, 2017-04:36 am to July 10, 2017-11:50 am (hereinafter referred to as **“UPSI Period”**) is considered is as UPSI Period.
- e. It was observed that the list of people who had received the email as mentioned in Table 1 also included Madhusudhana Rao Divi, Whole time director of Divi's. Hence, Madhusudhana Rao Divi's is an 'insider' as per Regulation 2(1)(g) of Insider Trading Regulations, 2015.
- f. It was observed from the submissions of the Company vide emails dated August 27, 2019 and July 02, 2019 that the Noticee was an Assistant General Manager and a Designated Person in Divi's. The Noticee was observed to report directly to Madhusudhana Rao Divi, an insider and the Noticee also has direct and frequent communication with Madhusudhana Rao Divi during the past six months prior to the announcement dated July 10, 2017.

g. In view of the aforesaid, it was observed that the Noticee is Connected Person as per Regulation 2(1)(d)(i) of Insider Trading Regulations, 2015, who is reasonably expected to have access to the UPSI and hence, an 'insider' as per Regulation 2(1)(g)(i) and Regulation 2(1)(g)(ii) of Insider Trading Regulations, 2015.

h. The graphical representation of connections is as follows:



i. It was observed from the trade details received from the exchange that the Noticee had traded in the scrip of Divi's during UPSI Period and details of those trades are tabulated in following table:

Table No.: 2

Trading during UPSI period					
Date	Trading member	Exchange	Instrument Type	Buy Quantity	Sell Quantity
10/07/2017	JM Financial Services Limited	NSE	Stock Future	4,000	0

Order & Trade time is before 11:50 am on 10/07/2017.

j. Pursuant to above buy trades during UPSI Period, the Noticee was observed to have sell trades within a few days of post announcement wherein all the buy positions are sold.

Table No:3

Date	Trading member	Exchange	Instrument Type	Buy Quantity	Sell Quantity
11/07/2017	JM Financial Services Limited	NSE	Stock Future	0	1600
14/07/2017	JM Financial Services Limited	NSE	Stock Future	0	800
18/07/2017	JM Financial Services Limited	NSE	Stock Future	0	1600

- k. Further, it was also observed that the Noticee had traded only in the scrip of Divi's during UPSI Period.
- l. It was observed that the Noticee, being an insider to the Company, had traded in the scrip of Divi's when in possession of the UPSI, thereby indulging in "insider trading", in terms of Regulation 4(1) of the Insider Trading Regulations, 2015. It is therefore alleged in the SCN that the Noticee had violated Section 12A (d) and (e) of SEBI Act, 1992 and Regulation 4(1) of Insider Trading Regulations, 2015.
- m. The investigation observed that the value of trade executed during UPSI Period by the Noticee crossed Rs. 10 Lakhs (Ref. **Table 4**). As a Designated Person of the Company, the Noticee was required to make required disclosures as per Regulations 7(2)(a) of Insider Trading Regulations, 2015. However, the said disclosure is not available on the BSE and NSE websites. It was observed from the submission of the Company that it did not receive any disclosure from the Noticee for the trades executed during July 07, 2017-July 10, 2017. Further, the Noticee vide email dated September 04, 2019 had accepted that he did not provide any disclosure to the Company under Insider Trading Regulations, 2015 for the aforementioned trades. Hence, according to the SCN, the Noticee being an employee of Divi's, had allegedly violated Regulation 7(2)(a) of Insider Trading Regulations, 2015.
- n. Further, the Noticee, being a Designated Person of the Company, should have obtained pre-clearance from the Company for his aforementioned trade where trade value exceeded Rs Ten Lakhs as per clause 6 of the Minimum Standards for Code of Conduct to Regulate, Monitor and Report Trading by Insiders as specified in Schedule B read with Regulation 9(1) of Insider Trading

Regulations, 2015. It was observed from the submission of the Company that the Noticee did not obtain pre-clearance for his aforementioned trade. Further, the Noticee vide email dated September 04, 2019 had accepted that he did not take any pre-clearance from the Company for the aforementioned trade. Hence, according to the SCN, the Noticee had allegedly violated Clause 6 of the Minimum Standards for Code of Conduct to Regulate, Monitor and Report Trading by Insiders as specified in Schedule B read with Regulation 9(1) of Insider Trading Regulations, 2015.

- o. Further, the SCN has alleged that the Noticee had made the wrongful notional gains on account of insider trading as per following table:

Table No.4

BUY			SELL					
Segment	Buy Quantity(A)	Buy Value (B)	Actual Sell Quantity (C)	Remaining Shares Quantity unsold (D=A-C)	Actual Sell value(E)	Notional Sell Value (F=D* Settlement price on July 10, 2017)	Total Sell Value (G=F+E)	Wrongful Gains made (in Rs) (H=G-B)
Stock Futures	4,000	27,67,200	0	4,000	-	29,50,200	29,50,200	1,83,000

Settlement price in the Stock Future of Divi's on July 10, 2017 was Rs 737.55.

- p. In view of above, the Noticee is called upon to show cause as to, (i) why suitable directions under Sections 11B(1) and 11(4) read with section 11(1) of SEBI Act, 1992, including debarment for an appropriate period and disgorgement of wrongful gain should not be issued against him; and (ii) why suitable directions for imposing penalty under sections 11B(2) and 11(4A) read with Sections 15G, 15A(b) and 15HB of the SEBI Act, 1992 and Securities and Exchange Board of India (Procedure for Holding Inquiry and Imposing Penalties) Rules, 1995 should not be issued against him for the alleged violations of the aforementioned provisions of SEBI Act, 1992 and Insider Trading Regulations, 2015.

Reply, Personal Hearing and Submissions:

4. The Noticee has filed his reply dated July 29, 2020 and he had also availed the opportunity of personal hearing on October 27, 2020. The key contentions raised by the Noticee to the allegations in the SCN, are as follows:
- a. I hereby confirm that there was no internal communication or information regarding UPSI to me through any means. I also confirm that I have not received any sort of information on the UPSI from Mr. Madhusudhan Rao Divi, Whole Time Director.
 - b. The trades were executed by me without knowing about the UPSI. Thus trade is purely co-incidental one and not because of knowing the UPSI.
 - c. I submit that pre-clearance was not taken and disclosure was not submitted to the Company. This will never be repeated in future and will fully abide by the Code of Conduct.

Consideration of Issues and findings thereon:

5. I have perused the allegations made in the SCN, contentions raised by the Noticee in the reply and submissions made during the personal hearings by the Noticee. I shall now proceed to examine the case on merits.

Re: Whether there was UPSI?

6. UPSI is defined in Regulation 2(1)(n) of Insider Trading Regulations, 2015 as follows:

Definitions.

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) financial results;

- (ii) dividends;
- (iii) change in capital structure;
- (iv) mergers, de-mergers, acquisitions, delistings, disposals and expansion of business and such other transactions;
- (v) changes in key managerial personnel; and
- (vi) material events in accordance with the listing agreement.

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.

7. I note that the information relating to “USFDA to Lift Import Alert 99-32 on the company's Unit-II at Visakhapatnam” was disclosed by Divi's to the stock exchange on July 10, 2017, as part of its obligation under Regulation 30 of SEBI (LODR) Regulations, 2015. Regulation 30 of SEBI (LODR) Regulations, 2015 states “*Every listed entity shall make disclosures of any events or information which, in the opinion of the board of directors of the listed company, is material.....*”. Therefore, I find that the aforesaid announcement was related to material event as it was disclosed under Regulation 30 of SEBI (LODR) Regulations, 2015 and thus, in terms of Regulation 2(1)(n)(vi) of Insider Trading Regulations, 2015, where material event in accordance with the listing agreement (now substantially replaced by SEBI (LODR) Regulations, 2015), comes under the definition of UPSI, the aforesaid information before becoming generally available was UPSI. I note that the Noticee has not disputed the findings of investigation contained the SCN with regard to identification of UPSI as the information relating to “USFDA to Lift Import Alert 99-32 on the company's Unit-II at Visakhapatnam”. Additionally, I also note that this information about the Company was also of the nature that after becoming generally available, it was likely to materially affect the price of the scrip of Divi's, hence, also in terms Regulation 2(1)(n) of the Insider Trading Regulations, 2015, the aforesaid information was ‘unpublished price sensitive information’, I find that the said information was UPSI before it was disclosed by Divi's to stock exchanges on July 10, 2017 at 11:50 am, in terms of regulation 30 of SEBI (LODR) Regulations, 2015.

Re: Whether Noticee is an Insider:

8. The SCN alleges that the Noticee was an 'insider' in terms of Regulation 2(1)(g)(i) and Regulation 2(1)(g)(ii) of Insider Trading Regulations, 2015. The SCN also alleges that the Noticee was a 'Connected Person' in terms of Regulation 2(1)(d)(i) of Insider Trading Regulations, 2015. It is pertinent to peruse the definition of 'insider' and 'Connected Person' as per the Insider Trading Regulations, 2015.

".....Definitions.

- 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:-*

- (d) *"connected person" means,-*

(i) 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.

NOTE: It is intended that a connected person is one who has a connection with the company that is expected to put him in possession of unpublished price sensitive information

- (g) *"insider" means any person who is:*

*i) a connected person; or
ii) in possession of or having access to unpublished price sensitive information;*

9. From the above provisions, I note that the Insider Trading Regulations, 2015, defines 'insider' as meaning any person who is either a 'Connected Person' {Regulation 2(1)(g)(i)}; or any person in possession of or having access to UPSI {Regulation 2(1)(g)(ii)}. I note that the SCN alleges that the Noticee was an 'insider' in terms of Regulation 2(g)(i) as well as Regulation 2(g)(ii).

10. I also note that the Noticee was in employment with Divi's since 1995. I note that the Noticee was working at the position of Assistant General Manager in the Environment, Health and Safety Department at Divi's, during the UPSI Period. These facts show that the Noticee was directly associated with the Company and thus a 'Connected Person' in terms of Regulation 2(1)(d)(i) of Insider Trading Regulations, 2015. Further, I note that the Noticee has neither disputed his employment relationship with the Company, nor his identification as 'Connected

Person' in the SCN. In view of this, I find that being the 'Connected Person', the Noticee was an 'insider' in terms of Regulation 2(1)(g)(i) of Insider Trading Regulations, 2015. Since, the Noticee has been found to be an 'insider' within the meaning of Regulation 2(1)(g)(i), by virtue of being a 'Connected Person', hence, the allegation of Noticee being an 'insider' under Regulation 2(1)(g)(ii), is not being gone into, in the present proceedings.

Re: Whether Noticee has traded in violation of Regulation 4(1) of PIT Regulations, 2015:

11. The SCN has alleged that the Noticee has violated Regulation 4(1) of Insider Trading Regulations, 2015 and Section 12A (d) and (e) of SEBI Act, 1992, by trading in the securities of Divi's on July 10, 2017, when in possession of UPSI. Regulation 4(1) of Insider Trading Regulations, 2015 and Section 12A (d) and (e) of SEBI Act, 1992, reads as under:

SEBI Act, 1992:

Prohibition of manipulative and deceptive devices, insider trading and substantial acquisition of securities or control.

12A. No person shall directly or indirectly: -

(d) engage in insider trading;

(e) deal in securities while in possession of material or non-public information or communicate such material or non-public information to any other person, in a manner which is in contravention of the provisions of this Act or the rules or the regulations made thereunder;

Insider Trading Regulations, 2015:

4.(1) No insider shall trade in securities that are listed or proposed to be listed on a stock exchange when in possession of unpublished price sensitive information:

Provided that the insider may prove his innocence by demonstrating the circumstances including the following

12. I note that the Noticee had bought 4000 quantity of Divi's Stock Future on July 10, 2017 at 9:15 AM. I note that, on the same day, the disclosure of information relating to "USFDA to Lift Import Alert 99-32 on the company's Unit-II at Visakhapatnam", was made by Divi's on the Stock Exchange platform at 11:50 AM. Thus, the impugned trades were executed by the Noticee approximately 2.5 hours before the UPSI becoming public. I also note that the Noticee has not disputed the impugned

trades that were executed by him in the scrip of Divi's as shown in Table 2 of the SCN.

13. While arguing on its part, the Noticee has contended that he has not received any UPSI and did not have access to any UPSI. I note that Regulation 4(2) of Insider Trading Regulations, 2015, categorically states that the burden of proof to establish that a 'Connected Person' is not in possession of UPSI lies on the 'Connected Person'. The reason for putting such burden of proof on the insider is because if an insider who is connected person with the company trades in the securities of that company when there was a UPSI, then it gives rise to a reasonable inference that such person has traded when in possession of UPSI, therefore, the burden of proving that he was not in possession of UPSI when he traded, is on such person. I note that the Noticee in the present matter has merely made a bald statement that he was not in possession of and did not have access to any UPSI without providing any corroborating evidence. I note that by virtue of being a 'Connected Person' coupled with his conduct that he took positions in the futures contracts of Divi's approximately 2.5 hours before the UPSI becoming public and thereafter squared off his position on UPSI becoming public, a strong presumption is created that the Connected Person, by virtue of his association with the Company during the past six months is reasonably expected to have access to UPSI. It is a fact that Noticee being an insider of Divi's being connected person, has traded in the scrip of Divi's when there was a UPSI, therefore, in terms of Regulation 4(2) the burden of proving that while trading in the scrip of Divi's, he was not in possession of UPSI, is on the Noticee. For a successful rebuttal, the Noticee ought to have produced supporting evidence for his claims. Thus, I find that the Noticee has not discharged the burden of proof as envisaged in Regulation 4(2) of Insider Trading Regulations, 2015, to the effect that he was not in possession of UPSI. As a corollary, there is a reasonable inference that Noticee was in possession of UPSI.

14. On the other hand, I find that the Noticee was observed to report directly and frequently to Mr. Madhusudhana Rao Divi, whole time director at Divi's. From the Annual Report of Divi's for the FY 2017-18, I find that Mr. Madhusudhana Rao Divi was *inter alia* responsible for activities relating to plant up-gradation to comply with FDA requirements, environment management and regulatory affairs at Divi's. I find

that Mr. Madhusudhana Rao Divi came in possession of UPSI when he received the email from Mr. YTS Prasad - General Manager, on July 7 2017 at 8:23 am. By virtue of his frequent and direct reporting relationship to Mr. Madhusudhana Rao Divi, the Noticee who was posted in the Environment, Health and Safety Department at Divi's, was reasonably expected to have access to UPSI. I note that the Noticee has not disputed his reporting relationship with Mr. Madhusudhana Rao Divi and he has also not presented any reliable explanation supported by cogent evidence of not having any access to the UPSI. Therefore, from the trading pattern of the Noticee which exhibits executing futures long position before the UPSI becoming public and futures short position after the UPSI is made public, coupled with his direct and frequent relationship with Mr. Madhusudhana Rao Divi, who had access to UPSI, I find that the Noticee was in possession of UPSI when he traded in the scrip of Divi's before it was disclosed to stock exchanges and became public.

15. Noticee has also contended that his trades in the scrip of Divi's were independent of and not influenced by any UPSI. At this juncture, it would be appropriate to refer to the explanatory 'Note' to Regulation 4(1) of Insider Trading Regulations, 2015, which reads as under:

"NOTE: When a person who has traded in securities has been in possession of unpublished price sensitive information, his trades would be presumed to have been motivated by the knowledge and awareness of such information in his possession....."

16. From the aforesaid Note, it is clear that a presumption is created in law that the trading done by an 'insider' was motivated by the UPSI in his possession. However, such a presumption is a rebuttable presumption. In the present case, in para 14 I have already found that Noticee was in possession of UPSI when he traded in the scrip of Divi's on July 10, 2017 at 9:15 am before it was disclosed to stock exchanges on July 10, 2017 at 11:50 am and became public. I find that the Noticee has not presented any reliable explanation supported by cogent evidence as to why he had traded in the scrip of Divi's on July 10, 2017 when he was in possession of UPSI. Therefore, on the basis of the presumption envisaged in the explanatory note to Regulation 4(1) of Insider Trading Regulations, 2015 and in the absence of

a satisfactory explanation from the Noticee to successfully rebut the presumption, I find that the impugned trades made by the Noticee were motivated by the UPSI.

17. In view of the foregoing, I find that the Noticee being an 'insider' traded in the scrip of Divi's when in possession of UPSI and therefore, the Noticee has violated Regulation 4(1) of Insider Trading Regulations, 2015 and Section 12A(d) and 12A(e) of SEBI Act, 1992.

18. For the futures buy trades that were executed by the Noticee on July 10, 2017 when in possession of UPSI, the Noticee has also executed opposite futures sell trades on the following days i.e. on July 11, 2017, July 14, 2017 and July 18, 2017 (details mentioned at Table 3 above), thus, the SCN has alleged that by indulging in insider trading, the Noticee has made a notional wrongful gain of Rs. 1,83,000/. I note that the Noticee has not disputed the calculation of the amount of alleged notional wrongful gain as shown in Table 4 of the SCN, as reproduced in the pre-paras. Therefore, I find that having indulged in the act of insider trading, the Noticee is liable for directions for disgorgement of the amount of wrongful gain alongwith interest thereon.

Re: Whether Noticee has violated Disclosure Obligations:

19. The SCN has also alleged that the Noticee has failed to make the required disclosures as per Regulation 7(2)(a) of Insider Trading Regulations, 2015. Regulation 7(2)(a) reads as under:

Disclosures by certain persons:

(2) Continual Disclosures.

(a) Every promoter, member of the promoter group, designated person 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;

20. I note that in terms of the aforesaid provision, the Noticee, being a Designated Person at Divi's and having executed trades in the scrip of Divi's in the second quarter of 2017 over a value of Rs. 10 Lacs (see Table 4 above), was required to

disclose to the Company the number of such securities acquired or disposed of within two trading days of such transactions. However, as noted from the email dated August 27, 2019 written by Divi's to SEBI during investigation, the Noticee has failed to make disclosure to the Company in respect of his trades. I also note that the Noticee in his reply dated July 29, 2020 had acknowledged that he had failed to make the required disclosure in terms of the aforesaid provision. Thus, I find that by not disclosing his futures trading in the scrip of Divi's for his trades executed between July 10, 2017 to July 18, 2017, the Noticee has violated Regulation 7(2)(a) of Insider Trading Regulations, 2015.

Re: Whether Noticee has committed violation of Code of Conduct to Regulate, Monitor and Report Trading by Designated Persons:

21. The SCN alleges that the Noticee has failed to obtain the pre-clearance for the buy and sell futures trades that were executed by him in the scrip of Divi's, as was mandated by the Company's 'Code of Conduct to Regulate, Monitor and Report Trading by Insiders' if the value of the trades exceeds Rs. 10 Lacs. I note that the 'Code of Conduct to Regulate, Monitor and Report Trading by Insiders' is framed by Divi's pursuant to the minimum standards that are laid down in Schedule B of Insider Trading Regulations, 2015 read with Regulation 9(1) of Insider Trading Regulations, 2015. The relevant extracts of the provisions of Insider Trading Regulations, 2015 are reproduced as under:

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 schedule are required to be addressed by such code of conduct.

SCHEDULE B
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 pre-clearance 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.

22. I note that the 'Code of Conduct to Regulate, Monitor and Report Trading by Insiders' as framed by Divi's had provided for obtaining pre-clearance of trade by a designated employee if the value of the trades being executed by him were to exceed Rs. 10 Lacs. I also note that the Noticee was a Designated Person at Divi's. However, from a reading of Clause 6 of the 'Minimum Standards for Code of Conduct to Regulate, Monitor and Report Trading by Insiders', as reproduced above, I find that the requirement to obtain pre-clearance of trade would have been applicable to the Noticee only when he was not in possession of UPSI. In other words, the question of pre-clearance of trades does not arise when the designated person is in possession of UPSI because when in possession of UPSI, the designated person is otherwise prohibited from trading in the scrip of the company by virtue of Regulation 4(1) of Insider Trading Regulations, 2015. In the instant case, the Noticee has been found to have violated Regulation 4(1) of Insider Trading Regulations, 2015 for trading in the scrip of Divi's when in possession of UPSI. Thus, the question of obtaining pre-clearance for the impugned trades does not arise. Hence, I find that the allegation in the SCN for violation of Clause 6 of 'Code of Conduct to Regulate, Monitor and Report Trading by Insiders' as contained in Schedule B of Insider Trading Regulations, 2015, against the Noticee, is not sustainable.

23. In view of the aforesaid findings, the Noticee in the present matter is found to have indulged in the act of 'insider trading' in violation of Regulation 4(1) of Insider Trading Regulations, 2015 and Section 12A(d) and 12A(e) of SEBI Act, 1992. The Noticee is also found to have made a wrongful gain of Rs.1,83,000/-. The Noticee is also found to have failed in making the appropriate disclosures in violation of Regulation 7(2)(a) of Insider Trading Regulations, 2015. In view of the above, I find that the Noticee is liable for issue of appropriate directions for debarment from accessing the securities market and dealing in securities and for disgorgement of unlawful gains with interest thereon under Section 11B(1) of SEBI Act, 1992 and

for imposition of appropriate penalty under Section 11B(2) read with Section 15A(b) and Section 15G of SEBI Act, 1992, which provides as under:

SEBI Act, 1992:

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 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.

Penalty for insider trading.

15G. If any insider who,—

- (i) either on his own behalf or on behalf of any other person, deals in securities of a body corporate listed on any stock exchange on the basis of any unpublished price-sensitive information; or
 - (ii) communicates any unpublished price-sensitive information to any person, with or without his request for such information except as required in the ordinary course of business or under any law; or
 - (iii) counsels, or procures for any other person to deal in any securities of any body corporate on the basis of unpublished price-sensitive information,
- shall be liable to a penalty which shall not be less than ten lakh rupees but which may extend to twenty-five crore rupees or three times the amount of profits made out of insider trading, whichever is higher.

Power to issue directions and levy penalty.

11B(1) Save as otherwise provided in section 11, if after making or causing to be made an enquiry, the Board is satisfied that it is necessary,—

- (i) in the interest of investors, or orderly development of securities market; or
- (ii) to prevent the affairs of any intermediary or other persons referred to in section 12 being conducted in a manner detrimental to the interest of investors or securities market; or
- (iii) to secure the proper management of any such intermediary or person, it may issue such directions,—

(a) to any person or class of persons referred to in section 12, or associated with the securities market; or

(b) to any company in respect of matters specified in section 11A, as may be appropriate in the interests of investors in securities and the securities market.

Explanation.— For the removal of doubts, it is hereby declared that the power to issue directions under this section shall include and always be deemed to have been included the power to direct any person, who made profit or averted loss by indulging in any transaction or activity in contravention of the provisions of this Act or regulations made thereunder, to disgorge an amount equivalent to the wrongful gain made or loss averted by such contravention.

(2) Without prejudice to the provisions contained in sub-section (1), sub-section (4A) of section 11 and section 15-I, the Board may, by an order, for reasons to be recorded in writing, levy

penalty under sections 15A, 15B, 15C, 15D, 15E, 15EA, 15EB, 15F, 15G, 15H, 15HA and 15HB after holding an inquiry in the prescribed manner.

24. I note that in terms of Section 15J of the SEBI Act, 1992, while determining the quantum of penalty under Section 15J of SEBI Act, 1992, Board is required to have due regard to the following factors, namely: -

- (i) the amount of disproportionate gain or unfair advantage, wherever quantifiable, made as a result of the default;
- (ii) the amount of loss caused to an investor or group of investors as a result of the default;
- (iii) the repetitive nature of the default.

25. In the instant case, in para 16 above, the Noticee has already been found liable to disgorge the unlawful gains of Rs. 1,83,000/-, made by him alongwith interest. I note that material available on record does not bring out any loss caused to an investor or a group of investors, as a result of violations committed by the Noticee. I note that there is no material on record to indicate that the violations alleged to have been committed by the Noticee were repetitive in nature. I note that minimum mandatory penalty provided under Sections 15A(b) and 15G of SEBI Act, 1992, comes to a total of Rs. 11 Lacs. Considering the directions for debarment from accessing the securities market and dealing in securities and directions of disgorgement of unlawful gains with interest, which are being issued in this order, the present case may not warrant the imposition of penalty of the magnitude of Rs. 11 Lacs. However, considering the minimum mandatory penalty provided under Section 15G and Section 15A(b) of SEBI Act, 1992, I am constrained to levy the minimum mandatory penalty as provided in these sections.

Directions:

26. In view of the above, I, in exercise of the powers conferred upon me under Sections 11(1), 11(4), 11(4A), 11B(1) and 11B(2) of SEBI Act, 1992 read with Section 19 of the SEBI Act, 1992 and SEBI (Procedure for Holding Inquiry and Imposing Penalties) Rules, 1995, hereby direct as under:

- (i) The Noticee namely, Mr. Srinivas Maddineni is restrained from accessing the securities market and further prohibited from buying, selling or otherwise dealing in securities, directly or indirectly, or being associated with the securities market in any manner, whatsoever, for a period of one (1) year, from the date of this order.
- (ii) The Noticee namely, Mr. Srinivas Maddineni is prohibited from buying, selling or otherwise dealing in securities of Divi's Laboratories Ltd., directly or indirectly, in any manner whatsoever, for a period of two (2) years, from the date of this order.
- (iii) The Noticee namely, Mr. Srinivas Maddineni shall disgorge the amount of wrongful gain of Rs. 1,83,000/- alongwith interest at the rate of 12 % per annum from July 10, 2017 till the date of actual payment of disgorgement amount, within 45 days from the date of receipt of this order. The disgorgement amount alongwith interest shall be paid through by way of Demand Draft in favour of "SEBI – Investor Protection and Education Fund", payable at Mumbai. The demand draft should be sent to "The Division Chief, IVD-ID3, Securities and Exchange Board of India, SEBI Bhavan II, Plot no. C-7, "G" Block, Bandra Kurla Complex, Bandra (E), Mumbai -400 051".
- (iv) A penalty of Rs.1,00,000/- (Rupees One Lakh only) is imposed on the Noticee viz. Mr. Srinivas Maddineni in terms of the provisions of Section 15A(b) of the SEBI Act, 1992 and a penalty of Rs. 10,00,000/- (Rupees Ten Lakhs only) in terms of the provisions of Section 15G of the SEBI Act, 1992, which shall be paid by the Noticee within 45 days from the date of receipt of this order. The Noticee shall remit / pay the said amount of penalty through either by way of Demand Draft in favour of "SEBI - Penalties Remittable to Government of India", payable at Mumbai, or through online payment facility available on the website of SEBI, i.e. www.sebi.gov.in on the following path, by clicking on the payment link: ENFORCEMENT -> Orders -> Orders of Chairman/ Members -> PAY NOW. In case of any difficulties in online payment of penalties, the Noticee may contact the

support at portalhelp@sebi.gov.in. The demand draft or the details/ confirmation of e-payment should be sent to "The Division Chief, IVD-ID3, Securities and Exchange Board of India, SEBI Bhavan II, Plot no. C-7, "G" Block, Bandra Kurla Complex, Bandra (E), Mumbai -400 051" and also to e-mail id:- tad@sebi.gov.in in the format as given in table below:

Case Name	
Name of Payee	
Date of Payment	
Amount Paid	
Transaction No.	
Payment is made for: (like penalties/ disgorgement/ recovery/ settlement amount/ legal charges along with order details)	

27. This order comes into force with immediate effect.

28. A copy of this Order shall be served on the Noticee, recognized Stock Exchanges, Depositories, Registrar and Share Transfer Agents of Mutual Funds to ensure compliance with the above directions.

Sd/-

Date: December 11, 2020

Place: Mumbai

**ANANTA BARUA
WHOLE TIME MEMBER
SECURITIES AND EXCHANGE BOARD OF INDIA**