



SAT Interprets – One Solitary Phone Call of One Minute Duration is Inadequate to determine ‘Insider’ under SEBI PIT Regulations

Introduction: The SEBI Act was introduced with three primary objects: (i) Protecting the interests of investors in securities, (ii) Promoting the development of the securities market, and (iii) Regulating the securities market. Based on this background, SEBI introduced Regulations for the prohibition of insider trading. The said Regulations were introduced with the objective of putting in place a framework for the prohibition of insider trading in securities and to strengthen the legal framework thereof. In the said Regulations – SEBI (Prohibition of Insider Trading) Regulations, 2015, the definition of ‘insider’ is very important and it means any person who is: (i) a Connected person; or (ii) in possession of or having access to unpublished price sensitive information. Note to the said definition has been amended by SEBI (PIT) (Third Amendment) Regulations, 2024, w.e.f. December 4, 2024.

This article is an analysis of the recent order of the SAT in the case of Lashit Sanghvi vs. SEBI (Appeal No. 257 of 2023, order dated May 2, 2025).

Facts of the case: The appellants are husband and wife and are engaged in investment activities. Appellants knew (Late) Mr. Rakesh Jhunjunwala. In addition, Mr. Jhunjunwala had made an investment in the broking firm (Alchemy Capital Management) of the Appellant.

Mr. Rakesh Jhunjunwala had promoted Aptech (a listed company). Aptech had made a corporate announcement to foray into the pre-school segment. This announcement was made on September 7, 2016. Aptech was engaged in vocational education, and by the non-disclosure agreement (dated March 14, 2016), the company had planned to venture into the pre-school segment. The said announcement materially impacted the stock price as it increased 9.99% (i.e., from INR 159.15/159.50 to INR 175/175.45).

The above-mentioned information was not classified as UPSI by the company. The SEBI observed that under SEBI (PIT) Regulations, 2015, the company failed to close the trading window during the existence of UPSI. On appeal, the SAT order dated January 4, 2023, dismissed the appeal and upheld the finding that the above-mentioned announcement is a UPSI under SEBI (PIT) Regulations, 2015. SAT observed that the UPSI came into existence on March 14, 2016, when the Non-Disclosure Agreement was executed till the date of issue of the press Release (i.e., UPSI period was determined to be from March 14, 2016, to September 7, 2016). SEBI, during the investigation period, noted that Appellant No. 1 had made a phone call of 1 minute duration on August 16, 2016, and subsequently, Appellants Nos. 1 and 2 each purchased 50,000 shares of Aptech on August 19, 2016, and 75,000 shares on September 7, 2016, respectively.

In the show cause notice, SEBI alleged that Appellants were in possession of/having access to UPSI, through the telephone call made by the Appellant no. 1 to the Chairman (Non-Executive) and promoter of the company, just 3 days before they made their first trade in Aptech. Based on this, SEBI considered them as 'insiders' under SEBI (PIT) Regulations. Accordingly, SEBI held the appellants as insiders under SEBI (PIT) Regulations and issued an order with a direction of disgorgement along with an order for debarment.

Two issues before the SAT were as follows:

1. Whether appellants are 'insiders' under the PIT Regulations? And if so, whether they are insiders being 'connected persons' under Regulation 2(1)(g)(i) or being "in possession / having access to UPSI" under Regulation 2(1)(g)(ii)?
2. Whether the trading behaviour of the appellants can be construed to hold that trading by the appellants was guided by the UPSI?

Observations of SAT: The observations of SAT are summarised as follows:

1. SAT observed that one brief phone call was made during the UPSI period, however, it cannot be held that the two persons were in frequent communication with each other in order to hold them as 'connected persons'.
2. SAT observed that the finding that the appellant was a close associate of Mr. Jhunjhunwala also doesn't get proved by the facts of the case. SAT stated that "Mr. Jhunjhunwala's investment basket spread across various companies, but this does not imply that Mr. Jhunjhunwala could be considered to be a close associate of promoters of all such companies, in which he made the investment. so far as Aptech is considered, in which appellant has no stakes or position of a director, he cannot be held as a close associate of Mr. Jhunjhunwala (promoter-shareholders and chairman) with regard to Aptech and hence, in this capacity cannot be held as 'connected person'."
3. SAT held that there is no ground for holding as a 'connected person' as the preponderance of probabilities does not suggest that the appellant made trading while he was in possession of or had access to UPSI, and hence, he cannot be held as an insider under SEBI (PIT) Regulations.
4. For the above observations, SAT relied on the case *SRSR Holdings Pvt. Ltd. & Ors. v. SEBI* (SAT Appeal 463 of 2017 decided on August 11, 2017), wherein the following remarks were made (summarised here):
 - a. It is evident from the definition of 'insider' that two categories of insiders have been created by the aforementioned definition. A person will fall into the first category as an insider if they fulfil both the ingredients of the first category cumulatively.
 - b. For the first category, if a person is a connected person, that itself satisfies half the component of the first category of insiders. However, it is pertinent to note that in order to fall under the first category, the term 'connected person' must be read with the second ingredient, viz., 'reasonably expected to have access to unpublished price-sensitive information'. Therefore, not only does a person need to be a connected person to be an insider, but there must also be some reliable and convincing material to show that such a connected person is reasonably expected to have 'accesses to the UPSI';
 - c. The Scheme of PIT Regulations of 1992 makes it evident that these dual requirements need to be satisfied before a person can be called an 'insider' under the PIT Regulations of 1992. The conjunctive 'And' is, therefore, significant and cannot be ignored.
5. With reference to the present case, SAT noted that the appellant's trades were made in the same time period as the period in which Mr. Jhunjhunwala and his family members made trading in Aptech. However, Mr. Jhunjhunwala and family members preferred to avail the benefit of SEBI's settlement scheme;

6. SAT observed that the facts in the appellants' case are different from Mr. Jhunjhunwala and his family members, as the latter were promoters/ immediate relatives of promoters of Aptech and were held to be in possession of the UPSI. Based on this, SAT stated that "Therefore, since the foundational facts in the matter are different, any similarity in trading behaviour alone cannot be the basis for holding that the trading by appellants was also guided by UPSI."
7. SAT noted that despite having purchased the Aptech scrips during the UPSI period, appellants continued to hold on to the same for a long period of 8 years. Based on this, SAT stated that "The ostensible purpose of PIT regulations is to ensure that uninformed investors do not suffer loss, and insiders with the advantage of knowledge of UPSI, don't make unlawful gains by virtue of insider trading due to information asymmetry. The differential in information asymmetry creates unlawful gains/losses when such UPSI becomes public knowledge.... This substantiates the appellant's explanation that their trading was made in accordance with their long-term investment strategy about this stock, considering certain positive developments. Moreover, if the company is venturing into the education sector, which even in the respondent's view is a new area (as the company has been in 'vocational training'), a long-term investment at an early stage could perhaps be a prudent investment strategy."
8. SAT observed that appellants are right in contending that the onus is on SEBI to prove that they had access to UPSI. SAT remarked that appellants cannot be called upon to prove that their trading was not guided by UPSI. In spite of this fact, appellants attempted to provide reasons for their trading behaviour, their perception of a positive outlook about Aptech, etc.
9. SAT allowed the appeal and set aside the order¹ (Order dated February 28, 2023) passed by SEBI's Whole-time Member.

Brief analysis of the SAT Order: The observations in the said SAT order are quite important and relevant. The SAT is relied on *SRSR Holdings Pvt. Ltd. & Ors. v. SEBI*, wherein it has observed that for the definition of insider, it observed that there shall be some reliable and convincing material to show that the connected person is reasonably expected to have access to the UPSI. Therefore, SAT observed that 'one solitary phone call of one minute duration' is not adequate to establish a link of communication and ultimately determine appellants as 'connected person' and 'insider'.

At this stage, it is important to note that the definition of 'insider' and 'connected persons' has been amended by SEBI (PIT) (Third Amendment) Regulations, 2024, w.e.f. December 4, 2024. The scope of the definition of

¹ https://www.sebi.gov.in/enforcement/orders/feb-2023/order-in-the-matter-of-aptech-limited_68548.html

‘connected person’ has widened, which has ultimately widened the scope of the definition of ‘insider’. However, in spite of said amendment, this order of SAT and observations in SRSR Holdings Pvt. Ltd. & Ors. v. SEBI are relevant from the perspective of compliances and disclosures under SEBI (PIT) Regulations, 2015.



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