BEFORE THE ADJUDICATING OFFICER
SECURITIES AND EXCHANGE BOARD OF INDIA
[ADJUDICATION ORDER NO. Order/BM/UR/2021-22/15253-15267]

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) RULES, 1995

In respect of the following Noticees

Noticee. No.	***Name***	***PAN***
1	**Girraj Kishore Agarwal**	**AABPA4928N**
2	**Tanu Girraj Kishore Agarwal**	**AADPA7003J**
3	**Radha Lashkari**	**AAHPL2851M**
4	**Radha Govind Lashkari (HUF)**	**AADHR4707E**
5	**Sanjay Jain**	**AARPJ1511G**
6	**Dinesh Ghevariya**	**ABCPG0638B**
7	**Rajendra Aggrawal**	**ABKPA0759R**
8	**Sunita Garg**	**ADFPG5482Q**
9	**Jigneshkumar Kapadia**	**ADMPK6294P**
10	**Dhiren Kapadia**	**AEUPK1721L**
11	**Suresh Chandra Kapadia**	**AEUPK1722K**
12	**Keystone Stock Finance Ltd.**	**AAACK3241J**
13	**Alliance Intermediaries and Network Pvt. Ltd.**	**AACCA9750E**
14	**Shanti Pinto**	**AMGPP0156N**
15	**Divya Sushil Kumar Shah**	**BHZPS3728L**

In the matter of **Octant Interactive Technologies Limited**

BACKGROUND:

1. SEBI conducted an investigation in the scrip of Octant Interactive Technologies Ltd. (hereinafter being referred to as "**OITL / Octant/ Company**"), a company listed on the BSE Limited (herein after referred to as "**BSE**"), to ascertain whether there was any violation of the provisions of SEBI Prohibition of Fraudulent and Unfair Trade Practices Regulations' 2003 (**PFUTP Regulations**) during the period from January 02, 2009 to September 09, 2009 (hereinafter referred to as the "**investigation period**"). Subsequently, an Adjudication Order (hereinafter referred to as AO) [ADJUDICATION ORDER NO. EAD-9/ AO/SM/52 -86/2019-20] dated August 02, 2019 was passed against the 35 entities for violation of Regulations 3(a), 3(b), 3(c), 3(d), 4(1), 4(2)(a),4(2)(b), 4(2d), 4(2e), 4(2g) of Prohibition of Fraudulent and Unfair Trade Practices Regulations 2003. Out of the the 35 entities, 15 entities who are the Noticees in this order appealed before Hon'ble Securities Appellate Tribunal against the AO order dated August 2, 2019.

2. Hon'ble Securities Appellate Tribunal (**SAT**), vide Order dated September 17, 2021, *in appeals no. 552 of 2019, 552 of 2019, 508 of 2019, 509 of 2019, 514 of 2019, 545 of 2019, 600 of 2019, 607 of 2019, 611 of 2019, 612 of 2019, 30 of 2020, 67 of 2020, 68 of 2020* while remitting the Adjudication Order dated August 02*, 2019 remanded the case to Adjudicating Officer for reconsideration on the quantum of penalty only in the light of the decision in* ***Kishore V. Gandhi vs. SEBI*** *dated February 26, 2021 and such other judgments as the appellants may rely upon..* The Hon'ble SAT observed that:

"……..21. On the issue of quantum of penalty reliance was made in the case of Kishor Gandhi (supra) wherein originally a sum of Rs. 10 lac was imposed as penalty but on remand it has been reduced to Rs. 2 lac. We are of the opinion that in this regard, the AO is required to reconsider the quantum of penalty as prima-facie, we find that the penalty imposed is excessive especially after the fresh decision passed by the AO in the matter of Kishor Gandhi (Supra).

22. In view of the aforesaid, the findings against all the appellants except in appeal No. 515 of 2019 Manju Mutha & Anr., for violating Regulations 3 and 4 of the PFUTP Regulations with regard to circular / reversal trades are affirmed. The penalty imposed is excessive and cannot be sustained. The matters are remitted to the AO for reconsideration on the quantum of penalty only in the light of the decision in Kishor Gandhi (supra) dated February 26, 2021 and such other judgments as the appellants may rely upon.

23. In view of the aforesaid, the impugned order in appeal No. 515 of 2019 in so far as it relates to the appellants is quashed and the appeal is allowed. All other appeals are partly allowed. The violation is affirmed and the matter is remitted to the AO to pass a fresh order only on the quantum of penalty in the light of the observation made above in accordance with law within a period of six months from today."

APPOINTMENT OF ADJUDICATING OFFICER

3. In compliance with the above directions of the Hon'ble SAT, SEBI vide communique dated September 30, 2021 appointed the undersigned as the Adjudicating Officer (**AO**) under Section 19 and Section 15-I of the SEBI Act, 1992 read with Rule 3 of the SEBI (Procedure for Holding Inquiry and Imposing

Penalties) Rules, 1995 (hereinafter referred to as '**Adjudication Rules'**) to inquire into and adjudge under Section 15HA of the Securities and Exchange Board of India Act, 1992 (hereinafter being referred to as '**SEBI Act'**) for violation of Regulations 3(a), 3(b), 3(c), 3(d), 4(1), 4(2)(a), 4(2)(b), 4(2)(d), 4(2)(e) and 4(2)(g) of Prohibition of Fraudulent and Unfair Trade Practices Regulations 2003 alleged to have been committed by the following Noticees. Giriraj Kishore Agarwal (hereinafter referred to as **"Noticee 1/ Giriraj"**), Tanu Giriraj Kishore Agarwal (hereinafter referred to as **" Noticee 2/ Tanu"**), Radha Govind Lashkari (hereinafter referred to as **" Noticee 3/ Radha"**), Radha Govind Lashkari (HUF)(hereinafter referred to as **" Noticee 4/ Radha HUF"**)Sanjay Jain (hereinafter referred to as **" Noticee 5/ Sanjay"**), Dinesh Ghevariya (hereinafter referred to as **" Noticee 6/ Dinesh"**), Rajendra Aggrawal (hereinafter referred to as **" Noticee 7/ Rajendra"**), Sunita Garg (hereinafter referred to as **" Noticee 8/ Sunita"**), Jignesh Kumar Kapadia (hereinafter referred to as **" Noticee 9/ Jignesh"**), Dhiren Kapadia (hereinafter referred to as **" Noticee 10/ Dhiren"**), Suresh Chandra Kapadia (hereinafter referred to as **" Noticee 11/ Suresh"**), Keystone Stock Finance Limited (Amalgamated to Glint Infraprojects Pvt Ltd) (hereinafter referred to as **" Noticee 12/ Keystone"**), Alliance Intermediateries and Network Private Limited (hereinafter referred to as **" Noticee 13/ Alliance"**), Shanti Pinto (hereinafter referred to as **" Noticee 14/ Shanti"**), & Divya Sushil Kumar Shah (hereinafter referred to as **" Noticee 15/ Divya"**) hereinafter (collectively referred to as "**Noticees**")

SHOW CAUSE NOTICE, REPLY AND PERSONAL HEARING

4. Pursuant to the restoration of the case to the file of AO, in accordance with the directions of the Hon'ble SAT, the Noticees were called upon to appear before the undersigned vide hearing notices dated October 22, 2021 (alongwith the

appointment of AO in the matter). The status of Hearing Notices served to the Noticees are as follows:

S. No.	***Noticee Name***	***Hearing Notice Dated***		***Status***
1.	Giriraj Kishore Agarwal	a.	November 09, 2021	Rescheduled
		b.	November 16, 2021	Rescheduled
		c.	November 26, 2021	Rescheduled
		d.	November 30, 2021	Rescheduled
		e.	December 03, 2021	Completed
2.	Tanu Giriraj Kishore Agarwal	a.	November 09, 2021	Rescheduled
		b.	November 16, 2021	Rescheduled
		c.	November 26, 2021	Rescheduled
		d.	November 30, 2021	Rescheduled
		e.	December 03, 2021	Completed
3.	Radha Govind Lashkari	a.	November 08, 2021	Rescheduled
		b.	November 22, 2021	Rescheduled
		c.	December 14, 2021	Rescheduled
		d.	December 16, 2021	Completed
4.	Radha Govind Lashkari (HUF)	a.	November 08, 2021	Rescheduled
		b.	November 22, 2021	Rescheduled
		c.	December 14, 2021	Rescheduled
		d.	December 16, 2021	Completed
5.	Sanjay Jain	a.	November 08, 2021	Rescheduled
		b.	November 22, 2021	Rescheduled
		c.	December 14, 2021	Rescheduled
		d.	December 16, 2021	Completed
6.	Sunita Devi Garg	a.	November 08, 2021	Rescheduled
		b.	November 22, 2021	Rescheduled
		c.	December 14, 2021	Rescheduled
		d.	December 16, 2021	Completed
7.	Dinesh Ghevariya	a.	November 08, 2021	Rescheduled
		b.	November 09, 2021	Completed
		a.	November 08, 2021	Rescheduled

8.	Jigneshkumar Kapadia	b.	November 09, 2021	Completed
9.	Suresh Chandra Kapadia	a.	November 08, 2021	Rescheduled
		b.	November 09, 2021	Completed
10.	Dhiren Kapadia	a.	November 08, 2021	Rescheduled
		b.	November 09, 2021	Completed
11.	Rajendra Aggrawal	a.	November 09, 2021	Rescheduled
		b.	December 13, 2021	Completed
12.	Keystone Stock Finance Limited (Amalgamated to Glint Infraprojects Pvt Ltd)	a.	November 11, 2021	Rescheduled
		b.	December 28, 2021	Rescheduled
		c.	January 10, 2022	Completed
13.	Alliance Intermediaries and Network Pvt. Ltd	a.	November 10, 2021	Rescheduled
		b.	December 28. 2021	Rescheduled
		c.	January 07, 2022	Completed
14.	Divya Sushilkumar Shah		November 10, 2021	Completed
15.	Shanti Pinto		November 10, 2021	Completed

5. Subsequent to the issue of Hearing Notice the Noticees made the following submissions:

a) Noticee 1 and Noticee 2 (Vide letter dated 13/11/21 and 04/12/21)

i. Noticee 1 had filed an appeal with the Hon'ble Supreme Court on October 22, 2021 against the Hon'ble SAT order and therefore he requested to stay the proceedings till the appeal is disposed by the Hon'ble Supreme Court.

ii. Noticee submitted the Ld. Tribunal failed to consider the Petitioner's case separately inspite of they having totally different facts and no connection with any other entity, instead the SEBI has taken the Petitioner together all the persons under a single umbrella for passing a common SEBI order.

iii. The Ld. Tribunal erroneously came to a general finding at Para 8 of the SEBI order that, the trading activities of the Petitioner's indicate circular/reversal trades, which is totally contradictory to the case of SEBI that Petitioners no trades formed part of self-trades, circular trades, synchronised trades, reversal trades, LTP violation or that they have contributed to price rise in any manner, which were the only factors considered for imposing penalty, as can be seen from Table under Para 58 of the Order dated August 2, 2019 passed by SEBI.

iv. Para 77 of the SEBI order for the first time refers to an investor complaint which was received by SEBI vide email dated January 5, 2010, wherein allegations is made that 'the price of scrip is continuously going down by 5% during the two months proceeding his complaint and the promoter's holding have reduced from 67% to 37%. But a copy of the same is not provided.

v. Para 24 of the SEBI order – Generalised allegation is made that almost all Category-II entities received shares of OITL in off-market from either Manish or Indra Pratap and a few other Category-I entities, which is apparently contrary to the records that the Appellants have not done any single trade in off-market.

vi. Para 44 of the SEBI order alleges that the Appellants and their related entities were holding 76.8% of the total shareholding of the Appellants being director of Keystone, the Appellants cannot feign ignorance about the trades of keystone and wash off their responsibilities. But the Respondent failed to consider that it was the authorised director Ms. Sheetal Kashiram Kadam who has done the off market sale through a middlemen Mr. Pawan Poddar and the authority of trading in Keystone can be proved from the KYC documents available with Anand Rathi

Securities Pvt. Ltd. which the SEBI ought to have been called for and enquired into.

vii. Para 44 of the SEBI order erred in finding that, two promoters of OITL i.e. Keystone and VRP have together transferred 1 Lakh shares to Indra Pratap in the off market who alongwith Manish, Jitendra and group entities initiated circular trading pattern by transferring shares further in offmarket and on market and therefore the Appellants (being primary shareholders) were responsible to start the chain so that their shares could be offloaded at high price while Appellants did not purchase even a single share during investigation period which could have been sold in same period to manipulate the price. Further, there was no bar upon the Appellants to sell the shares and the Appellants sold the shares since there was urgent requirement of funds in their family and requisite disclosure was made.

viii. Appellants and their related entities were holding 21,34,456 shares at the commencement of investigation and post investigation they continued to hold 18,16,064 shares which was 88.05% of their total holding without selling it though the price was high at Rs.239/- during post- investigation period (September 2009 to November 2009), out of which the Appellant No1's holding was 2514 shares and Appellant No.2's holding was 36,000 shares.

ix. Appellants were not involved in off-market transfers, circular/reversal trades, contribution of LTP, Self-trades or synchronized trades which were the only factors considered while arriving at the allegation of manipulation of price of scrip.

x. As compared to total percentage of the market volume the Appellant No.1's trade is only 1.07% of the gross sales and 1.19% of net sales of total market. Similarly, the Appellant No.2's trades are only 0.67% of net sales of total market volume.

xi. Considering the total Promoter and Promoter Group's shareholding of OITL which was 32.95% as on June 2009, the Appellant No.2's sale of 95,400 share amounted to only 0.37% which is very minimal.

xii. There was an overall net purchase during entire investigation period, whereas the Appellant have done minimal sale.

xiii. Other entities who have traded are left out from the purview of quantification of profits and only the Appellant's sale has been taken into consideration and quantification is carried out to allege wrongful gain.

xiv. Para 80 of the SEBI order alleged that there are severe losses to other investors, however, there is no single allegation by any investor about alleged losses nor there is any case specifying the quantum of alleged loss caused to investors.

xv. Noticee submitted it is SEBI's own finding at para 45 page 112 that the promoter group continued to sell their stake even after the investigation period. Between September 2009 (when the Investigation period ends) and September 2010, the promoter group has sold 36,04,970 shares. Further, quantity sold prior to September 2009 by the Petitioners which forms basis of allegations and calculation of alleged manipulative profits by the Petitioners is about 5% of the total sells made by the promoter group entities during the period July 2009 to September 2010. Infact substantial part of the sells was when no price manipulation is alleged, whatsoever.

b) Noticee 3, 4, 5 and 8 (Vide letter dated 24/12/21):

i. The Noticees submitted that the exorbitant amount of penalty imposed on them to the tune of Rs. 25,00,000/- per Noticee is unjust and inconsistent with reasoning of the AO as inferred from the Kishor AO Order. It is further submitted that my client and Kishor HUF are in similar position and thereby, penalty should have been imposed on similar lines.

ii. Noticees submitted trades executed in the investigation period were very miniscule out of the total trades executed in the scrip of OITL to attract such high amount of penalty.

iii. Noticees submitted that they had not executed any synchronised trades however in Kishore Gandhi AO order specific and serious allegation of synchronisation has been made and a mere penalty of Rs. 2,00,000/- was imposed.

iv. Noticees denied the allegation of off-market purchases of shares sold by them on the platform of the Exchange. Further, they submitted that at the time of transfer of the shares in each of the Noticee's demat account they were not aware as to from whose demat account the shares were being transferred to them.

v. Noticees do not have any connection/relation with any of the parties who are alleged to have transferred shares to them through off-market.

c) Noticee 6, 9, 10 and 11 (Vide letter dated 19/11/21):

Noticees contended that they have been alleged in circular / reversal trading whereas allegations against Kishor Gandhi were for Circular trading as well as synchronised trading and 100% reversal trading. Further, they submitted that the scrip in both the cases was the same and allegation against the Noticee and Kishor Gandhi HUF was that they are connected to the Manish Rathi group.

d) Noticee 7 (Vide letter dated 13/12/21):

i. Noticee contended that the shares were purchased in Interconnected Stock Exchange only and the same were never mentioned to be bought in BSE as alleged in the written submission of the respondent to the Hon'ble SAT.

ii. Noticee did not receive in time, deliveries of the shares by the broker.

iii. Noticee made payment of taxes on the profits earned.

iv. Noticee submitted that his activities does not fall in any of the activities mentioned in the regulations 3 (a), (b), (c), (d), 4(1), 4(2), (b), (e) and (g) of PFUTP Regulations.

v. Noticee contended that, the AO nowhere mentioned his name in any trade related to circular trade and price manipulation transactions.

vi. His involvement is in LTP contribution. Further, his Self trades and Synchronized trades were Nil.

vii. Noticee contended that in the AO order it was specifically mentioned that all other entities kept the shares under pool account with the broker except him, who had sent a legal notice to his broker to transfer the said shares. Apart from him no other Noticee was concerned about the shares lying in the brokers pool account.

viii. Noticee contended that at the time of purchase of shares transaction in cash was acceptable and its non acceptance by SEBI is contradictory in itself.

e) Noticee 13 (vide letter dated 06/01/22)

i. Noticee contended that there was great delay in issuance of SCN of about 4 years, the proceedings were conducted in piecemeal and the same is fatal to the interest of justice and thereby the principles of natural justice are violated.

ii. Noticee transferred shares in off market to the entities which were not even a Noticee in the present SCN.

iii. The Noticee was not charged with any price manipulation as per SCN. As per AO order, paragraph 28, 29 and 30 there is no LTP charge against the Noticee. However, Noticee's LTP contribution is shown as INR 5.85 in the penalty table at paragraph 58 of the impugned order.

iv. Noticee contended, apart from the allegations of (+) LTP no self, circular or reversal trades have been alleged to have been carried out by the Noticee **.**

v. The Noticee contended that all the transactions were done by Shri Kamal Rathi without informing the facts to the Noticee and also used names of his employees viz. Manish Rathi and Indra Pratap Gajraj Singh. The Noticee further contended that it had not earned made any profit/received any financial benefit in the whole scheme of transactions undertaken by Shri Kamal Rathi.

vi. Noticee contended, Mr Manish Rathi had not been served either with the SCN, Supplementary SCN or hearing notices and he had also not attended the hearings before the Respondents. Further, in the absence of passing the order without delivering the SCN and Supplementary SCN to Mr. Manish Rathi and his non-appearance in both the hearings and without taking his version on record, the Respondent has taken an adverse view against the Noticee and levied an exorbitant penalty.

vii. The Noticee contended that off-market receipt of 97,500 shares from Kolkata Group, entities viz Aparna Commodities Pvt. Ltd & Uniflex Carrying Co and payment of Rs. 25,00,000 lakhs to Manish Rathi on 23rd December 2008 and transfer of 10,000 shares to Manish Rathi was used to establish connection of the Noticee with Kolkata Group and Manish Rathi group. The same was used for establishing connection and no wrongdoing was attributed to these off-market receipt/fund transactions.

viii. No connection/nexus/relationship between the Noticee and the alleged entities is established on the basis of common controlling mind. Even trading pattern of parties show different and dysfunctional features.

ix. Noticee contended, the penalty levied against it vide the AO order is disproportionate, arbitrary and unreasonable and not as per rules of parity. Further, the Noticee contended that there are other entities who has contributed and dealt their shares in Circular Reversal Trades with other entities/or Promoter Group of OITL/relatives of entities and they are indicted with a lesser amount in comparison with the penalty amount of the Noticee i.e. INR 1,00,00,000.

x. The Noticee is struck off and is no position to pay any monetary penalty.

xi. The Noticee or its directors are not a habitual or repetitive offenders.

xii. The Noticee or its erstwhile directors had no intention to and have not caused any loss to any investor or group of investors or the securites market.

f) Noticee 12/ Glint Infraprojects Pvt. Ltd. (Vide letter dated 21/01/22):

i. Noticee 12 i.e. Keystone was amalgamated to Glint Infraprojects Pvt. Ltd. vide scheme of amalagamation. The appointed date for such amalgamation was April 1, 2010. Since Keystone ceased to exist, Glint contended on behalf of Noticee 12. Glint contended that SEBI while pursuing the matter before the Hon'ble Tribunal had urged that Glint is not an aggrieved person, however SEBI before the Hon'ble tribunal in their review application had requested the Hon'ble tribunal to dismiss the appeal of Glint and uphold the finding against KSFL and by the virtue of the same hold Glint liable. Therefore the arguments by SEBI during the review application are self- contradictory.

ii. Glint submitted that the scheme of amalgamation was approved by Bombay High Court in 2011. Noticee 12 had already ceased to exist on June 17, 2011 i.e. much prior to issuance of Show Cause Notice. Further no adjudication proceedings were pending against Noticee 12 on the date of amalgamation.

iii. Glint contended that the scheme provided for transfer of pending proceedings against Noticee 12 and not the proceedings that might arise in future. The adjudication proceedings initiated against Noticee 12 were not pending as on effective date. Therefore, the proceedings & penalty arising out of initiation of adjudication proceedings, initiated much after Noticee 12 ceased to exist, cannot be fastened upon Glint, merely because Noticee 12 amalgamated into the Glint.

iv. Glint contended that neither Show Cause Notice nor hearing notice was received and there is nothing to show on record that SEBI has ever served it Show Cause Notice or hearing notice.

g) Noticee 15 (vide letter dated 21/11/21) :

i. Noticee contended that frequent changes of AO / errors in SCN shows inconsistency & negligence of SEBI and it is bound to conduct blunders in the process of passing orders.

ii. Noticee submitted that the SCN was much generalized in nature and it does not describe his exact role during Investigation Period.

iii. Noticee contended that he had not gained any disproportionate gain-unfair advantage, caused any loss to investor & her role is non repetitive in nature, hence penalty of Rs. 25 Lakh is not justified.

iv. Noticee contended that no allegation has been made regarding circular trade, reversal trade, self trade, synchronized trade and there was no profit made by her.

v. Noticee contended that his LTP contribution amounts to less than 1% of the group LTP contribution. Hence such miniscule contribution cannot be termed as manipulative. Further, his LTP transaction does not fall in the IP. Moreover, his contribution to Rs. 8.05 to total LTP is miniscule and immaterial.

vi. He contended that no evidence has been shown of any connection or meeting of minds with promoter or Rathi group or any counterparty. Further, he did not receive any profit from alleged manipulation, nor caused loss to any investor as a result of his trading.

vii. Noticee requested for cross examination of Indra Pratap Singh, Manish Rathi and Raman Goyal.

viii. Noticee contended that off-market trades are not illegal.

ix. Noticee requested to investigate his Ex-employer.

x. Noticee contended that there was delay in initiating/ concluding and conducting of the proceedings.

xi. Noticee contended that the said contract was induced by undue influence and that his employer was always in a position to dominate his will.

h) Noticee 14 (vide letter dated 11/11/21 and 08/11/21) :

i. Noticee contended that in the case of Kishor V Gandhi HUF there were findings qua them with regard to charges of synchronized trading which is absolutely absent in her case. She submitted that her case be treated similarly with the case of Kishor V Gandhi HUF, in consonance with the well settled principle of equality and parity.

ii. Adjudication proceedings were initiated/ culminated after an inordinate delay.

iii. Noticee had not derived any undue pecuniary benefit and there had been no unjust enrichment on her part. Further, she contended that there is no connection of her with Giriraj Aggarwal & Tanu Aggarwal.

iv. She contended there had been no investor complaints etc. against her.

v. Save and except the present proceedings, there has never been any proceedings against her or any order passed against her by SEBI or any regulatory body.

vi. Noticee contended that the AO had arbitrarily and mechanically imposed penalty of Rs. 25 lacs (on most of the Noticees including me), irrespective of their trading pattern.

vii. There is no allegation of any circular/reversal/synchronized trading or price escalation unlike in the case of other Noticees. Reasons set out in earlier AO order for imposition of “exemplary penalty” are absent in her case.

HEARINGS

6. Pursuant to the restoration of the case to the file of AO, Noticee 1 and Noticee 2 were served Hearing Notices dated October 22, 2021 whereby hearing was scheduled on November 9, 2021. The Hearing notice was duly delivered to both the Noticees. Vide letter and email dated November 3, 2021, Noticee 1 and Noticee 2 informed that they have filed an appeal with the Hon’ble Supreme Court on October 22, 2021 (Case No. 006491-/2021 Registered on 27th October, 2021 & Dairy No. 25797/2021) against Hon’ble SAT order dated 17th September, 2021 and requested to stay the proceedings till appeal is disposed by the the Hon’ble Supreme Court. Since no stay was granted by the Hon’ble Supreme Court Noticee 1 and 2 were advised to appear for hearing on the rescheduled date i.e. November 16, 2021. Vide letter dated November 13, 2021 both the Noticees again requested for deferment of hearing on the same grounds. Noticees were once again informed that their appeal before Hon’ble Supreme Court will not stop the proceeding before AO and hence hearing was rescheduled to November 26, 2021. Vide letter dated November 24, 2021 both the Noticees again requested for adjournment of the said hearing on the same grounds. Further the Noticees submitted that listing of the matter is getting delayed since SEBI had filed caveat at the Supreme Court. Noticees were once again informed

that (i) there was no prohibitionary order by the Hon'ble Supreme Court and (ii) Hon'ble SAT vide order dated September 17, 2021 has directed only to reconsider only the quantum of penalty and pass fresh order within 6 months from the date of the order. Hence their request was not acceded to and the hearing was rescheduled to November 30, 2021. The said Noticees again requested for deferment citing the health reasons vide maid dated November 30, 2021, whereby hearing was postponed to December 03, 2021. Noticee 1 appeared for himself and on behalf of his wife Noticee 2 on scheduled date. Noticee 1 submitted that he did not indulge in self-trades or reversal trades. Further, he submitted, they were not connected with any group and shares were transferred by another authorized director of Keystone Stock finance Limited and promoter group had not made any gains from the sale of shares. He finally reiterated his request for reduction of penalty.

7. For Noticee 3, 5 and 8 the hearing was scheduled on November 08, 2021 and for Noticee 4 the hearing was scheduled on November 09, 2021 vide Hearing Notice dated October 22, 2021. Vide email dated November 08, 2021 Authorised Representative (AR) of the aforementioned 4 Noticees informed that he is representing all the four Noticees and requested for deferment of hearing after November 20, 2021 on the ground that the counsels are unavailable due to some pre-scheduled personal commitments. Pursuant to that, the hearing was rescheduled on November 22, 2021. Due to work related exigencies the said hearing dated November 22, 2021 was rescheduled on December 14, 2021. Further, due to technical issues in conducting hearing through virtual mode, hearing could not be conducted on December 14, 2021 and it was rescheduled to December 16, 2021. Authorized Representative of the aforementioned Noticees appeared on December 16, 2021 and submitted that in the light of the order in the case of Kishore V. Gandhi the penalty should be reduced.

Noticee 6, 9, 10, and 11 were served Hearing Notices dated October 22, 2021. For Noticee 6 the hearing was scheduled on November 8, 2021, for Noticee 11 hearing was scheduled on November 9, 2021 and for Noticees 9 and 10 hearing was scheduled on November 10, 2021. Vide email dated November 02, 2021 Authorised Representative representing the aforementioned Noticees informed that he is representing all the four Noticees and requested to schedule hearing for all the four Noticees on the same date and time. Pursuant to that, vide email dated November 03, 2021 Authorised Representative was informed that the said hearing is scheduled on November 09, 2021. Hearing regarding Noticee 6, 9, 10 and 11 concluded on the scheduled day and time i.e. November 09, 2021. The Authorized Representative submitted that since the case has been remanded back to reconsider on the quantum of penalty only so he would not go to the merits of the case and would rely on the order in the case of Kishore Gandhi which has similar facts. He further requested for the reduction of penalty.

8. Noticee 7 was served hearing notice dated October 22, 2021 whereby hearing was scheduled on November 09, 2021. Vide letter dated November 08, 2021 Authorised Representative of the Noticee requested to postpone hearing as due to festive days he could not complete required authorization. The said hearing was rescheduled on December 13, 2021, which was completed on the scheduled day and time. The Authrized representative made oral submissions of behalf of Noticee. He raised two contentions, firstly he contended that noticee bought shares in 2007 from Alliance Intermediaries but received shares in 2009 after notice followed up rigorously and sold shares through BSE broker Senator Securities private Limited as normal transaction and issued delivery instruction from Demat account with Axis bank Ltd. Secondly he submitted that penalty

should be reconsidered relying on the order of Hon’ble SAT in the case of Kishor Gandhi.

9. Noticee 12 was served hearing notice dated October 22, 2021 whereby hearing was scheduled on November 11, 2021, however delivery of the said notice could not be completed. Vide hearing notice dated December 17, 2021, another attempt was made in delivering the hearing notice whereby hearing was scheduled on December 28, 2021. Vide letter dated December 31, 2021, Glint informed that it did not receive any hearing notice. Another opportunity of hearing was given vide Hearing Notice dated January 07, 2022 whereby hearing was scheduled on January 10, 2022. The said hearing concluded on January 10, 2022. As stated earlier Keystone amalgamated with Glint. The Authorized representative representing Glint relied on the SAT order dated September 17, 2021, SAT review order dated November 15, 2021 wherein, SAT held in favour of Glint. Further, authorized representative while relying on the Scheme of Amalgamation para 6 contended that since scheme of amalgamation was approved on June 17, 2011 the said adjudication proceedings should not have been intiated. Authorized Representative interalia contended while relying upon the order in the case of Saraswati Induatrial Syndicate case that, upon merger the entity namely Keystone does not exist therefore the said proceedings should be discontinued.

10. Noticee 13 was served hearing notice dated October 22, 2021 whereby hearing was scheduled on November 10, 2021. Vide email dated November 09, 2021 Noticee informed that its wife is unwell and requested to defer hearing by 3 weeks. Vide hearing notice dated December 17, 2021 another opportunity of hearing was provided to Noticee on December 28, 2021. Vide email dated December 23, 2021 Noticee informed that arguing counsel was not available and requested to schedule hearing after December 29, 2021 whereby vide hearing

notice dated December 28, 2021 it was informed that the said hearing was scheduled on January 07, 2022. The said hearing was concluded on January 07, 2022. The Authorized representative of the Noticee reiterated upon the written submissions sent by him. He submitted that the Noticee was registered with Interconnected Stock exchange and currently it is struck off from
ROC since September 2015, and there is no status of the company and there is nobody to pay the penalty. Further he submitted that since there were no circular trades, reversal trades and self trades by the Noticees and LTP contribution was merely 5.85%, penalty amount was exorbitant amount.

11. Noticee 14 was served hearing notice dated October 22, 2021 whereby hearing was scheduled on November 10, 2021. The said hearing was completed on the scheduled day and time. The Authorized Representative submitted that penalty of 25 lakhs could not be applied uniformly and further submitted to reconsider penalty relying on the order in the case of Kishor Gandhi.

12. Noticee 15 was served hearing notice dated October 22, 2021 whereby hearing was scheduled on November 10, 2021. The said hearing was completed on the scheduled day and time. The Authorized Representative representing the Noticee submitted that factors as per 15 J of SEBI act were not considered while passing of order by the erstwhile AO. Further he submitted that Noticee was not involved into circular trades, reversal trades, self trades, synchronized trades, however he submitted that his trades generated +ve LTP of Rs. 14/- and –ve LTP of Rs. 8 only and the the Noticee did not contribute to NHP. Finally, he referred to order in the case of Kishor Gandhi and requested for reduction of penalty.

ISSUES FOR CONSIDERATION

13. Hon'ble SAT vide its order dated September 17, 2021 against the appeal to AO order in the captioned matter held that:

> *"……. Based on the connection between the noticees and based on the trading pattern, the AO after considering the replies came to the conclusion that reversal / circular trades were done by the noticees buying off-market and selling on market and that the noticees had misused the stock exchange platform to manipulate the price of the stock which was not backed by any fundamentals. The AO further found that the noticees traded amongst themselves to create an artificial volume and enticed other investors to start buying the scrip. The AO further found that the noticees had made false statements alleging that they had purchased the shares through brokers from the stock exchange whereas these scrips were not traded during the relevant period. The AO further found that the contract notes allegedly executed with the brokers were fake contract notes."*

Further it was observed by Hon'ble SAT:

> *"…….The common ground of all the appellants of the Manish Rathi group is, that they bought shares from the brokers through the stock exchange platform in 2007 / 2008 from the stock exchange platform and allowed the brokers to keep the shares in their pool account with instructions that as and when they required the shares to be sold, they instructed the brokers to transfer the same to their accounts. One of the appellants Shri Rajendra Aggarwal contended that purchases were made from the broker in April 2007 and it was only transferred in its clients account on*

February 4, 2009 when a legal notice was sent by him. The consistent stand of all the appellants is, that they had purchased it from the brokers and were not aware of the actual owner and that they had no connection with the promoters or the promoter group entities. It was also contended that the appellants are nowhere connected with the promoter group or with the alleged Manish Rathi group entities and the connection drawn by the AO is erroneous. The appellants further contended that there has been an inordinate delay in the initiation of the proceedings. The alleged trades are of the year 2009 and that the notice was only issued in the year 2013 and, therefore, there was no justification for the delay in the issuance of the show cause notice. In addition to the aforesaid, it was also contended that the hearing in the matter took place in the year 2018 and it took eighteen months for the AO to deliver the order. It was, thus, contended that on account of the inordinate delay, the proceedings and the impugned order should be quashed. It was also urged that the penalty imposed is excessive and the AO has not taken into consideration the proportionality vis-a-vis the extent of the trades executed. It was, thus, contended that the imposition of the penalty is without any application of mind and was arbitrary. In support of their submission reliance was placed in the case of an order of the AO in Kishore V. Gandhi vs. SEBI in which against the same impugned order, the AO had imposed a penalty of Rs. 10 lac. This Tribunal by an order dated December 12, 2019 had remanded the matter pursuant to which a fresh order was passed by the AO on February 26, 2021 in relation to the same trading in the scrip and the AO has imposed a penalty of Rs. 2 lac. It was, thus, contended that the penalty imposed is excessive and should be reduced accordingly. On the other hand, the stand of the respondent is, that the AO has considered in detail the connection inter se between the parties which is based on the evidence and also after considering the trading *pattern. It was urged that the appellants had indulged in circular / reversal trading in connivance with each other and created not only artificial volume of trades but impacted the price of the scrip in question. Having heard the learned counsel for the parties, we find that the trading activities of the appellants indicate circular / reversal trades. The appellants admittedly purchased shares off-market and later on reversed it through sell trades to the same entities. Thus, the trading pattern has been amply demonstrated in paragraph Nos. 23, 24 and 25 of the impugned order. The trades that the appellants purchased off-market from the promoter entities and also from Manish Rathi group and later on placed sell orders at a higher price thereby allowing buying entities to also place orders at a higher price thereby increasing the Last Traded Price (LTP). We also find that many trades that were executed were the first trades of the day. The AO in paragraph No. 26 has indicated the price increase of the scrip on the basis of the trades made by the appellants. We do not find any illegality in the findings given by the AO."*

Hon'ble SAT vide its order in the captioned matter has also held that:

"……..With regard to the appeal of Girraj Kishor Agrawal and Tanu Girraj Kishor Agrawal, the said appellants are the promoters of the company in which the scrip was traded. We find that the appellant Girraj Kishor Agrawal held 1,53,700 shares and sold 1,51,186 shares on four days. Similarly, Tanu Girraj Kishor Agrawal held 95,400 shares and sold off her entire holding within four days. The contention that they only sold the shares when the price was at its peak and, therefore, there was no violation since there was no charge of synchronised, reversal or self-trades against them and, therefore, the penalty imposed was wholly excessive. The submission raised by the appellants is patently

erroneous. The trading pattern which has emerged indicates a modus operandi wherein the promoter group, namely, the appellants Girraj Kishor Agrawal and Tanu Girraj Kishor Agrawal alongwith Manish Rathi group and Kolkata group entities purchased sharesoff-market and later reversed through sell trades. The off-market purchases were made from the promoters entities who, in turn, was given to Manish Rathi group and this Manish Rathi group, in turn, again placed sell orders at a higher price allowing buying entities to increase the LTP. We are of the opinion that the appellants Girraj Kishor Agrawal and Tanu Girraj Kishor Agrawal were part of the modus operandi and misused the stock exchange platform to manipulate the price in order to make unlawful gains especially when the company was not backed by any fundamentals."

14. Hon'ble SAT in its order dated September 17, 2021 has affirmed that the Noticees have violated Regulations 3 and 4 of the PFUTP Regulations with regard to circular/ reversal trades.in the scrip of Octant. Hence the limited issue before me is to reconsider the penalty imposed on the Noticees in light of the decision in Kishore Gandhi (supra) dated February 26, 2021 [ADJUDICATION ORDER NO.Order/KS/AE/2020-21/10675] as has been observed by SAT vide its order in the captioned matter-

"……21. On the issue of quantum of penalty reliance was made in the case of Kishor Gandhi (supra) wherein originally a sum of Rs. 10 lac was imposed as penalty but on remand it has been reduced to 25 Rs. 2 lac. We are of the opinion that in this regard, the AO is required to reconsider the quantum of penalty as prima-facie, we find that the penalty imposed is excessive especially after the fresh decision passed by the AO in the matter of Kishor Gandhi (Supra). 22. In view of the aforesaid, the findings

against all the appellants except in appeal No. 515 of 2019 Manju Mutha & Anr., for violating Regulations 3 and 4 of the PFUTP Regulations with regard to circular / reversal trades are affirmed. The penalty imposed is excessive and cannot be sustained. The matters are remitted to the AO for reconsideration on the quantum of penalty only in the light of the decision in Kishor Gandhi (supra) dated February 26, 2021 and such other judgments as the appellants may rely upon."

15. Subsequent to the order of AO dated August 02, 2019 appeal was filed By Glint Infraproject Pvt. Ltd vide Appeal No. 612 of 2019 wherein it was contended that one of the Noticee Keystone has been penalized by sum of Rs. 1 crore which has been amalgamated with Glint in June 2011. It was urged that no proceedings could be issued against Keystone nor any recovery could be made from the successor in interest i.e. Glint. In this regard SEBI as respondent accepted the amalgamation but contended that that Glint is not aggrieved person as notice was sent only to Keystone and no notice has been sent to Glint nor any recovery is being made from the successor in interest. Hon'ble SAT thereafter dismissed the appeal as devoid of any merit in view of the stand taken by SEBI as stated above. The review application filed by SEBI has also been dismissed by Hon'ble SAT vide order dated November 15, 2021. In its order Hon'ble SAT has also placed reliance on **Saraswati Industrial Syndicate Ltd vs C.I.T, Haryana, Himachal Pradesh, Delhi, 1990 (Supp) SCC 675** passed by Hon'ble Supreme Court wherein it was held :-

" …..The High Court was in error in holding that even after the amalgamation of two companies, the transferor company did not become non-existent instead it continued its entity in a blended form with the appellant company. The High Court's view that on amalgamation there

is no complete destruction of corporate personality of the transferor company instead there is a blending of the corporate personality of one with another corporate body and it continues as such with the other is not sustainable in law. The true effect and character of the amalgamation largely depends on the terms of the scheme of the merger. But there cannot be any doubt that when two companies amalgamate and merge into one the transferor company loses its entity as it ceases to have its business. However, their respective rights of liabilities are determined under the scheme of amalgamation but the corporate entity of the transferor company ceases to exist with effect from the date the amalgamation is made effective."

16. During hearing before the undersigned Glint has also submitted that as per Scheme of Amalgamation only the pending proceedings against Keystone (Noticee 12) will be transferred and not proceedings that might arise in future. They further submitted that the adjudication proceedings initiated against Keystone were not pending as on the effective date which was April 1, 2010. In view of the stance taken by SEBI before Hon'ble SAT and the observations made by Hon'ble SAT in its order dated September 17, 2021 the matter cannot be proceeded with.

17. As per the SAT order dated September 17, 2021, while the fraudulent activities carried out by the entities has been upheld the issue before me is to reconsider the penalty in the light of decision taken in the AO order dated February 26, 2021 against Kishore Gandhi.

ORDER

18. Hon’ble SAT in its order dated September 17 interalia observed :

> *“……..we find that the penalty imposed is excessive especially after the fresh decision passed by the AO in the matter of Kishor Gandhi (Supra). The penalty imposed is excessive and cannot be sustained. The matters are remitted to the AO for reconsideration on the quantum of penalty only in the light of the decision in Kishor Gandhi (supra) dated February 26, 2021 and such other judgments as the appellants may rely upon.”*

19. Having considered the facts and circumstances of the case, the material available on record, the factors mentioned in Section 15J of the SEBI Act and specifically considering the observations of Hon’ble SAT order dated September 17 ,2021 and in exercise of power conferred upon me under section 15-I of the SEBI Act, 1992 read with rule 5 of the Adjudication Rules, 1995, I hereby impose following penalty under section 15HA of the SEBI Act, 1992 on the Noticees:

Name of the Noticee	**Penalty Imposed**
Girraj Kishore Agarwal	**2,00,000 (Rupees Two Lakh Only)**
Tanu Girraj Kishore Agarwal	**2,00,000 (Rupees Two Lakh Only)**
Radha Govind Lashkari (HUF)	**2,00,000 (Rupees Two Lakh Only)**
Radha Lashkari	**2,00,000 (Rupees Two Lakh Only)**
Sanjay Jain	**2,00,000 (Rupees Two Lakh Only)**
Dinesh Ghevariya	**2,00,000 (Rupees Two Lakh Only)**
Rajendra Aggrawal	**2,00,000 (Rupees Two Lakh Only)**
Sunita Garg	**2,00,000 (Rupees Two Lakh Only)**

Jigneshkumar Kapadia	**2,00,000 (Rupees Two Lakh Only)**
Dhiren Kapadia	**2,00,000 (Rupees Two Lakh Only)**
Suresh Chandra Kapadia	**2,00,000 (Rupees Two Lakh Only)**
Alliance Intermediaries and Network Pvt. Ltd.	**2,00,000 (Rupees Two Lakh Only)**
Shanti Pinto	**2,00,000 (Rupees Two Lakh Only)**
Divya Sushil Kumar Shah	**2,00,000 (Rupees Two Lakh Only)**

20. In view of observation made at para 16, the Show Cause Notice against Noticee 12 (i.e Keystone) is disposed off without any penalty.

21. The Noticees shall remit / pay the said amount of penalty within 45 days of receipt of this order 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 AO → PAY NOW

22. The aforesaid Noticees shall forward said Demand Draft or the details / confirmation of penalty so paid to "The Division Chief (Enforcement Department 1 DRA-2), Securities and Exchange Board of India, SEBI Bhavan, Plot No. C – 4 A, "G" Block, Bandra Kurla Complex, Bandra (E), Mumbai – 400 051." The Noticees shall also provide the following details while forwarding DD / payment information:
    - Name and PAN of the Noticee
    - Name of the case / matter
    - Purpose of Payment – Payment of penalty under AO proceedings
    - Bank Name and Account Number

- Transaction Number

23. In the event of failure to pay the said amount of penalty within 45 days of the receipt of this Order, SEBI may initiate consequential actions including but not limited to recovery proceedings 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.

24. In terms of the provisions of rule 6 of the Adjudication Rules, a copy of this order is being sent to the Noticees and also to the Securities and Exchange Board of India.

Date: February 28, 2022	**BARNALI MUKHERJEE**
Place: Mumbai	**ADJUDICATING OFFICER**