SECURITIES AND EXCHANGE BOARD OF INDIA

ADJUDICATION ORDER NO Order/VV/AS/2022-23/25197-25211

Under Section 15-I of The Securities And Exchange Board Of India Act, 1992 read with Rule 5 of The Securities And Exchange Board Of India (Procedure For Holding Inquiry & Imposing Penalties) Rules, 1995

In the matter of Trading by certain entities in Mentha Oil futures contracts at Multi Commodity Exchange of India Limited

In respect of:

S.N.	Noticee (As per SCN)	Entities Name	PAN
1	Noticee 3	Gaurav Gupta	ARLPG4012E
2	Noticee 4	Saurabh Kumar Vaish	AEHPV0866L
3	Noticee 5	Vimuk Enterprises	AANFV4919L
4	Noticee 6	Rapid Credit & Holdings Pvt Ltd ("**Rapid**")	AAACR0021K
5	Noticee 7	A G Agri Mart Private Ltd ("**AG Agri**")	AAJCA9398M
6	Noticee 8	Abhishek Agarwal	AIDPA1545K
7	Noticee 9	Neetu Gupta	AJOPG5806B
8	Noticee 10	Vikram Gupta	AAOPG1467H
9	Noticee 11	Invictus Stock Research Private Ltd ("**Invictus**")	AACCI4638M
10	Noticee 12	APMV Stocks & Commodities Private Ltd. ("**APMV**")	AAICA9644F
11	Noticee 13	Fancos Trademart Private Ltd.("**Fancos**")	AACF8546P
12	Noticee 14	Abhishek Mishra	APHPM6773J
13	Noticee 15	Shamugpriya International Pvt Ltd ("**Shamugpriya**")	AAYCS6149K
14	Noticee 16	Neeru Gupta	ADTPG9314M
15	Noticee 17	Yash Gupta	BTKPG6004J
16	Noticee 18	Sita Ram (HUF)	ABCHS8882F
17	Noticee 19	Virendra Kumar Jain	ABPPJ9524Q
18	Noticee 20	Reindus Tradeway Private Ltd ("**Reindus**")	AAICR9376D
19	Noticee 21	Alok Kumar Singh	ACQPS1889K
20	Noticee 22	R. K. Commodities Services Pvt Ltd ("**RCS**")	AADCR3305H
21	Noticee 23	Rajendra Kumar Gupta	ADTPG0459K
22	Noticee 24	Navdeep Varshneya	ADFPV9839A
23	Noticee 25	Sundeep Chadha	AAHPC9809N

*(In the instant Adjudication Order **Noticee 3 to Noticee 23** are individually known by their respective name or Noticee no. collectively referred to as "**Noticees**")*

A. BACKGROUND

1. Multi Commodity Exchange of India Limited ("**MCX/ the Exchange**") had observed that **Group A entities** *namely* Abhishek Agarwal, Neetu Gupta and Yash Gupta and **Group B entities** *namely* Vikram Gupta, Abhishek Mishra, Shamugpriya International Pvt. Ltd, Sita Ram (HUF), Reindus Tradeway Private Ltd, Alok Kumar Singh, Fancos, Invictus, Virendra Kumar Jain, APMV, A G Agri, Neeru Gupta are connected with North End Foods Marketing Pvt Ltd ("**NEFM**") on the basis of funding from NEFM or its proxy entities *namely* Gaurav Gupta, Saurabh Kumar Vaish, Vimuk Enterprises ("**Vimuk**"), "Rapid" and these groups were holding significant amount of deliverable receipt of Mentha Oil. This was viewed as violation of the SEBI Circulars issued with reference to the dealing with clubbing of position limits of the entities and accordingly, MCX was advised by SEBI to conduct a detailed examination to find out whether certain connected entities intended to corner the market on long side in Mentha Oil contracts thereby violating the position limits as prescribed in the Circulars issued by SEBI.

2. MCX submitted its report to SEBI with the observation that as on June 22, 2018. As per the report, Group A Entities were holding more than 75% of the total exchange deliverable stock of Mentha Oil held in the exchange accredited warehouses. These entities were clubbed as they were found to be receiving fund from NEFM or its proxy entities. The positions of the aforesaid group A entities were clubbed in accordance with Exchange Circular MCX/S&I/300/2017 dated August 23, 2017 ("**MCX Circular dated August 23, 2017**"). Accordingly, investigation was carried out for violation of SEBI Circulars.

B. APPOINTMENT OF ADJUDICATING OFFICER

3. Ms. Geetha G. was appointed as the Adjudicating Officer ("**AO**") and the same has been communicated vide communiqué dated December 29, 2021, under section 19 read with section 15-I(1) of the SEBI Act, 1992 and Rule 3 of SEBI (Procedure for Holding Inquiry and Imposing Penalties) Rules, 1995 (hereinafter referred to as "**Adjudication Rules**") to conduct adjudication proceedings in the manner specified under Rule 4 of Adjudication Rules read with section 15I (1) and (2) of

the SEBI Act, and if satisfied that the Noticees are liable for violation as specified in the SCN, then impose such penalty as deemed fit in terms of Rule 5 of Adjudication Rules read with Section 15HA and 15HB of SEBI Act. Pursuant to the internal restructuring, Mr. Amit Kapoor, has been appointed as the AO vide communiqué September 05, 2022. Thereafter, undersigned has been appointed as the adjudicating officer vide communiqué dated October 06, 2022. It has been advised that except for the change of the Adjudicating Officer the other terms and conditions of the original communiqué "*shall remain unchanged and shall be in full force and effect*"' and that the "*Adjudicating Officer shall proceed in accordance with the terms of reference made in the original orders*".

C. <u>SHOW CAUSE NOTICE, REPLY, HEARING</u>

4. A common Show Cause Notice dated September 23, 2022 ("**SCN**") was issued to the Noticees under Rule 4 of the Adjudication Rules to show cause as to why an inquiry should not be initiated and penalty be not imposed under section 15HA and 15HB of the SEBI Act for the alleged violations as specified in the SCN. SCN has been duly delivered to the Noticees in terms of Rule 7 of Adjudication Rules. Subsequently, Noticees except Noticee 3, Noticee 5, Noticee No 8, Noticee 10, Noticee 9, Noticee 10, Noticee 13, Noticee 18, Noticee 21 filed their reply to the SCN. The details of the stages of the instant adjudication proceedings are mentioned below: -

<u>Table No. 1</u>

Noticee	**Noticee Name**	**SCN Delivered (Mode of delivery)**	**Inspection Conducted**	**Reply/Written Submission & Additional Submission (Letter/Email Dated)**	**Hearing Concluded**
3	Gaurav Gupta	SPAD	NA	NA	NA
4	Saurabh Kumar Vaish	SPAD	NA	October 10, 2022; letter received Jan 23	NA
5	Vimuk Enterprises	Publication dated Jan 18, 2023**	NA	NA	NA
6	Rapid Credit & Holding Pvt. Ltd.	SPAD	January 13, 2023	February 11, 2023.	February 15, 2023
7	A G Agri Mart Private Ltd.	SPAD	January 13, 2023	December 22, 2022	February 03, 2023
8	Abhishek Agarwal	SPAD	NA	NA	NA

Noticee	Noticee Name	SCN Delivered (Mode of delivery)	Inspection Conducted	Reply/Written Submission & Additional Submission (Letter/Email Dated)	Hearing Concluded
9	Neetu Gupta	Publication dated Jan 18, 2023**	NA	NA	NA
10	Vikram Gupta	Publication dated Jan 18, 2023**	NA	NA	NA
11	Invictus Research	Digitally signed Email	January 13, 2023	February 13, 2023; December 01, 2022	February 15, 2023
12	APMV Stocks & Commodities Private Ltd.	SPAD	NA	December 26, 2022	February 03, 2023
13	Fancos Trademark Private Ltd.	Digitally signed Email	NA	NA	NA
14	Abhishek Mishra	SPAD	January 13, 2023	November 11, 2022; February 03, 2023	Not appeared
15	Shamugpriya International Pvt. Ltd.	Digitally signed Email	NA	November 11, 2022	February 20, 2023
16	Neeru Gupta	SPAD	NA	November 01, 2022	February 10, 2023
17	Yash Gupta	SPAD	NA	January 23, 2023	February 03, 2023
18	Sita Ram (HUF)	Digitally signed Email	NA	NA	NA
19	Virendra Kumar Jain	SPAD	NA	November 23, 2022	February 10, 2023
20	Reindus Tradeway Private Ltd.	Publication dated Jan 18, 2023	NA	October 15, 2022	January 27, 2023
21	Alok Kumar Singh	SPAD	NA	NA	NA
22	R. K. Commodities Services Pvt. Ltd.	SPAD	NA	Oct 28, 2022	February 09, 2023
23	Rajendra Kumar Gupta		NA		
24	Navdeep Varshneya		NA		
25	Sundeep Chadha		NA		

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5. The allegations levelled in the SCN has been summarized in below paragraphs: -
   a) SCN alleged that connected entities Noticee 3 to Noticee 21 traded during December 2017 to March 2019 in Mentha Oil Futures contracts combined as a group together have violated applicable position limit at commodity level. Thus, said Noticees traded as a group were found to be in violation of SEBI Circulars No. CDMRD/DMP/CIR/P/2016/96 dated September 27, 2016, and SEBI/HO/CDMRD/DMP/CIR/P/2017/84 dated July 25, 2017.

b) Group A, Group B and proxy funding entities acted as conduit, transferred funds along with NEFM to connected entities in the whole plan, artifice for procuring Mentha Oil future contract, Thus, for this artifice/unfair trade practice/ misleading appearance of trades Noticees are in violation of provisions of Section 12 A (a), (b), (c) of SEBI Act, Regulation 3 (a), (b), (c), (d) and Regulation 4(1), (2)(a) of the PFUTP Regulations read with Circulars No. CDMRD/DMP/CIR/P/2016/96 dated September 27, 2016, and SEBI/HO/CDMRD/DMP/CIR/P/2017/84 dated July 25, 2017.

c) It has been alleged that Noticee 22 being a commodity member failed to raise an alert with respect to the positions in Mentha futures contracts taken by its clients despite significant dissonance with the net worth. Further, it has been alleged that RCS, was found to have played an active role by enabling NEFM in garnering huge positions in Mentha Oil and also found to have channelized funds to Group B entities through its connected entities Rapid and Invictus. Thus, Noticee 22 allegedly violated the Code of Conduct for Stock Brokers as specified in Schedule II r/w regulation 9 of Stock Brokers Regulations and also alleged to have violated the provisions of Section 12 A (a), (b), (c) of SEBI Act, Regulation 3 (a), (b), (c), (d) and Regulation 4(1) of PFUTP Regulations.

d) SCN alleged that Noticee 23 to Noticee 25 being a director of Noticee 22 and connected to Noticees had aided and abetted fraudulent deceptive transactions and scheme along-with other Noticees. Therefore, they have allegedly violated Section 12 A (a), (b), (c) of SEBI Act, Regulation 3 (a), (b), (c), (d), Regulation 4(1) of PFUTP Regulation.

D. Relevant submissions of the Noticees summarized below:

6. The submissions made by the Noticees 4, 6, 7, 11, 12, 14, 15, 16, 17, 19, 20, 22, 23, 24, 25 during the instant proceedings *inter-alia* are as follows:

a) **Yash Gupta**

i. *I, being a trader in the commodity market approached North End Foods Marketing Pvt Ltd ("North End") which is one of the biggest commodity market participants for entering into a business relationship.*

ii. *My trades in Mentha Oil were completely genuine and legal trades. I am not connected to other entities who have also traded in Mentha Oil and received funds from NEFM.*

iii. *With respect to the allegation that by holding such a large position Mentha Oil the purported NEFM group would have advantage / dominating position in the said commodity and thereby it would impact the price of the commodity, it is submitted that the amount of Mentha Oil trade on the MCX platform is merely 1.8% of the total trading of Mentha Oil in the country.*

iv. *With respect to the off-market transactions, with the purported Group B entities, it is submitted that off-market transactions are per se not illegal. Further, it is not suggested in the SCN that the off-market transactions have led to any price manipulation. It is submitted that I had entered into an agreement with North End to supply them with any commodity and it was upon my discretion as to whether the said commodity has to be acquired from the exchange platform or physical market or off-market from any other entity. Such acquisition as in the present case cannot be led to infer that I was connected to the counterparties of the off-market transactions.*

v. *The allegation that various entities mentioned in the SCN are connected and that these entities were acting in concert because they have business relations with North End cannot be led to infer that all those entities are connected to me also.*

vi. *It is submitted that I am a general trader working in the market. I have adequate arrangement for complying with mandi license with me. contract during the period December 2017 to September 2018, I had received orders from North End for procuring 216 drums of Mentha Oil i.e. 38.88 MT. In pursuance thereof, I had purchased the said quantity of Mentha Oil. (proof of the same annexed). Further, on 28th February 2019 I was holding only 60 drums of Mentha Oil i.e. 10.8 MT. In the circumstances, it is clear that I was merely acquiring Mentha Oil for fulfilling my obligation with respect to my physical contract and with various market customers and I had no intention of cornering any stocks of Mentha Oil.*

b) **Saurabh Kumar Vaish:** Vide letter dated October 10, 2022, Noticee requested for 6 weeks' time to file the reply. Thereafter, vide letter received on 23 January, 2023 Noticee submitted that Hearing Notice dated January 03, 2023 refers to the SCN which was duly replied. In its reply, Noticee reiterated that I have made an in depth reply on March 26, 2019 and then subsequently on July 20, 2019. Only, the letter dated 20.07.2019 is attached with reply received on January 23, 2023. It may be noted that Noticee neither filed any separate reply to the SCN dated September 23, 2022 nor provide any copy of the reply as filed except letter dated 20.07.2019. Further, Noticee failed to avail the hearing opportunity as scheduled on January 19, 2023. Said Noticee made following submission in the vide letter dated 20.07.2019.

i. *I would like to mention that during the period December 2017 to September 20 18, I had received order from NEFM to buy a quantity of 180 drums of Mentha Oil. Upon receipt of order, I stated the query in mandi to get the same at the cheapest possible rates. On my query, one Mr. Vikram Gupta approached me. Mr. Vikram Gupta purchased the said quantity of Mentha Oil. However, NEFM did not like the quality of Mentha Oil and rejected the same. Upon this, I instructed Mr. Vikram Gupta to dispose of the same. Subsequently, Mr. Vikram Gupta informed me that he has sold the procured quantities in the market.*

ii. *During the course of my business, I may have come across few parties to the Order. However, majority of the parties are unknown to me. Further, I don't have any personal relationship with any of these parties.*

c) **Invictus Stock Research Private Limited**

i. *there are no findings at all with regard to any price, volume or matching of trades on the trading terminals on MCX. Further there are no adverse findings on the motive or intent on the trades executed on MCX by us. Importantly, price of Mentha Oil Contracts had remained in tandem with physical market during the relevant period.*

ii. *At no point of time, stock exchanges or SEBI, had ever advised the investing public to be cautious in the scrip and therefore, there was no reason for them to doubt any alleged abnormality in the trading pattern. They were not aware of the entities who are buying the shares in the market.*

iii. *We are Stock research company and its our profile to invest in the different stocks and commodities after having research of the market exposure, technical and fundamental research of the same. we state that the connections as alleged in the SCN is in respect to common/normal business transaction. Hence, no adverse inference be drawn against us in this regard.*

iv. *Business Activities of RCS, Rapid, our Company being the Companies and Neeru Gupta being individual are independent and separate. The Business activities of the aforementioned companies are run and managed by the different professionals independently. Neeru Gupta holds some part of shareholding in all the mentioned companies but she doesn't have any control over the management. Therefore, common shareholding, directorship etc. does not have any bearings on the working of the said 3 companies which are managed by independent professionals. Further in respect of connectivity with RCS through off-market equity share transfer, it is most humbly submitted that we are registered as a client with RCS to do hedging/derivative trading in commodity market. RCS is the Commodity Broker. So, the off-market equity share transfer to RCS was for the margin purpose only.*

v. *With reference to the allegation that we are connected with Rapid through off-market equity share transfer between us, it is submitted that Rapid is an NBFC company who provides financial assistance or Loan against shares (LAS) to its clients. We are registered as the client with Rapid. The alleged off-market equity shares were transferred for the purpose of availing LAS facility only and any adverse inference therefrom is totally uncalled for.*

vi. *It is alleged that we are connected with APMV through off market equity share transfer. In this regard, we submit that we had commercial and business relationship with APMV in the form of advancing and lending corporate loans. It is submitted that the off-market equity share transfer to us was only as collateral for the purpose of loan taken by APMV, which was purely as a commercial transaction. We deny that we had any kind of other connection with them. With APMV we had commercial and business relationship in the form of advancing and lending corporate loans and in the form of purchasing different commodities i.e. Wheat, Channa, Mentha Oil, etc. A copy of ledger account of APMV Stocks and Commodities Pvt Ltd for the period from 01.12.2017 to 31.08.2018 for fund transactions is submitted.*

vii. *It is alleged that we are connected with A G Agri Mart Pvt Ltd (A G Agri) through some fund transfer. In this regard, we state that we had provided, in the normal course of business inter corporate loans to A G Agri. A copy of ledger account of A G Agri Mart Pvt Ltd for the period from 01.12.2017 to 31.08.2018 for fund transactions is provided.*

viii. *We state that, we had the Buyer seller relationship with Mr. Abhishek Mishra in respect of commodities. So, the fund transfer was towards the consideration towards commodity i.e. Mentha Oil bought from Mr. Abhishek Mishra in the ordinary course of business. A copy of ledger account of Abhishek Mishra for the period from 01.12.2017 to 31.08.2018 for fund transactions is submitted.*

ix. *In respect of rationale behind transferring the stocks to Mr. Abhishek Agarwal, Ms. Neetu Gupta and Mr. Yash Gupta, it is humbly submitted that we have sold out the off-market Mentha Oil to NEFM. But on the basis of instruction received from our Buyer i.e. NEFM, we have transferred the stocks to entities i.e. Yash Gupta, Neetu Gupta and Abhishek Agarwal. Further, we had made off market transfers to entities other than Mr. Abhishek Aggrawal, Ms. Neetu Gupta and Mr.*

x. *Yash Gupta. We further state that since transfers were made to other parties too, the allegation of our acting as front for NEFM does not arise. We don't have any Mandi Registration to trade in physical Market. We have appointed C&F agents named as "M/S S. J. Mentha Products and M/S Jai Balajї Trading Company" as our agent to trade in physical market on our behalf and sold out off market Mentha Oil in physical market.*

xi. *It is alleged that we are connected with NEFM on the basis of fund transfer. In this regard, we submit that we have sold the off-market Mentha Oil deliveries to NEFM and received the fund against the same. It is pertinent to mention that there was only seller-buyer relationship with NEFM and we never shared any kind of other connection with NEFM for any other purpose as wrongly alleged. The alleged fund transfers are merely payment towards Mentha Oil delivery taken by them and no adverse inference may be drawn therefrom.*

xii. *It is pertinent to note that besides Mentha Oil Contracts, we have also executed transaction in other commodities. Copy of the summary of transactions executed by us in commodity exchange through RCS for the financial years 2017 - 2018 and 2018-2019 has been provided.*

xiii. *It has been submitted by the Noticee that it had paid Rs. 14.13 crores to Mr. Abhishek Mishra, it is submitted that the same way towards consideration towards commodity i.e. Mentha Oil bought from Mr. Abhishek Mishra in the ordinary course of business and not otherwise.*

d) **<u>Rapid Credit & Holding Pvt Ltd</u>**

i. *At no point of time, stock exchanges or SEBI, had ever advised the investing public to be cautious in the scrip and therefore, there was no reason for them to doubt any alleged abnormality in the trading pattern. They were not aware of the entities who are buying the shares in the market.*

ii. *Noticee is an NBFC registered with RBI and We have not traded in Mentha Oil Contracts. The fund transfers with the entities mentioned in the SCN is in routine course of our NBFC business and not otherwise. We have conducted proper due diligence before granting funds to the entities mentioned in the SCN. Further, even though, there are common directors between our Company, Invictus & RCS, the functioning of our Company is completely Independent and at Arm's length. The nature of business of all three companies is completely different.*

iii. *Noticee submitted that the loans granted by us are secured by way of shares/other collateral given by our clients as security against the loans granted by us which ensures safety of the loan so granted by us. Further, the said loans/ advances were returned by the said 6 clients along with interest and the shares/ collaterals were returned to them.*

iv. *Noticee submitted that SCN's Para 6.21 mentioned the details of fund trail of NEFM. Pertinently, name of our Company is not appearing since we had no dealings with NEFM as alleged against other alleged proxy entities.*

v. *SEBI has grossly erred in initiating proceedings against us merely by holding that one of the noticee i.e. Noticee 20 (RCS) is õur group Company. Admittedly,* *we have no role, participation and involvement in trading of Mentha Oil Contracts as alleged in the SCN or otherwise.*

vi. *It is alleged that we, Invictus, RCS are connected through common directors namely, Sundeep Chadha, Navdeep Varshneya and Divya Varshney. Further, it is also alleged that we are connected through some common mobile number. In this regard, we submit as under:*

vii. *It is alleged that we are connected with RCS through common mobile number, E-mail, similar address and common directorship. Be that as it may, businesses of our Company and RCS are different and run and managed independently by different professionals. RCS is a commodity broker, our Company is an NBFC, Invictus is Research Investment company. Further, Neeru Gupta is an individual trader/ investor. Further, Mr. Sundeep Chadha is no longer director in our Company and has resigned as a director way back in 13.08.2019. In view of the aforesaid, no adverse inference be drawn against us.*

viii. *Noticee submitted that Mr. Navdeep Varshney is director in our Company as well as in RCS. Therefore, his email id i.e. navdeep@rkfml.com and navdeepus2001@Ÿahoo.com is used for communication purpose by the Company. Further, based on which documents SEBI has implied that the aforesaid email ids are common is not provided by SEBI.*

ix. *The fund transaction between our Company and Rajendra Kurnar Gupta is in the nature of fund transaction between a Company and its shareholder i.e. in the present case between Rapid and Rajendra Kumar Gupta.*

x. *Noticee submitted that we are connected with ROS, Navdeep Varshneya, Gaurav Gupta, Sita Ram HUF, Invictus, Shamugpriya International Pvt Ltd (Shamugpriya), APMV Stocks & Comrnodities Pvt Ltd (APMV), Abhishek Mishra and Neeru Gupta are our client and that's why we have fund transfer between us.*

xi. *In our normal course of business, we had financial transaction with Invictus Stock, Shamugpriya, APMV, Abhishek Mishra, Neeru Gupta and Sita Ram (HUF) in our normal course of business. For this purpose, Copy of Financial ledger of Invictus Stock Research Pvt Ltd; Copy of Financial ledger of Shamugpriya International Pvt Ltd; Copy of Financial ledger of Neeru Gupta; Copy of Financial ledger of Sita Ram (HUF); Copy of Financial ledger of Abhishek Mishra; Copy of Financial ledger of APMV Stocks & Commodities Pvt Ltd.*

xii. *Further, we would like to state that Mr. Navdeep Varshney is not our client but Director of our Company. The fund transfers as alleged in the SCN is in nature of loans provided by Mr. Navdeep Varshneya as a Director to the Company i.e. Rapid and not otherwise. Hence, no adverse inferences be drawn in this regard.*

xiii. *Further, Mr. Gaurav Gupta (Pan No. ARLPG4012E) is not our client and we do not have any fund transaction with him as menfioned in the SCN or otherwise. It is wrongly mentioned in the SCN that Gaurav Gupta is our client and we have fund transfer with him. Hence, no adverse inference be drawn against us in this regard.*

xiv. *Noticee wrt to the observation made for two companies with the name Rapid Credit & Holdings Pvt Ltd and Rapid Credit and Holdings Pvt Ltd (Strike off Company), submitted that (a) We Rapid Credit & Holdings Pvt. Ltd. are a Non-Banking Finance company ("**NBFC**") registered with The RBI and filling the statutory submissions i.e. ITR filling, GST returns, ROC filing, etc. with the correct PAN No. i.e. AAACR0021K only. Incidentally, the anomaly is only that surrendered PAN - AAACR6224Q has continued to remain in the demat account.*

xv. *In the year 2009, our Company has opened a Demat account having client ID 1204180000072191 with the R.K. Stockholding Pvt Ltd. in which the Pan No. AAACR6224Q has been submitted by us. Somewhere in the month of April 2010, the existing promoters got to know that there is 2 active PAN No. existing with the name of Rapid Credit i.e. one is with Rapid Credit & Holdings Pvt. Ltd. (AAACR0021K) and other one is with Rapid Credit and Holdings Pvt. Ltd. (AAACR6224Q).*

xvi. *As the correct name of the company which has been purchased and with which all the statutory compliances are used to be done on regular basis i.e. Income Tax Return, ROC filing, etc. is "Rapid Credit & Holdings Pvt. Ltd." (There is a difference of symbol of and as we used "&" in company name). So, after discussion with professionals, the existing promoters had filed to surrender PAN issued with the name "Rapid Credit and Holdings Pvt. Ltd" (the wrong one). The copy of Acknowledgement for surrendering wrong PAN i.e. AAACR6224Q is hereto annexed and marked as Annexure — 7. Thereafter, everywhere the PAN No. AAACR0021K only (with correct name) has been used by the management. In June 2010, Rapid has opened Trading Account with RK. Stockholding Pvt. Ltd. with the correct PAN No. AAACR0021K. And all the statutory filings like ROC returns, RBI Returns, Income Tax, etc. is always done by using the present PAN No. only. The business of NBFC is run under the present PAN No. AAACR0021K only. The copy of Income Tax Return Acknowledgement for Assessment year 2010-11, 2019-20 and 2020-21 are hereto annexed and marked as Annexure — 8, Annexure — 9 and Annexure — 10 respectively. In August 2015, we got to know that Demat account R.K. Stockholding Pvt. Ltd. is with the PAN No. AAACR6224Q and Trading account is with PAN No. AAACR0021K. Whereas, we have surrendered the PAN No. AAACR6224Q in 2010 because of the name on such PAN was not correct. So, we had given request letter to the R.K. Stockholding Pvt. Ltd. to change the PAN No. in its records of Demat account from AAACR6224Q to AAACR0021K, for which as per our knowledge RX. Stockholding Pvt. Ltd. had forward the PAN No. change request to CDSL. But for our request submitted for the change of*

PAN No. we didn't receive any response from RK. Stockholding Pvt Ltd/ CDSL. Then, in September 2020, when our trading account did not get mapped with our Demat account and at that time we realized that the old problem of the surrendered of PAN No. AAACR6224Q. Therefore, we opened the new demat account with R.K. Stockholding Pvt. Ltd. with the PAN No AA-ACR0021K which is currently in use. Thus, apparently there is no mistake on our part. Notably no gain has accrued to us. Besides, no loss is caused to anyone. Further, there is no complaint from any of our clients

xvii. *Noticee submitted that, in the interest of natural justice, after conclusion of proceedings against NEFM & Directors, we should be given an opportunity of making submissions based on conclusion drawn against NEFM & Directors.*

e) ***Shamugpriya International Pvt. Ltd.***

i. *We sold our Mentha Oil stock (on different dates) to APMV stocks and commodities Pvt. Ltd. (APMV) who paid sales consideration to us. We delivered the stock in warehouse transfer as per instructions of APMV to 3 parties i.e. Abhishek Agarwal (23,792 kgs.), Neetu Gupta (21,611kgs.), Yash Gupta (21,616kgs.)*

ii. *We have received funds from APMV Stocks & Commodities Pvt Ltd. for Mentha Oil Buying & offline Delivery. Further, we also confirm that we did not receive any money from Abhishek Agarwal, Neetu Gupta and Yash Gupta in respect of Mentha Oil stocks transferred to them as per instructions of APMV. we acted as an agent after buying, taking & holding deliveries of Mentha Oil for different periods; we sold them for consideration and earned price differential- trading profit in the accounting year 2018-2019.*

iii. *With respect to connection as alleged in the SCN, we submit that (V.a) Rapid Credit and Holding Pvt. Ltd. is an RBI registered NBFC company we have a funding account with Rapid credit and we borrowed funds from rapid on regular interest rates. Further, our connections with Reindus on the basis of our directors Vinay Kumar, Alok Kumar Rai and Narayan Kumar Singh being also directors in Reindus is not relevant as our trading in Mentha Oil was independent, separate and on a standalone basis. Each Party's pattern appears to be different and heterogeneous. The so called 'connection' does not get reflected adversarial or negative way as far as our trading.*

iv. *We did not receive any query or objection or alert or caution either from MCX or from our broker in respect of our trading in Mentha Oil at the relevant time.*

v. *We wish to mention that we have not beached the daily limit of 111 lots-we did not buy or sell more than 111 lots of Mentha Oil on any trading day on MCX. Including our position limit with others, according to us, is improper and unfair.*

Though order dated 28-02-2019 starts with 14-12-2017, our name/date comes first time on 18-04-2018, with 11 lots (long). (1 LOT= 260 Kgs).

vi. <u>*Mitigating Factor*</u> *- We work as a small agent and earned little income from the trading in Mentha Oil and we have already stopped trading in Mentha Oil long back of this commodity. Further, we are not guilty of conduct which is contumacious or dishonest or acted as conscious disregard of law.*

f) ***<u>Reindus Tradeway Private Ltd.</u>***

i. *Our first trading transaction was in Mentha Oil on 27-08-2018 on MCX through RK Commodities Securities Pvt Ltd, main broker registered with MCX. Our purchases of Mentha Oil were for Vimuk, our buyer who paid purchase consideration to us.*

ii. *We confirm that we did not receive any money from Yash Gupta in respect of Mentha Oil stocks transferred him as we deliver as per instructions of Vimuk. We had no commercial privacy with him. His commercial privity, if any, it appears, was with Vimuk in the matter. We obtained proper discharge from Vimuk at the relevant time.*

iii. *We did not receive any query or objection or alert or caution either from MCX or from our broker in respect of our trading in Mentha Oil at the relevant time.*

iv. *Noticee submitted that directors viz Vinay Kumar, Alok Kumar Rai and Narayan Kumar Singh were not the directors during the above trading period 27-08-2018 to 27-11-2018 of Reindus Tradeway Pvt Ltd. The details of the same is given in the below table.*

Name Of Director	***Date Of Appointment***	***Date Of Cessation***	***Original Date Of Appointment***
Vinay Kumar	*10-05-2018*	*06-06-2018*	*10-05-2018*
Alok Kumar Rai	*06-06-2018*	*09-08-2018*	*06-06-2018*
Narayan Kumar Singh	*08-05-2018*	*06-06-2018*	*08-05-2018*

v. *Noticee submitted that showing our connection with Shamukpriya on the basis of directors Vinay Kumar, Alok Kumar Rai and Narayan Kumar Singh being also directors in Reindus is not correct and relevant as our trading in Mentha Oil was independent, separate and on a standalone basis (Each Party's pattern appears to be different and heterogeneous). We Do not have even any Financial transaction with Shamugpriya International Pvt Ltd for said matter. The so called 'connection' does not get reflected adversarial or in negative way as far as our trading was concerned. We received funds from Vimuk and not from NEFM.*

vi. *With reference to off market transfers of Mentha Oil to Yash Gupta during 2018, we clarify that we effected physical deliveries of Mentha Oil from physical stock lying in the warehouse to Mr. Yash Gupta as per instructions of Vimuk.*

vii. *We wish to mention that we have not beached the daily limit of 111 lots, we did not buy or sell more than 111 lots of Mentha Oil on any trading day on MCX. Including our position limit with others, according to us, is improper and unfair. We trade first month on 27-08-2018, with 77 lots. (1 LOT= 260 Kgs.).*

viii. *<u>Mitigating Factor</u>: We have already stopped trading in Mentha Oil long back; We have met our obligations at all times; We are a small agent and earned little income from the trading in Mentha Oil.*

g) **<u>Virendra Kumar Jain</u>**

i. *SEBI has erroneously drawn adverse inferences against me ignoring genuineness of transactions executed by me with Rapid, A G AGRI MART PRIVATE LIMITED and RCS in ordinary course of investment/trading activity carried out by me with them. I have only seller-buyer relationship for transferred off- market Mentha Oil with A G Agri Mart Private Limited in ordinary course of business and under normal trading & dealing activity in commodity market. Further, it is alleged that I am connected with Rapid and RCS through off market equity share transfer. In regard to off- market equity share transfer of Rapid, I submit that, Rapid is a Non-Banking Financial Company (NBFC), which provides financial assistance or Loan against shares, etc to its clients. I have entered into a Loan Agreement with Rapid to take financial assistance or loan against shares. Further, w.r.t. off market share transactions with Rapid, I state that the same was in nature of lending and borrowing against shares only. Further, w.r.t. off market transfer of shares to R. K. Commodities Services Pvt. Ltd. (RCS), RCS is a commodity Broker through whom I am carrying out the transactions in Commodity Exchange. So, in ordinary course of business there was off market transfer of equity shares for the margin requirement.*

ii. *SEBI has ignored the fact that I am an individual participant in securities market and not belonging to any group as alleged in the Show cause notice or otherwise. Hence, my dealings with persons / entities named in the Show cause notice have been erroneously linked with others who had executed trades in Mentha Oil Contracts.*

iii. *It is submitted that along with the Show Cause Notice, A tabular presentation of entity-wise summary of fund flow has been annexed, which is marked as Table No. 9. After perusal of Table No. 9 enclosed to the Show Cause Notice at the outset, it is submitted that value of delivery taken by me is Rupees 4 Crore only and I have never received any fund from NEFM as mentioned/alleged in Table No. 9 of show cause notice of Rs. 3.38 crores.*

iv. *Mentha Oil purchased by me was amounting to Rs. 21.51 crore and sold was amounting Rs. 18.31 crore and only Rs. 4 crore resulted in to value of delivery taken and all other transaction were squared off. Hence, all allegation with* *regard to off market transaction or acting on behalf of anyone is factually incorrect and far from truth.*

v. *SEBI has not brought on record any evidence showing connection with any other entity belonging to Group A and Group B who are alleged to have facilitated NEFM since factually there is no connection.*

vi. *SEBI has not brought on record my net worth which is more than Rs.7.35 Cr and delivery taken by me is FRS. 4 Cr which well under my capacity to buy.*

h) **APMV Stocks & Commodities Private Ltd**

i. *Noticee submitted that at no point of time, the positions taken by the Noticee and AG Agri were beyond the prescribed limit for Mentha Oil transaction, either individually or collectively. At no point of time during the relevant period, the alleged clubbed quantities of the Noticee and AG Agri were beyond the prescribed limit. There is absolutely no commonality in the trading pattern based on which it can be concluded that there was any connivance or common intention of both the parties to deceive, defraud or in any way aid in acquiring dominant position in the market.*

ii. *In so far as allegations relating to fund transfer between the Noticee and Invictus are concerned, the Noticee has had commercial and business relationship with Invictus in the form of advancing and receiving Corporate Loans with interest during the relevant period and in the past also i.e. during the period of 2015-2016 and 2017-2018 after complying with all the relevant provisions and Articles of the Company and has transferred and received funds in ordinary course of business. Further for the purpose of repayment of loan taken from Invictus, the Noticee had transferred shares to Invictus again purely as a commercial transaction. Further the fund transfers transactions between the Noticee and Invictus are duly accounted for and recorded in the books of the Noticee. Having business relationship and engaging into transactions into normal and ordinary course of business cannot be attributed to having any commonality or connection with the said entity.*

iii. *Similarly, the transactions of off-market Mentha Oil Transfer with the said Neetu Gupta and Abhishek Agarwal have taken place in ordinary and normal course of business dealings, and deliveries were made to them as per the instructions of the purchaser (i.e. Invictus). Noticee also submitted copy of the instruction letter dated 17.04.2018 issued by the purchaser (Invictus) to the Noticee for delivery to be made to the aforesaid entities. there is nothing wrong or unusual with the aforesaid transaction and as a seller the Noticee is not concerned with the entities to whom the purchaser may want deliveries to be made. In this regard, reliance is placed on the provisions of Section 31 of the Sale of Goods Act, 1930 which stipulates that it is the duty of a seller to deliver the goods in accordance with the terms of the contract. Further, the allegation that the Noticee being a Group B entity had purchased Mentha Oil and then undertook off-market transfer of Mentha Oil to the said Neetu Gupta and Abhishek Agarwal being Group A entities is incorrect and contrary to facts qua the*

Noticee. There is no connection in the quantity or amount of Mentha Oil purchased by the Noticee and the off- market transfer to the said Neetu Gupta and Abhishek Agarwal. The Noticee strongly denies the allegations in this regard as contained in the Impugned Show cause notice as false and baseless.

iv. *it is stated that the Noticee is registered as a client with RCS to do hedging/ derivative trading in commodity market since 2012. RCS is admittedly a commodity broker. the fund transfer and off-market equity share transfers executed by/ on behalf of the Noticee was for the margin purposes only which is a general and usual market practice, and for the purpose of compliance of Noticee's margin requirements in the commodities market. Noticee submitted copy of the consolidated Margin Statement of the Noticee as maintained with RCS since its registration with RCS.*

v. *The Noticee states that owing to its requirements for financial assistance in normal course of business, it wanted to avail loan/ credit facility from Rapid to meet its working capital requirements, and as security for the said loan the Noticee was required to offer shares held by it in favour of Rapid. Thus, as a condition for sanction of the loan amount, the Noticee had made share transfers in lieu of security to avail such loan. Annexed hereto and marked as Annexure-"H" is a copy of the sanction letter from Rapid to the Noticee, which is clearly in normal course of business. Further the Noticee has also provided the Consent Letter, Promissory Note and Letter of Continuity as required by Rapid at the relevant time for the purpose of the loan transaction. Annexed hereto and marked as Annexure-"!" is a copy of Noticee's stock ledger with Rapid for the financial years 2017-2018 and 2018-2019. Annexed hereto and marked as Annexure-"[" is a copy of fund ledger with Rapid for the financial years 2017-2018 and 2018-2019. The Noticee craves leave to produce the other loan related documents with Rapid. Therefore, the Show cause notice and findings contained therein against the Noticee are clearly based on presumptions, having no basis at all and no material has been brought forth to substantiate these allegations.*

vi. *In so far as the allegations of fund transfer with Mrs. Neeru Gupta are concerned, the same are incorrect and false as the Noticee has had no transactions of fund transfer with Mrs. Neeru Gupta at all. The Show cause notice is silent on the basis on which it is being alleged that there were fund transfers between the Noticee and Mrs. Neeru Gupta.*

vii. *With regard to Shamugpriya, the fund transfers took place again in normal course of business towards purchase of Mentha Oil by the Noticee over a period of time as per the terms of contract between the parties. A copy of the fund ledger in respect of Shamugpriya for the relevant period has been provided.*

viii. *It is pertinent to note that the Noticee has not benefitted in any manner from the so called alleged fraudulent transactions and there is no reason for the Noticee to enter in any such transaction which does not benefit it any manner and all the allegations made in the Show cause notice alleging that the Noticee* *has colluded with the other entities for achieving a dominant position in the market or to defraud the investors are baseless and without application of mind as no material evidence was brought forth to substantiate the allegations made in the Show cause notice.*

ix. *It is pertinent to state that the Noticee besides Mentha Oil Contracts, has during the Relevant Period also executed transaction in other commodities. Noticee submitted the summary of transactions executed by Noticee in commodity exchange through RCS for the financial years 2017-2018 and 2018-2019.*

x. *Noticees place reliance on following appellate court orders viz Gorkha Security Services vs Govt. of NCT of Delhi &Ors. reported in (2014) 9 SCC 105; SAT order in Royal Twinkle Star Club Private Ltd v. SEBI, (decided on February 3, 2016), Securities and Exchange Board of India v. Kishore R. Ajmera reported in (2016) 6 scc 368; M/s. Daichii Sankyo vs Jayaram Chigurupati & ors, reported in (2010) 7 Supreme Court Cases 449; Hon'ble Bombay High Court order in MCX Stock Exchange Limited vs. SEBI in Writ Petition 213 of 2011.*

xi. *Noticee submitted that in the above definitions, the common thread is the ingredient of 'intent'. It is submitted that on an analysis of the fraud definition (as given in 2(1)(c) of PFUTP Regulation), it is clear that to prove fraud within the parameters of the said definitions, the allegation must be substantiated with evidence to show that there was an active intent to deceive. For this purpose, Noticee placed reliance on following judgments: A.C. Ananthaswamy and Ors. v. Boraiah (Dead) By LRS., reported in (2004) 8 SCC 588; of Subhkam Securities Private Limited v. SEBI in Appeal No. 73 of 2012; Harjas Rai Makhija v. Pushparani Jani and Anr., reported in (2017) 2 SCC 797; M/s. Vintel Securities Private Limited v. The Adjudicating officer, Appeal No. 219 of 2009; Nandkishore Prasad v. State of Bihar, (1978) 3 SCC 366.*

i) **<u>A G Agri Mart Private Litd</u>**

i. *It is pertinent to state that the findings and conclusions arrived at in the Show Cause Notice are based on presumptions, conjectures and surmises.*

ii. *It is alleged that the Noticee is connected with APMV through common mobile number, similar address and common directorship of Mr. Arun Gopal Bansal. It is stated that it cannot be presumed that the Noticee and APMV have acted in concert without any material whatsoever establishing or suggesting the same. On the contrary, the particulars provided in the Show Cause Notice itself clearly indicate that the Noticee and APMV have infact not acted in concert with each other nor towards any common objective. At no point of time, the positions taken by the Noticee and APMV were beyond the prescribed limit for Mentha Oil transaction, either individually or collectively. At no point of time during the relevant period, the alleged clubbed quantities of the Noticee and APMV were beyond the prescribed limit. There is absolutely no commonality in the trading pattern based on which it can be concluded that there was any connivance or common intention of both the parties to deceive, defraud or in any way aid in acquiring dominant position in the market. All the transactions/trades entered* *into by the Noticee during the examination period were in ordinary and usual course of its main objectives as per its Memorandum of Association.*

iii. *It is alleged that the Noticee is connected with the one Mr. Virendra Kumar Jain (Noticee No. 12 in the Show cause notice) as there is a fund transaction between the two. However, the Noticee states that the transaction in question took place with the said Mr. Virender Kumar Jain in ordinary course of business and there is nothing revealed even in the Show Cause Notice to suggest otherwise. The Noticee was informed by the warehouse employee about the said Virendra Kumar Jain who was willing to sell Mentha Oil and the Noticee at that time was a willing purchaser and that is how this transaction was undertaken. A ledger has been submitted by the Noticee in respect of the transaction for Mentha Oil purchased by the Noticee from the said Virendra Kumar Jain.*

iv. *Similarly, the transactions of off-market Mentha Oil Transfer with the said Neetu Gupta and Yash Gupta have taken place in ordinary and normal course of business dealings. Further the allegation that the Noticee being a Group B entity had purchased Mentha Oil and then undertook off-market transfer of Mentha Oil to the said Neetu Gupta and Yash Gupta being Group A entities is incorrect and contrary to facts qua the Noticee. There is no connection in the quantity or amount of Mentha Oil purchased by the Noticee and the off-market transfer to the said Neetu Gupta and Yash Gupta.*

v. *In so far as allegations relating to fund transfer between the Noticee and lnvictus are concerned, it is stated that in regard to Invictus, the Noticee has had commercial and business relationship with Invictus in the form of advancing and receiving Corporate Loans with interest during the relevant period and in the past also i.e. during the period of 2015-2016 and 2017-2018 after complying with all the relevant provisions and Articles of the Company and has transferred and received funds in ordinary course of business. Having business relationship and engaging into transactions into normal and ordinary course of business cannot be attributed to having any commonality or connection with the said entity. The Noticee denies the allegations in this regard as contained in the Show Cause Notice as false and baseless. For this purpose, ledger statements for the years 2015-16, 2017-18 and 2018-19 showing dealings between the Noticee and Invictus by way of advancing, receiving and repayment of Corporate Loans.*

vi. *Similarly, the transactions of off-market Mentha Oil Transfer with the said Neetu Gupta and Yash Gupta have taken place in ordinary and normal course of business dealings. Further the allegation that the Noticee being a Group B entity had purchased Mentha Oil and then undertook off-market transfer of Mentha Oil to the said Neetu Gupta and Yash Gupta being Group A entities is incorrect and contrary to facts qua the Noticee. There is no connection in the quantity or amount of Mentha Oil purchased by the Noticee and the off-market transfer to the said Neetu Gupta and Yash Gupta.*

vii. *In so far as allegations relating to fund transfer between the Noticee and lnvictus are concerned, it is stated that in regard to Invictus, the Noticee has had commercial and business relationship with Invictus in the form of advancing and receiving Corporate Loans with interest during the relevant period and in the past also i.e. during the period of 2015-2016 and 2017-2018 after complying with all the relevant provisions and Articles of the Company and has transferred and received funds in ordinary course of business. Having business relationship and engaging into transactions into normal and ordinary course of business cannot be attributed to having any commonality or connection with the said entity.*

viii. *RCS is admittedly a commodity broker. In Show Cause Notice to deal in commodities market, the Noticee is required to provide adequate margin as per the extant regulations to RCS in its capacity as broker which can be in cash or kind (including securities). Therefore, the off-market equity share transfers executed by/ on behalf of the Noticee was for the margin purposes only which is a general and usual market practice, and for the purpose of compliance of Noticee's margin requirements in the commodities market.*

ix. *In respect of Rapid, the Noticee is registered as a client and there is nothing in the aforesaid transaction to establish any commonality" with the Noticee. as a pre-condition for sanction of the loan amount, the Noticee had made share transfers in lieu of security to avail such loan. However, initially certain shares offered as security by the Noticee were not acceptable to Rapid as per its norms and the Noticee was asked to offer certain other shares as security. copy of Noticee's stock ledger with Rapid for the financial years 2017-2018 and 2018-2019. Further, a copy of the letter dated 12.02.2018 has been provided which is addressed by Rapid to the Noticee stating that the shares offered by Noticee were not as per their approved list and asking the Notice to provide shares as per their approved list for availing the proposed loan by the Noticee.*

x. *It is pertinent to note that Show Cause Notice does not allege the Noticee having business transactions with all the entities mentioned in the Show Cause Notice either in the relevant period or in the past and thus, clubbing of Noticee's position by MCX or by SEBI with all the entities with whom the Noticee does not have any business transactions during the relevant period or in the past is complete misapplication of mind, illegal, arbitrary and unfair in nature.*

xi. *It is alleged in the Show Cause Notice that the Group A and Group B entities are the front entities and NEFM is the only beneficial owner of the Mentha Oil. It is pertinent to note that the Noticee has not benefitted in any manner from the so called alleged fraudulent transactions and there is no reason for the Noticee to enter in any such transaction which does not benefit it any manner and all the allegations made in the Show Cause Notice alleging that the Noticee has colluded with the other entities for achieving a dominant position in the market or to defraud the investors are baseless and without application of mind as no material evidence was brought forth to substantiate the allegations made in the Show cause notice.*

xii. *The last transaction to square off open position was executed on 12.11.2018. Further, none of the transactions have resulted into delivery. It is pertinent to note that the Noticee has never taken deliveries of Mentha Oil from the Exchange platform and has only dealt in off market Mentha Oil transactions and as such the Noticee does not fit even as per the allegations of alleged fraudulent scheme being the subject matter of the Show cause notice.*

xiii. *Noticees place reliance on following appellate court orders viz Gorkha Security Services v. Govt. of NCT of Delhi &Ors. reported in (2014) 9 SCC 105; SAT order in Royal Twinkle Star Club Private Ltd v. SEBI, (decided on February 3, 2016), Securities and Exchange Board of India v. Kishore R. Ajmera reported in (2016) 6 scc 368; M/s. Daichii Sankyo vs Jayaram Chigurupati & ors, reported in (2010) 7 Supreme Court Cases 449; Hon'ble Bombay High Court order in MCX Stock Exchange Limited Vs. SEBI in Writ Petition 213 of 2011.*

xiv. *Noticee submitted that in the above definitions, the common thread is the ingredient of 'intent'. It is submitted that on an analysis of the fraud definition (as given in 2(1)(c) of PFUTP Regulation), it is clear that to prove fraud within the parameters of the said definitions, the allegation must be substantiated with evidence to show that there was an active intent to deceive. For this purpose Noticee placed reliance on following judgments: A.C. Ananthaswamy and Ors. v. Boraiah (Dead) By LRS., reported in (2004) 8 SCC 588; of Subhkam Securities Private Limited v. SEBI in Appeal No. 73 of 2012; Harjas Rai Makhija v. Pushparani Jani and Anr., reported in(2017) 2 SCC 797; M/s. Vintel Securities Private Limited v. The Adjudicating officer, Appeal No. 219 of 2009; Nandkishore Prasad v. State of Bihar, (1978) 3 SCC 366.*

j) **<u>D Neeru Gupta</u>**

i. *SEBI has erroneously drawn adverse inferences against me ignoring genuineness of transactions executed by me with Rapid and RCS in ordinary course of investment/ trading activity carried out by me with them.*

ii. *It is submitted that value of delivery taken by me is Nil. Further, admittedly I have not carried out transaction with any of the Group A or Group B person / entity but only with Rapid who is NBFC with whom loan transactions are executed and R. K. Commodities Services Pvt Ltd. (RCS) who is Broker through whom I have carried out transaction in Commodity Exchange. Further, the details of directorship held by me in Companies is furnished as under*

Name of the Company/LLP	***Date of appointment***	***Date of cessation***
R. K. Stock Holding Private Limited	*03.01.1995*	*20.10.2017*
R. K. Commodities Services Pvt Ltd	*28.04.2006*	*20.10.2017*
M.K.J. Manufacturin Pvt. Ltd	*01.11.2007*	*09. 12.2016*
Invictus Stock Research Pvt Limited	*27.10.2010*	*01.11.2017*

In the view of the above, it can be seen that I had resigned as a director prior to the relevant period 01.12.2017 to 31.08.2018 (hereinafter referred as "investigation period" or "IP") for which investigation was conducted by SEBI. Hence, no adverse inferences be drawn against me in this regard based on holding directorship in past with RCS and Invictus.

iii. *It is alleged that I am connected to APMV based on fund transfer. In this regard, I submit that the same is factually incorrect hence totally denied since there has been no fund transfer between me and APMV during the said period.*

iv. *Navdeep Varshney is my son and Rajendra Gupta is my husband. So, being having mother-son and Husband- wife relations respectively we can have the fund transaction between each other normally.*

v. *It is submitted that last transaction to square open position was executed by me on 30.05.2018. Further none of the transaction has resulted into delivery. Hence, all allegation with regard to off market transaction or acting on behalf of anyone is factually incorrect and far from truth.*

vi. *With respect to the off market transfer of shares of RCS, I state that I am registered with RCS as a client, so in ordinary course of business there was off market transfer of 25,000 shares of Omaxe Ltd to RCS as collateral for my transactions in commodity market. Copy of my register of securities with RCS for the period from 01.04.2017 to 31.03.2019. Further, w.r.t. off market share transactions with Rapid, I state that the same was in nature of lending and borrowing as Rapid is a Non-Banking Financial Company.*

k) **Abhishek Mishra**

i. *SEBI has failed to appreciate and ignored fact that I am an individual participant in securities market and not belonging to any group as alleged in the SCN or otherwise. Hence, my dealings with persons / entities named in the SCN have been erroneously linked to Others who had executed trades in Mentha Oil Contracts.*

ii. *It is submitted that there are no findings at all with regard to any price, volume or matching of trades on the trading terminals on MCX. Further there are no adverse findings On the motive or intent on the trades executed on MCX by me. Importantly, price of Mentha Oil Contracts had remained in tandem with physical market during the relevant period.*

iii. *It is alleged that [am connected to Invictus based on some fund transfer, In this regard, I submit that I have sell out the off-market Mentha Oil to Invictus and against the same sale I have received funds from the Invictus. Hence, the transaction with Invictus was commercial in nature and no adverse inference be drawn against us in this regard.*

iv. *It is alleged that I am connected with Mr. Yash Gupta, Mrs. Neetu Gupta and Mr. Abhishek Agarwal through off market Mentha Oil transfer. In this regard, I submit that I have sold Mentha Oil to Invictus and I had transferred the same* *stock to these mentioned persons as per the instruction received from the Invictus. The off- market Mentha Oil transferred to all the above persons was a commercial transaction and under the instruction of the buyer only i.e. Invictus. I have never shared any kind of connectivity with the aforesaid persons. Hence, no adverse inference be drawn against me in this regard.*

v. *It is alleged that I am connected with Rapid through off-market transfer of equity shares. In this regard, with respect to off market transfer of shares of Rapid, I state that Rapid is an entity, which provides financial support or Loan against shares, etc. to its clients and the I am one of the clients of Rapid from 17.11.2010 and entered into a Loan Agreement with Rapid to take financial assistance or loan against shares. The transfer of shares to Rapid was in nature of lending and borrowing against shares only.*

vi. *It is alleged that I am connected with RCS through off-market transfer of equlty shares and some fund transfer. In this regard, I submit that I am registered with RCS as a client, so in ordinary course of trading there was off market transfer or equity shares and fund transfer to RCS as a margin requirement for my transactions in commodity market.*

vii. *Noticee submitted that Strict Proof Required for a serious charge of 'fraud'. For this purpose, Noticee placed reliance on SAT's order in the matter of* ***R. K. Global v/ s SEBI*** *(Appeal no. 158/2008 decided on 16.09.2010),* ***Narendra Ganatra v/ s SEBI*** *(Appeal No 47 of 2011 decided an 29.07.2011), Sterlite Industries (India) Ltd. V, SEBI (2001) 34 SCL 485 (SAT), Parsoli Corporation v. SEBI (Appeal No 146/2011 decided on 12.08.2011).*

viii. *Compelling evidence required to charge someone of fraud I would like to state that it is Well-settled law that the taint of fraud' cannot be attached or charged on preponderance of probability. For this purpose, Noticee placed reliance on Supreme Court order in the matter of Ram Sharan Yadav v. Thakur Muneshwar Nath Singh 1(1984) 4 SCC 649 (AIR 1985 SC 24).*

l) **<u>A common reply dated October 28, 2022 Noticee 20-23 (R. K. Commodities Services Pvt. Ltd, Rajendra Kumar Gupta, Navdeep Varshneya, Sundeep Chadha) filled the reply. The same has been summarise below:</u>**

i. *Noticee submitted that action has been taken against our directors i.e. Rajendra Kumar Gupta, Navdeep Varshneya, Sundeep Chadha is arising due to the acts and omissions, if any, of RCS as observed in the SCN or otherwise and no role of any of the directors have been spelled out in the SCN.*

ii. *It has been submitted that there are no findings at all with regard to any price, volume or matching of trades on the trading terminals on MCX. Further, there are no adverse findings on the motive or intent on the trades executed on MCX by us on behalf of clients. Importantly, price of Mentha Oil Contracts had remained in tandem with physical market during the relevant period. Hence, we* *failed to understand real reason or material grounds which triggered action by SEBI when insignificant volume is traded at the MCX in comparison to the total production of Mentha Oil during the year.*

iii. *In response to the connection alleged on the basis of common directorship, it is submitted that during the investigation period only Sundeep (who was not a promoter or shareholder of RCS) was the common director in RCS and Invictus. Importantly, besides Sundeep, Rajendra and Navdeep were also directors in RCS. Hence no adverse inferences of any nature ought to be drawn on the aforesaid ground.*

iv. *Further, in response to the connection alleged on the basis of common address and common contact details and shareholdings, it is submitted that we do not understand from which documents, SEBI has tried to establish connection based on aforesaid parameters. Be that as it may, the business of RCS and Invictus are different and run and managed independently.*

v. *in response to the connection alleged with Neeru, it has been submitted that Neeru was director only during the period from 28.04.2006 to 20.10.2017, which doesn't cover the examination period i.e. from 01.12.2017 to 31.08.2018. Hence no adverse inferences of any nature ought to be drawn on the aforesaid ground.*

vi. *It is alleged that 11 out of 13 Group B entities have traded in Mentha Oil contracts through RCS. In this regard, we would like to submit that: Almost l. These towns are based in district of Moradabad. We state that we are one of the 1 st Brokers from Moradabad District based in Uttar Pradesh, which is hub of production of Mentha Oil crop (75% of Mentha Oil crop grows in towns of Chandausi and Sambha) and majority of the people dealing in Mentha Oil are known to RCS. Therefore, no adverse inferences be drawn against us in this regard.*

vii. *It is alleged that we are connected with Rapid Credit & Holdings Pvt. Ltd. ("Rapid") through common directorship of Sundeep and Navdeep. In this regard, it is submitted that Mr. Sundeep is not a promoter of RCS and Rapid. Further, Rapid is nonbanking financial company (NBFC) and the business of RCS and Rapid are completely different and run and managed independently by different professional.*

viii. *With reference to the observation of fabrication of KYC documents of Shivrudra Infotech Solutions Pvt. Ltd ("Shivrudra") and Fancos Trademart Pvt. Ltd., ("Fancos") We would like to submit that before registering a client, we did cross check, verified PAN no.(s) of Directors and company on Income tax site. The date of Registration of above-mentioned clients i.e., Fancos (Client code: NV952) and Shivrudra (Client Code: NV 1015) by RCS is 07.09.2016 and 08.11.2016 respectively. The difference between the registration dates is almost of 2 months, so, it is impossible for a person to remember the photograph of a director of a Company with a director of a Company which is* *registered almost 2 months prior. Further, At the time of In-person verification, only Authorised Signatory (as per the KYC documents) is available in the office to sign the registration documents in front of the official and the documents were already signed by the another director; Once RCS got to know about the said forgery of documents during inspection carried out by officials of MCX, We immediately filed a complaint against both the clients in local Police Station situated in RCS's area i.e. Badarpur.*

ix. *Once RCS got to know about the said forgery of documents during inspection carried out by officials of MCX, We immediately filed a complaint against both the clients in local Police Station situated in RCS's area i.e. Badarpur.*

x. *observation of no In-person verification was done for mentioned 11 connected entities traded through RCS, we would like to submit that Hon'ble Adjudicating Officer ("AO") is referring the 1st observation letter issued by the MCX for the Inspection carried out of our Books of accounts and records for the period 01.04.2017 to 31.10.2018 having Reference No. MCX/INSP/CNU/SM/ 18-19/1622 DATED 28.12.2018. It has been submitted that subsequent to our replies, MCX vide letter having reference no. MCX/INSP/CNU/SM/ 19-20/679 dated 31.10.2019, mentioned that*

1. *"The inspection team had reported that on verification of client registration documents (KYC) for the 1 7 sample clients, it was observed that the KYC document was not in format i.e. document did not contain the point of in-person verification (IPV) in 1 7 instances. Also, in- person verification was not canied out while registering clients.*
2. *you submitted that as per FMC Circular dated February 26, 2015 & corresponding Exchange Circular, the IPV formalities became applicable on or after February 26, 2015. Out of the total 17 clients, only 7 clients got registered with you after the mentioned date, for which IPV had been carried out at the time of account opening and even client registration documents of those clients contains the clause / point ofIPV. Further, you have provided sample copy of client registration form containing the point of IPV as documentary evidence.*
3. *You may note that the IPV verification became applicable subsequent to FMC Circular dated February 26, 2015. Further, as per the UCC database of the Exchange, out of 17 clients, only 9 clients are registered after February 26, 2015. Also, from the sample documentary evidence provided by you, it is observed that you have carried out IPV of the said clients. Hence, no penalty is levied.*

xi. *With reference to the observation of RCS gave disproportionate exposure to the clients to client's updated financial information i.e. income/ net worth/ profit, we would like to mention that: Turnover should not be the criteria for comparison with the income range Even a person having the income of Rs. 1,00,000/- can do the turnover of crores in a day if he has financial capability to do so. Further, As per our RMS policy, we provided exposure of 10 times of income to our clients and if once it exceeds the limit of 10 times of their updated* *income range, we call upon the clients for requisite documents satisfying their positions. It is also submitted that policy before giving exposure to any client we need to check the Risk taking ability of the clients and the clients mentioned were registered with us either in Equity or commodity almost from more than 5-7 years. So, we very well known to the risk taking ability of these clients. However, MCX has not found aforesaid agruments tenable anf in its order levied a penalty in terms of Circular no. MCX/1NSP/400/2017 dated 30.10.2017 through its letter having reference no. MCX/INSP/ CNU/ SM/ 1920/679 dated 31.10.2019 and Review closure letter having reference no. MCX/1NSP/CNU/SM/20-21/ 1004 dated 10.12.2020.*

xii. *With reference to the observation of RCS did not collect adequate margin from 8 connected entities and same was funded by RCS and its associate/ connected entities in the form of fund and securities, we would like to submit that RCS always try to be very particular to ensure compliances and whenever the Margin obligation of any client arises we always collect adequate margin from the clients either in the form of funds or securities. We already have submitted all the supporting document to MCX via our reply dated 02.02.2019 and Review application dated 03.12.2019. The same has been accepted by the Exchange as well.*

xiii. *With reference to the observation that Securities received / transferred from/ to clients as collaterals were not recorded in books of accounts of RCS, we would like to submit that aforesaid was purely because of the complexity of our Back-office software and lack of proper knowledge to maintain the ROS during the inspection period opted by the MCX. But as on date very effectively and efficiently we have rectified the same and for the better improvement of records now we have made the adequate provision in ROS to show the trial of securities received/ delivered from/ to clients. So that, no such ambiguity arises in our ROS.*

xiv. *SEBI has failed to appreciate that merely because we executed transaction of the clients on the floor of the exchange, it cannot be inferred that we had aided, abetted or acted in connivance with clients while executing the impugned transactions. We state that it is a settled principle of law that the broker cannot be held liable and penalized for the alleged wrongdoing of the client.*

xv. *We while dealing with our clients, honoured all our obligations towards funds & securities and there has not been any default of any nature whatsoever qua market. We further submit that we had followed and complied with the KYC philosophy in letter and spirit; we had obtained "Client Registration form". We submit that there is no corroborative evidence at all to substantiate lapses on our part and it is submitted that we were acting purely as a broker who is expected to execute client's order promptly and efficiently on the trading terminal of the exchange. Thus we deny violation of Clauses A(1)(2)(4) of Code of Conduct for Brokers.*

xvi. *SEBI has failed to appreciate that we RCS have already penalized by MCX in terms of Monetary penalty and suspension from trading in Mentha Oil contracts,* *in Proprietary (OWN) account and on behalf of your clients, for a period of 3 years for failure to adhered with the highest standard of integrity and Code of Conduct to ensure that the Rules, Bye-laws and Guidelines/ Circulars issued by the Exchange/ SEBI are followed in letter and spirit. Further, it is pertinent to mention that imposing the penalty more than once on same offence is Infirmity with order, arbitrary in nature and also barred by the Principle of Double Jeopardy as mentioned in Article 20(2) of the Indian Constitution and principles of res judicata.*

xvii. *SEBI has failed to appreciate that we as a broker is expected to monitor and control transactions which are required to be placed on commodity exchange. The scope of our due diligence is not on the spot market but only on commodity derivative. Apparently all the adverse observations made and finding elaborated in the order are relating to the persons/ entities dealing on spot market/ off market on which we have no role to play.*

xviii. *It is further submitted that the Show cause notice is bad in law and must be struck down on the ground of being vague and uncertain. For this purpose, reliance has been placed on Gorkha Security Services v. Govt. (NCT of Delhi), (2014) 9 SCC 105, S.L. Kapoor v. Jagmohan & Ors (1980) 4 SCC 379 and SAT order in the matter of Sterlite Industries vs. SEBI (Appeal No. 20/2001 dated 22.10.2001).*

xix. *SAT in the matter of Vital Communications Ltd. vs Securities & Exchange Board of India held that: …it is clear that Supreme Court held that the doctrine of res judicata is not a technical doctrine but a fundamental principle which sustains the rule of law in ensuring finality in litigation. The main object of the doctrine is to promote a fair administration of justice and to prevent abuse of process of the court on the issues which have become final between the parties on the principle that no person should be vexed twice in a litigation for the same cause of action.*

xx. *Further, Noticee placed reliance on Ranjit Thakur vs. Union of India (AIR 1987 SC 2386) wherein apex court held that The penalty imposed must be commensurate with the gravity of the misconduct and that any penalty disproportionate to the gravity of the misconduct would be violative of Art. 14 of the Constitution. The point to note and emphasis is that all powers have legal limits.*

E. RELEVANT PROVISION OF LAW

1. **SEBI Act, 1992**

*"**Section 12A**. No person shall directly or indirectly—*

(a)use or employ, in connection with the issue, purchase or sale of any securities listed or proposed to be listed on a recognized stock exchange, any manipulative or deceptive device or contrivance in contravention of the provisions of this Act or the rules or the regulations made thereunder;

(b) employ any device, scheme or artifice to defraud in connection with issue or dealing in securities which are listed or proposed to be listed on a recognised stock exchange;

(c) engage in any act, practice, course of business which operates or would operate as fraud or deceit upon any person, in connection with the issue, dealing in securities which are listed or proposed to be listed on a recognized stock exchange, in contravention of the provisions of this Act or the rules or the regulations made thereunder;"

Penalty for fraudulent and unfair trade practices
Section 15 HA
If any person indulges in fraudulent and unfair trade practices relating to securities, he shall be liable to a penalty which shall not be less than five lakh rupees but which may extend to twenty-five crore rupees or three times the amount of profits made out of such practices, whichever is higher.

Factors to be taken into account by the adjudicating officer.
***15J.** While adjudging quantum of penalty under section 15-I, the adjudicating officer shall have due regard to the following factors, namely:*
(a) the amount of disproportionate gain or unfair advantage, wherever quantifiable, made as a result of the default;
(b) the amount of loss caused to an investor or group of investors as a result of the default;
(c) the repetitive nature of the default.
Explanation. —For the removal of doubts, it is clarified that the power of an adjudicating officer to adjudge the quantum of penalty under sections 15A to 15E, clauses (b) and (c) of section 15F, 15G, 15H and 15HA shall be and shall always be deemed to have been exercised under the provisions of this section.

2. ***PFUTP Regulations***

Regulation 3. Prohibition of certain dealings in securities

"No person shall directly or indirectly

a) buy, sell or otherwise deal in securities in a fraudulent manner;
b) use or employ, in connection with issue, purchase or sale of any security listed or proposed to be listed in a recognized stock exchange, any manipulative or deceptive device or contrivance in contravention of the provisions of the Act or the rules or the regulations made there under;
c) employ any device, scheme or artifice to defraud in connection with dealing in or issue of securities which are listed or proposed to be listed on a recognized stock exchange;
d) engage in any act, practice, course of business which operates or would operate as fraud or deceit upon any person in connection with any dealing in or issue of securities which are listed or proposed to be listed on a

recognized stock exchange in contravention of the provisions of the Act or the rules and the regulations made there under.

Regulation 4. Prohibition of manipulative, fraudulent and unfair trade practices

(1) Without prejudice to the provisions of regulation 3, no person shall indulge in a fraudulent or an unfair trade practice in securities.

(2) Dealing in securities shall be deemed to be a fraudulent or an unfair trade practice if it involves fraud and may include all or any of the following, namely: —

(a) Indulging in an act which creates false or misleading appearance of trading in the securities market;

3. ***Stock Broker Regulation***

Code of Conduct- Schedule II

A. General

Clause (1) Integrity: A stock-broker, shall maintain high standards of integrity, promptitude and fairness in the conduct of all his business.

Clause (2) Exercise of Due Skill and Care: A stock-broker, shall act with due skill, care and diligence in the conduct of all his business.

……………………………..

Clause (4) Malpractices: A stock-broker shall not create false market either singly or in concert with others or indulge in any act detrimental to the investors' interest or which leads to interference with the fair and smooth functioning of the market. A stock broker shall not involve himself in excessive speculative business in the market beyond reasonable levels not commensurate with his financial soundness.

F. CONSIDERATION OF ISSUES AND FINDINGS

7. I have perused the SCN, replies/written submissions and other materials available on record. On perusal of the same, the following issues arise for consideration:

    I. Whether Noticee No 3 to Noticee No 21 have violated the provisions of Section 12A (a), (b), (c) of SEBI Act and Regulation 3 (a), (b) (c) and (d) and Regulation 4 (1) & 4 (2) (a) of the PFUTP Regulations r/w SEBI Circulars No. CDMRD/DMP/CIR/P/2016/96 dated September 27, 2016 and SEBI/HO/CDMRD/DMP/CIR/P/2017/84 dated July 25, 2017?

    II. Whether Noticee 22 has violated the Code of Conduct for Stock Brokers as specified in Schedule II under Regulation 9 of Stock Brokers Regulations?

III. Whether Noticee 22 to Noticee 25 have violated the provisions of Section 12A (a), (b), (c) of SEBI Act and Regulation 3 (a), (b) (c) and (d) and Regulation 4 (1) of PFUTP Regulations?

IV. If answer to any of the above Issues I, II, II are yes, whether Noticees' act would attract monetary penalty under Section 15HA and 15HB of the SEBI Act? If so, what would be the amount of monetary penalty that can be imposed upon the said Noticees taking into consideration of the factors stipulated in Section 15J of the SEBI Act read with Rule 5(2) of the SEBI Adjudication Rules?

8. Before moving forward in the matter, I first discuss preliminary issues arising in the present adjudication proceedings. I note that Noticee 3, Noticee 5, Noticee No 8 Noticee 10, Noticee 9, Noticee 10, Noticee 13, Noticee 18, Noticee 21 have failed to file any response to the SCN during instant proceedings. In the fact and circumstances of the case, I am of the view that the said Noticees have defied the regulatory provisions. Further, in absence of any response from the said Noticees, it is presumed that they have admitted the charge of violations of provisions as alleged in the case. In this regard, it is pertinent to note that the Hon'ble SAT in the matter of *Classic Credit Ltd. vs. SEBI (Appeal No. 68 of 2003 decided on December 08, 2006)* has, *inter-alia*, observed that, *"............ the appellants did not file any reply to the second show-cause notice. This being so, it has to be presumed that the charges alleged against them in the show cause notice were admitted by them".* I also note that the Hon'ble SAT in the matter of ***Sanjay Kumar Tayal & Others vs SEBI*** *(Appeal No. 68 of 2013 decided on February 11, 2014)*, has also, *inter alia*, observed that: *"........... appellants have neither filed reply to show cause notices issued to them nor availed opportunity of personal hearing offered to them in the adjudication proceedings and, therefore, appellants are presumed to have admitted charges levelled against them in the show cause notices...".* Therefore, it can reasonably be presumed that the allegations/charges have been admitted by the Noticee 3, 5, 8, 9, 10, 13, 18, 21 in the present case. However, while deciding the case, in the interest of principles of natural justice, I note that the charges

should be established with valid reasons as per the material available on record. I find it necessary to examine the charges with respect to the Noticee 3, 5, 8, 9, 10, 13, 18, 21 on the basis of material available on record.

9. Noticees contended that the SCN is merely based on mere surmises and conjecture and is vague and uncertain. In this regard, I note that SCN made the specific allegation with respect to each Noticee based upon the material available on the record which is categorically mentioned on the SCN issued on September 23, 2022. The SCN clearly mentions the charges i.e. relevant provisions of the SEBI Act, PFUTP Regulations, Stock Brokers Regulations, respective Circulars, etc, and further details the connections between the suspected entities, alleged position limit violation due to the concealment of the alleged connection, the role of each Noticees, etc. These allegations are backed by supporting documents *viz* UCC details, MCX data, Bank statement etc., which are provided in the form of annexures. Thus, I note that the ratio of the appellate court orders as cited by Noticee i.e. Gorkha Security Services vs Govt. (NCT of Delhi), (2014) 9 SCC 105, S.L. Kapoor vs Jagmohan & Ors (1980) 4 SCC 379 and SAT order in the matter of Sterlite Industries vs. SEBI (Appeal No. 20/2001 dated 22.10.2001), are not applicable in the instant adjudication proceedings and can be factually distinguishable. Considering the same, I am of the view that such contention of the Noticees is bereft of any merits.

10. I note that NEFM and Sandeep Sabharwal (Noticee 1 and Noticee 2 as per the SCN) had filed a settlement application in terms of the SEBI (Settlement Proceedings) Regulations, 2018 proposing to settle, without admitting or denying the findings of fact and conclusions of law, through a settlement order, the enforcement proceedings initiated vide the present SCN dated September 23, 2022 against them. In this regard, I note that the said proceedings initiated against NEFM and Sandeep Sabharwal vide the present SCN dated September 23, 2022 has been settled *vide* settlement order dated March 06, 2023.

11. I note that Noticees have contended that instant proceedings are initiated almost 4 years from investigation period. In this regard, I note that the investigation

generally is a detailed process involving analysis of various data, gathering of evidences, etc. that shall stand the test of legal scrutiny at various *judicial fora*. This, generally, consumes considerable time and efforts depending on the number of entities involved, the complexity of the transactions, correspondences with the entities involved etc. I note that investigation in the present matter completed and the same has been approved by competent authority on December 10, 2021. In the aforesaid circumstances, I am of the view that investigation is an exhaustive and time consuming process, which requires detailed analysis of facts and law especially considering that there are multiple stakeholders. In the instant case the SCN makes a serious allegation of fraud under the PFUTP Regulations. I, further, note that Hon'ble SAT in past has held that the reasonable period would depend on the facts and circumstances of each case and that no hard and fast rule can be laid down in this regard.

12. Noticee 11 submitted that the purpose of jurisdiction of SEBI, only transaction executed on the commodity exchange are require to be look into. Thus, transaction including off market and transaction in Mandi Market are outside jurisdiction of SEBI. In this regard, I note that SEBI is a regulator of the capital market including commodity derivatives market regulator. SEBI being a regulator has been vested with the responsibility to promote fair, efficient, and transparent markets that help and protect consumers from fraud and unscrupulous practices. Thus, I note that SEBI cannot become oblivious to the transactions happening in the off-market which can potentially impact the commodity derivatives market. Thus, such contention of the said Noticee is not acceptable.

13. Noticee 11 contended that in the interest of principles of natural justice, cross examination of NEFM and Sandeep Sabharwal would be provided. In this regard, I note that the allegations levelled against the respective Noticee are not based on the statements/submissions made by the aforesaid entities. Further, I note that the purpose of cross examination is to illicit the truth from the person who has made certain statements by showing contradiction etc. which may develop between the answers given during cross examination and the statement of such persons previously recorded. For impeaching credit worthiness of a statement through the

process of cross examination, it is necessary that the statement of such person are primary basis for making allegation with respect to the Noticee. In the instant case allegations levelled with respect to the Noticee are based on documentary evidences *namely* connection details, fund transaction etc. I find that primary allegation of violation as alleged in the SCN is premised on such documentary evidences. In view of above, I note that the principles of natural justice have been duly complied with and the aforesaid contention of the Noticees in this regard are without merit.

14. Noticee 6 submitted that Circular dated SEBI Circular dated September 27, 2016 and SEBI Circular dated July 25, 2017, are not addressed to public at large. In this regard, I note that said Circular was issued under section (11) (1) of the SEBI Act and the same has been available on the SEBI website at www.sebi.gov.in. I note that said Circulars also provide that the exchange disseminates the information of the same at its website while bringing to the notice of members. The same has been circulated by the exchange on its website. Rapid being an entity that is funding other Noticees for acquiring Mentha Oil future contract and having a strong relationship commodity broker i.e. RCS (Noticee 22) is connected through common directors namely, Sundeep Chadha, Navdeep Varshneya, and Divya Varshney. Further, Invictus being a trader at the MCX also raised the similar contention in this regard, I note that the subject of the Circular clearly mention that it is related to position limit in Agricultural Commodity Derivative. Thus, any person trading in agricultural commodity cannot take the plea that the said SEBI Circulars are not binding on them. Thus, I am of view that it is reasonable to conclude that said Noticees have the knowledge of the said Circulars and such contention of the said Noticees are not acceptable.

15. Noticee 22 submitted that it has already been penalized by MCX in terms of monetary penalty and suspension from trading in Mentha Oil contracts, in proprietary (OWN) account and on behalf of clients, for a period of 3 years for failure to adhere with the highest standard of integrity and Code of Conduct and the Rules, Bye-laws and Guidelines/ Circulars issued by the Exchange/ SEBI. Further, it is pertinent to mention that imposing the penalty more than once on

same offence is Infirmity with order, arbitrary in nature and also barred by the Principle of *Double Jeopardy* as mentioned in Article 20(2) of the Indian Constitution and principles of *res judicata*. In this regard, I note that fundamental rights enshrined under Article 20 (2) of the Constitution of India read as: "*No person shall be prosecuted and punished for the same offence more than once*". A bare reading of the said Article indicates a second "*punishment*" for the same offence is prohibited by launching any "*prosecution*" for the said "*offence*" for a second time. Thus, the proceedings prohibited by virtue of the said provision are of criminal nature. Further, in order to seek protection under Article 20 (2), it is imperative to demonstrate that: (i) there was a previous prosecution; (b) as a result of which the accused was punished; and (c) the punishment was for the same offence for which the present proceedings are going on. Thus, the delinquent has to satisfy the presence of all the above three factors so as to seek protection under Article 20 (2) of the Constitution of India.

16. I note that there is no submission from the said Noticees to project that the present proceedings before me is in the nature of criminal proceedings. Further, it is a settled law that proceedings under Chapter VI-A of the SEBI Act are civil in nature. In this context, it would be worthwhile to refer to one such judgment which clearly identifies the nature of proceedings under the SEBI Act, 1992: SEBI vs. Cabot International Capital Corporation [(2004) to Comp L J]- Hon'ble Bombay High Court has inter alia observed as: "*the adjudication for imposition of penalty by Adjudication Officer, after due inquiry, is neither a criminal nor a quasi-criminal proceeding. The penalty liveable under this Chapter or under these sections, is penalty in cases of default or failure of statutory obligation or in other words, breach of civil obligation. The provisions and scheme of penalty under SEBI Act and the regulations, there is not element of criminal offence or punishment as contemplated under criminal proceedings.*" Therefore, in the light of the above discussion, it clearly emerges that the present proceedings contemplating the imposition of penalty on the Noticee 22 for the alleged violations being primarily of civil nature, and are thus, not hit by the double jeopardy principle listed by the said Noticee. In

view of the same, the aforesaid submission of the Noticee is deserves to be rejected.

Issue I. Whether Noticee 3 to Noticee 21 has violated Provisions of Section 12A (a), (b), (c) of SEBI Act and Regulation 3 (a), (b) (c) and (d) and Regulation 4 (1) & 4 (2) (a) of PFUTP Regulations r/w SEBI Circulars No. CDMRD/DMP/CIR/P/2016/96 dated September 27, 2016 and SEBI/HO/CDMRD/DMP/CIR/P/2017/84 dated July 25, 2017?

Connections

17. I note that based on the information collected from UCC details, bank statement analysis, off market data and MCA database, three major groups were identified *viz*. **Funding entities**/**proxy** entities, **Group A** entity (holding significant stock of Mentha Oil) and **Group B** entity (Trading and taking delivery, with subsequent off market delivery to Group A entities). The details and basis of connection of all the connected entities are given hereunder:

Table No. 2

S.N.	Entity	Basis of Connection
1	Neetu Gupta (Group A) (AJOPG5806B)	• Neetu Gupta is connected with Abhishek Agarwal (Group A) and other Group B entities namely, Invictus, Shamugpriya, Sita Ram, A G Agri, Fancos, APMV and Abhishek Mishra through off-market Mentha Oil transfer. • As per KYC documents (Aadhar card) - Neetu Gupta is connected with Yash Gupta (Group A) and Vikram Gupta (Group B) through common address - Flat No 37 Ajanta, Apartments Plot No 36, I P Extension Patpar Ganj, Kekri, Delhi, India 110092. • Neetu is found connected to NEFM and Group B entity namely, Gaurav Gupta, Saurabh Kumar Vaish and Vikram Gupta through fund transfer. • Neetu Gupta is proprietor of JMD Traders. As per KYC Neetu Gupta is using Bank of India account no 605820110000853 for trading and fund transfer to connected entities.
2	Yash Gupta (Group A) (BTKPG6004J)	• As per KYC documents (Aadhar card) - Vikram Gupta (Group B) is connected with Yash Gupta through common address - Flat No 37 Ajanta, Apartments Plot No 36, I P Extension Patpar Ganj, Kekri, Delhi, India 110092. • Connected with Abhishek Agarwal (Group A) and Group B entities namely, Fancos, Invictus, Reindus, Shamugpriya, A G Agri and Abhishek Mishra through off-market Mentha Oil transfers.

S.N.	Entity	Basis of Connection
		• NEFM is connected to RCS, Yash Gupta, Gaurav Gupta, Invictus, APMV and Sohan Lal Commodity Mangement Pvt Ltd (SCM) through fund transfers. • Jai Balaji Trading company which is shown as Clearing & Forwarding (**C &F**) agent by many connected entities was owned by father of Mr. Yash Gupta.
3	Abhishek Agarwal (Group A) (AIDPA1545K)	• Connected with Group B entities namely, Fancos, Invictus, Shamugpriya, Alok Kumar Singh, APMV and Abhishek Mishra, through Off-market Mentha Oil transfers. • Abhishek Agarwal is connected with NEFM, Yash Gupta (Group A) Gaurav Gupta (Group B), RCS (commodity broker), Invictus (Group B) and Rapid (Proxy/funding entity) through Fund transfers.
4	Vikram Gupta (Group B) (AAOPG1467H)	• As per KYC documents (Aadhar card) - Vikram Gupta is connected with Yash Gupta through common address - Flat No 37 Ajanta, Apartments Plot No 36, I P Extension Patpar Ganj, Kekri, Delhi, India 110092. Neetu Gupta is connected to Vikram Gupta through Fund transfer. • Vikram Gupta is proprietor of "Shri Krishna Trading Co." and the bank account (ICICI - 072105500655) in the name of the entity was used for fund transfer. • He is connected with NEFM and Group B entities namely, Gaurav Gupta and Saurav Kumar Vaish through fund transfers.
5	Abhishek Mishra (Group B) (APHPM6773J)	• Connected with Invictus (Group B), RCS (commodity broker) based on fund transfers. • Connected with Group A entities namely, Yash Gupta, Neetu Gupta and Abhishek Agarwal through off-market Mentha Oil transfer. • Abhishek Mishra is connected with RCS and Rapid-2 (strike off Company) through off-market equity share transfer.
6	Shamugpriya International Private Limited "Shamugpriya" (Group B) (AAYCS6149K)	• Shamugpriya is connected with Reindus through common directorship of Vinay Kumar (DIN- 06779770), Alok Kumar Rai (DIN 07172447) and Narayan Kumar Singh (DIN 08017420). • Connected with Abhishek Agarwal, Neetu Gupta and Yash Gupta through off-market Mentha Oil transfers. • Connected with Rapid 2 (strike off Company) and RCS through off-market transfers of equity shares. • Shamugpriya is connected to APMV, RCS and Rapid through transfer of funds. • Shamugpriya is connected with Shivrudra through common directorship of Alok Ray (DIN 07534607).
7	Sita Ram (HUF) "Sita Ram" (Group B) (ABCHS8882F)	• Sita Ram (HUF) connected with Rapid through joint bank account (50200028028762) with HDFC bank. Sita Ram (HUF) is connected with Rapid and RCS through fund transfers.

S.N.	Entity	Basis of Connection
		• Connected with RCS and Rapid 2 (strike off Company) through off-market equity share transfer. • Connected with NEFM based on fund transfer through proxy entity. • Connected with Neetu Gupta through off-market Mentha Oil transfer.
8	Reindus Tradeway Private Limited "Reindus" (Group B) (AAICR9376D)	• Reindus is connected with Shamugpriya through common directorship of Vinay Kumar (DIN- 06779770), Alok Kumar Rai (DIN 07172447) and Narayan Kumar Singh (DIN 08017420). • Connected with RCS and Rapid 2 (strike off Company) through off-market equity share transfer. • Connected with Yash Gupta through off-market Mentha Oil transfer. • Reindus is connected with RCS through fund transfer. • Reindus connected to NEFM based on fund transfer through proxy entity.
9	Alok Kumar Singh (Group B) (ACQPS1889K)	• Alok Kumar Singh is connected with Abhishek Agarwal through Off-market Mentha Oil transfer. • Connected with NEFM based on fund transfer through proxy entity (Gaurav Gupta)
10	Fancos Trademart Private Ltd. ("Fancos"), (Group B) (AACCF8546P)	• Fancos is connected with RCS and Rapid 2 (strike off Company) through off-market equity share transfer. • Connected with Abhishek Agarwal, Neetu Gupta and Yash Gupta through off-market Mentha Oil transfer. • Fancos is connected with Shivrudra through common directorship of Mr. Akash (DIN - 07440312) and Mr Mahesh Rajan Singh (DIN - 07587314)
11	Invictus Stock Research Private Ltd. ("Invictus") (Group B) (AACCI4638M)	• Neeru Gupta is Connected to Invictus by virtue of being a promoter- shareholder (with 50% shareholding). Her Son and daugher in law namely Mr. Navdeep Varshney and Divya Varshney each holds 25% shares of Invictus. Three entities together hold 100% shares of Invictus as on 31.03.2018. • Neeru Gupta is connected to RCS by virtue of being a promoter- shareholder (with 53% shareholding). Neeru Gupta along with her husband, Son and daugher in law namely Mr.Rajendra Kumar Gupta, Mr. Navdeep Varshney and Divya Varshney (respectively) holds 86% shares of RCS as on 26.10.2018. • Navdeep Varshneya is director in Invictus, RCS and Rapid. Thus, these entities are connected through common directorship. • Connected with Rapid through common mobile number 9810046444, E-mail navdeepus2001@yahoo.com and common directorship of Sundeep Chadha and Divya Varshney.

S.N.	Entity	Basis of Connection
		• Invictus has common address with Trading Member RCS i.e. - A-7, Block B1, Mohan Co-op Ind Estate, Mathura Road, New Delhi – 110011. • Connected with Rapid through fund transfer. • Connected with Rapid 2 (strike off Company), APMV and RCS through off-market equity share transfer. • Invictus is connected with RCS, Rapid, Abhishek Mishra, NEFM, APMV, Neeru Gupta, Rajendra Gupta and A G Agri based on fund transfer. • Connected with Yash Gupta, Neetu Gupta, Abhishek Agarwal & APMV through off-market Mentha Oil transfer. • Invictus has admitted that it has purchased Mentha Oil for NEFM and based on the instruction of NEFM transferred Mentha Oil stock to Yash Gupta, Neetu Gupta and Abjhishek Agarwal. Invictus also submitted that it has purchased Mentha Oil from Abhishek Mishra, APVM and other entities.
12	Virendra Kumar Jain (Group B) (ABPPJ9524Q)	• Virendra Kumar Jain is connected with A G Agri through Off-market Mentha Oil transfer and fund transfer. • Virendra Jain is connected with RCS through Fund Transfer • Virendra Kumar Jain is connected with Rapid 2 (strike off Company) and RCS through off-market equity share transfer.
13	APMV Stocks & Commodities Private Limited "APMV" (Group B) (AAICA9644F)	• A G Agri is connected with APMV through common mobile number (9999099131) and address 3873/12 II Floor, Kanhiya Nagar Tri Nagar, New Delhi, India-110035. Even registered address (for both entities) as per MCA website is common i.e. House No 929/60, Landmark Opposite MCD Maternity Hospital, Lekhu Nagar, Tri Nagar North Delhi DL 110035. • A G Agri and APMV have Mr. Arun Gopal Bansal (DIN - 03087612) as common director. • APMV is connected with Rapid 2 (strike off Company), Invictus and RCS through off-market equity share transfer. • Connected with Invictus, Neetu Gupta & Abhishek Agarwal through off-market Mentha Oil transfer. • APMV is connected with Neeru Gupta, Rapid, RCS, Invictus and Shamugpriya based on fund transfer.
14	Neeru Gupta (Group B) (AJOPG5806B)	• Neeru Gupta is wife of Mr. Rajendra Kumar Gupta, mother of Navdeep Varshney. Neeru Gupta is connected to Invictus by virtue of being a promoter- shareholder (with 50% shareholding). Her son and daughter in law namely Mr. Navdeep Varshney and Divya Varshney each holds 25% shares of Invictus as on 31.03.2018. Three entities together hold 100% shares of Invictus. • Neeru Gupta is connected to RCS by virtue of being a promoter- shareholder with 51% shareholding

S.N.	Entity	Basis of Connection
		• Neeru Gupta was director of Invictus, RCS and also R.K Stock holding Private Limited (Equity broking arm of RCS) • Neeru Gupta is connected to Navdeep Varshney, APMV, Rajendra Gupta, Rapid and RCS through Fund transfers. • Rajendra Gupta hold joint account (918030082344673) with Neeru Gupta and Divya Varshney in Axis Bank. • Connected with Rapid 2 (strike off Company) and RCS through off market equity share transfer.
15	A G Agri Mart Private Ltd “A G Agri” (Group B) (AAJCA9398M)	• A G Agri is connected with APMV through common mobile number (9999099131) and address 3873/12 II Floor, Kanhiya Nagar Tri Nagar, New Delhi, India -110035. Even registered address as per MCA website is common i.e. House No 929/60, Landmark Opposite MCD Maternity Hospital, Lekhu Nagar, Tri Nagar North Delhi DL 110035. • A G Agri and APMV have Mr. Arun Gopal Bansal (DIN – 03087612) as common director. • A G Agri is connected with RCS and Rapid 2 (strike off Company) through off-market equity share transfer. • Connected with Virendra Kumar Jain, Neetu Gupta and Yash Gupta through Off- market Mentha Oil transfer. • Connected with Virendra Kumar Jain and Invictus based on fund transfer.
16	Gaurav Gupta (ARLPG4012E) (Proxy/Funding Entity)	• Gaurav Gupta is connected with NEFM, Alok Kumar Singh, Neetu Gupta and Abhishek Agarwal based on fund transfer. Vikram Gupta is holding bank account in the name of "Shri Krishna Trading Co." • He is connected to Gaurav Gupta and Saurav Kumar Vaish through Fund transfers. • Gaurav received funds from NEFM which he transferred to entities such as - Vikram Gupta (Shri Krishna Trading co), Abhishek Agarwal, Neetu Gupta (JMD traders), Saurabh Kumar Vaish etc
17	Saurabh Kumar Vaish (AEHPV0866L) (Proxy/Funding Entity)	• Connected with NEFM, Vikram Gupta & Neetu Gupta entities based on fund transfer. • Connected with Proxy entity Gaurav Gupta based on fund transfer. • Vikram Gupta was holding bank account in the name of "Shri Krishna Trading Co." He is connected to Gaurav Gupta and Saurav Kumar Vaish through Fund transfers.
18	Vimuk Enterprises “Vimuk” (AANFV4919L) (Proxy/Funding Entity)	• Vimuk Enterprises is connected with NEFM and Reindus through fund transfer. • NEFM is connected to RCS, Vimuk Enterprises, Yash Gupta, Gaurav Gupta, Invictus and APMV, through fund transfers. • Vimuk Enterprises is also connected with Reindus and Invictus, based on fund transfer.

S.N.	Entity	Basis of Connection
19	A) Rapid Credit & Holdings Private Limited "Rapid (AAACR0021K) (Proxy/Funding Entity)	• Rapid is a NBFC • Rapid, Invictus, RCS are connected through common directors namely, Sundeep Chadha, Navdeep Varshneya and Divya Varshney. • Rapid is connected with RCS, Invictus and Navdeep Varshneya through common mobile number (9810046444). • Connected with Navdeep Varshneya through common e-mail (navdeep@rkfml.com). • Connected with RCS through common e-mail (navdeepus2001@yahoo.com). • Neeru Gupta is connected to Rajendra Gupta, Rapid and RCS through fund transfers. • Rajendra Gupta is connected to Rapid, RCS and Invictus through fund transfers. • Rapid is connected with RCS, Navdeep Varshenya, Gaurav Gupta, Sita Ram HUF, Invictus, Shamugpriya, APMV, Abhishek Mishra and Neeru Gupta being clients (as submitted by Rapid) and fund transfer. • Based on the information submitted by CDSL it was observed that there are two entities with similar names i.e. Rapid Credit & Holdings Private Limited and Rapid Credit and Holdings Private Limited, with common directors namely Navdeep Varshneya and Divya Varshney and common address. • Rapid Credit & Holdings Private Limited (NBFC is registered with CIN-U74899DL1993PTC054539, and PAN- AAACR0021K) and the Second entity " Rapid Credit and Holdings Private Limited" is registered with CIN-U74899DL1993PTC054339 and PAN- AAACR6224Q, as per MCA records. • Both the entities have common Correspondence Address - A 12, Mohan Co-operative Industrial Estate, Mathura Road, New Delhi- 110044. • Present status of Rapid Credit and Holdings Private Limited (Rapid 2) as per MCA records is "strike off".
	B) Rapid Credit And Holdings Private Limited "Rapid 2" (2nd PAN- AAACR6224Q) CIN : U74899DL1993PTC054339	• Rapid Credit and Holdings Private Limited is a strike off company as per MCA records with different PAN and CIN. • Rapid 2 (strike off Company) is connected with A G Agri, Virendra Kumar Jain, Reindus, Abhishek Mishra, APMV, Fancos, Invictus, Shamugpriya, Sita Ram and Neeru Gupta based on off-market equity share transfer. I note that it has been admitted by the Rapid (Noticee 6) that both the Pan No. AAACR6224Q and AAACR0021K belong to them. Thus, Rapid has been used for both PAN numbers *viz* AAACR6224Q and AAACR0021K.
20	R. K. Commodities Services Pvt. Ltd. ("RCS") (AADCR3305H)	

<table>
<tr><th>S.N.</th><th>Entity</th><th>Basis of Connection</th></tr>
<tr><td></td><td>(Commodity Broker)</td><td rowspan="4">
RCS is connected with Invictus and Rapid through common directorship of Sundeep Chadha and Navdeep Varshneya common mobile number, e-mail and address.
Sundeep Chadha is also director in Rapid since 03.10.2017 along with Mr. Navdeep Varshneya and Divya Varshney.
Rajendra Kumar Gupta, Navdeep Varshney and Divya Varshney, and Neeru Gupta are related to each other being family member.
Directors of RCS viz. Rajendra Kumar Gupta, Navdeep Varshney and Divya Varshney, along with Neeru Gupta (family member) had controlling stake of 86% in RCS and also the promoters of Invictus.
Neeru Gupta is connected to RCS by virtue of being a promoter- shareholder (with 53% shareholding) and previous director
Neeru Gupta along with her husband, son and daughter in law namely Mr.Rajendra Kumar Gupta, Mr. Navdeep Varshney and Divya Varshney, respectively, hold 86% shares of RCS as on 26.10.2018.
Neeru Gupta is connected to Invictus by virtue of being a promoter-shareholder (with 50% shareholding). Neeru Gupta along with her son (Mr. Navdeep Varshney) and daughter in law (Ms. Divya Varshney) each holds 25% shares of Invictus. Three entities together hold 100% shares of Invictus as on 31.03.2018.
Neeru Gupta is connected to Rajendra Gupta, Rapid and RCS through Fund transfers.
Connected with Abhishek Mishra, APMV, Fancos, Invictus, Shamugpriya, Sita Ram, Reindus, Virendra Kumar Jain, Shivrudra, Neeru Gupta and A G Agri as client of RCS and off-market equity share transfer.
Rajendra Kumar Gupta is connected to Rapid, RCS and Invictus through fund transfers.
Rajendra Kumar Gupta hold joint account (918030082344673) with Neeru Gupta and Divya Varshney in Axis Bank.
Navdeep Varshney is connected to Rapid through fund transfer.
Sundeep Chadha is connected to Rapid through fund transfers.
RCS is connected with Rapid and Navdeep Varshneya through common mobile number (9810046444) and email address (navdeepus2001@yahoo.com).
RCS and Invictus are connected through common address - A 7 Block B1, Mohan co-operative industrial estate, Mathura road, New Delhi - 110044.
RCS is connected to Rapid, Invictus, Fancos, A G Agri, Abjhishek Mishra, APMV, Sita Ram HUF, Shivrudra, Neeru
</td></tr>
<tr><td>23</td><td>Rajendra Kumar Gupta, (ADTPG0459K) Director and shareholder of RCS and Promoter of Invictus</td></tr>
<tr><td>24</td><td>Navdeep Varshneya (ADFPV9839A) (Director of Invictus, RCS and Rapid and Promoter of Invictus)</td></tr>
<tr><td>25</td><td>Sundeep Chadha (AAHPC9809N) (Director of RCS Rapid and Invictus)</td></tr>
</table>

S.N.	Entity	Basis of Connection
		Gupta, Navdeep Varshneya, Divya Varshney, Shamugpriya, Virendra Kumar Jain and Reindus through Fund transfers. • Abhishek Mishra, A G Agri, APMV Stocks & Commodities Private Limited, Neeru Gupta and Fancos through off-market equity share transfer. • RCS is connected to Neeru Gupta, Navdeep Varshneya, Divya Varshney, Shamugpriya, Virendra Kumar Jain and Reindus through Fund transfers.

18. Several Noticees have presented their respective cases to justify their participation in Mentha Oil futures contracts and also to defend their position of holding the stock of Mentha Oil. These Noticees have contended that their activities in the Mentha Oil futures were primarily driven by their nature of business and the purchases made/stock held by them in the MCX accredited warehouses, have been done as a part of their normal business activities. Similarly, they have claimed that the financial transactions and fund transfers that they had among themselves and with NEFM directly or indirectly, were done in due course of their business. I note that Noticees failed to provide any document before me which sets out terms and conditions of such business transactions and what was the purpose of the alleged fund transfer. I also find that Noticees have been unable to dispute the financial transactions, fund transfers and the stock positions as alleged in the SCN. Further, I note that neither the Group "A" entities nor the Group "B" entities have objected to the fact that exchange deliverable stock of Mentha Oil has been transferred off-market from Group "B" to Group "A" entities.

19. I note that these Noticees have submitted ledger entries to substantiate their contention that fund transfer and off market equity share transfer between them are in due course of business. In this regard, I note that these Noticees have failed to substantiate the same with documentary evidence before me, such as loan agreements, sale contract, delivery Instruction Slip (DIS), etc. which lead to the fund transactions/equity share transfer between these Noticees. Further, I note that the ledger statements are internal documents of an entity and same need to be substantiated further with other supporting documents/ bills, etc. In the view of the aforesaid, I note that these Noticees has been unable to provide sufficient proof of stated commercial activities.

20. Further, several Noticee 6 submitted the register of securities instead of demat account statement for the purpose of showing the shares given in the form of collateral to RCS. I note that since commodity broker "**RCS** "is also a Noticee in the instant case, I am not inclined to accept the aforementioned proof of register of securities in absence of any other documents substantiating the contention of the Noticee. Further, I note that said Noticee is connected with off market transactions with Rapid, for which Noticee contended that the same is entered as nature of lending and borrowing. However, said Noticee failed to produce any document *viz* loan agreement/terms & conditions of loans substantiating the aforementioned submission.

21. I note that in response to the SCN dated September 23, 2022, Noticee 4 submitted that it has reiterate the submission made on March 26, 2019 and then 20.7.2019 vide letter received to me on January 23, 2023. However, Noticee had only attached the letter dated 20.07.2019. From the perusal of the aforesaid reply dated 20.07.2019, Noticee contended that it had the Mandi license and a general agreement with NEFM for procurement of commodities in pursuance thereof, it had purchased the said quantity. However, NEFM did not like the quality of Mentha Oil and rejected the same. In this regard, I note that Noticee had off-market/physical market transactions in the Mentha oil through Jai Balaji Trading Company which acted as C&F Agent. I also note that Noticee 4 has been unable to provide an explanation with respect to the fund transaction with NEFM, Vikram Gupta & Neetu Gupta. Further, said Noticee has been unable to prove the specific direction from NEFM about obtaining and then rejecting the acquired Mentha Oil. Said Noticee also has been unable to provide any supporting documents wherein it had given the direction to Vimuk for acquiring Mentha Oil. Further, I note that it has been specifically alleged in the SCN that Noticee 4 has acted as the proxy entity and accordingly, he has been considered as the whole scheme and artifice. Thus, such contention of the Noticee 4 is not acceptable.

22. Noticee 20 submitted that it had effected physical deliveries of Mentha oil to Yash Gupta as per instruction of Vimuk in the normal course of business. However,

Noticee 20 failed to produce any supporting document to substantiate its claim. Thus, such contention of the Noticee is not acceptable. Further, I find that it is admitted position that during the investigation period, said Noticee connected with Shamugpriya through common directorship, Rapid through off-market equity share transfer and with RCS through fund transfer of aforesaid directors. Thus, I find that both entities are connected to each other.

23. I note from the reply of the Noticees that Jai Balaji Trading Company acted as their C&F Agent for off-market/physical market transactions in the Mentha Oil. In this regard, I note that the proprietor of this Jai Balaji Trading Company is the father of Noticee 17 (Yash Gupta), a Group 'A' entity which are connected entities. Thus, it also indicates the connection between the entities.

24. Noticee 6 submitted that SEBI made allegation merely on the basis of assumption since SEBI did not provide any evidence that they have received the any funding from the NEFM. Further, Noticee 6 submitted that all the transaction between other connected entities are normal business transactions. In this regard I note that Noticee 6, being an NBFC, is under the common directorship of RCS, (Commodity trading member) and Invictus (Group B entity), which played major role in the whole scheme/artifice. Noticee 6 had transferred amounts to six Group B entities including Invictus (under common directorship and shareholding and also funded by NEFM), Shamugpriya, APMV, Abhishek Mishra, Neeru Gupta and Sita Ram (HUF). All 6 entities which were funded by Rapid were clients of RCS. Thus, I note that Noticee 6 was having a strong connection with aforesaid connected entities. Noticee 6 also submitted that funding to the connected entities was made with collateral securities and therefore off market transactions of securities from these connected entities was made for collateral. In this regard, I note from the records that as per the demat accounts maintained by said Noticee with various DPs, no off market transactions (referred as securities collateral by Rapid) were observed from these connected entities in the demat accounts of Rapid (NBFC) for the funding made. Furthermore, said Noticee has also been unable to produce any supporting documentary evidence with respect to the funding collateral to the connected entities. Considering the aforementioned facts and circumstances, I am

of the view that Noticee 6 is part of the group entities. Thus, such submission of the said Noticee is not acceptable.

25. Noticees submitted that no adverse reference would be drawn on the basis of connection. In this regard, I note that the alleged connection amongst the Noticees, whether direct or indirect, is considered as one of the basis for alleging the violations against the Noticees and not the violation in itself. The connection of each of the Noticees is needed to be corroborated by their act or conduct.

26. At this juncture, I find it relevant to refer the following Hon'ble SAT orders:

(i) ***Shri Tarunkumar Brahmbhatt vs SEBI*** *(order dated April 28, 2021) held that "…we affirm that the appellants were connected with promoter related entities as they received the shares through off-market"*

(ii) ***Sanjay Kumar Poddar HUF v. SEBI*** *(Appeal No. 326 of 2020; dated August 24, 2021) "...8. In order to appreciate the arguments of the group, it would be necessary to find out what is meant by the term 'connection'. This term is not a term of art. Respondent SEBI often use this term in order to explain a link between entities. The link can be anything like personal relationship, off-market transaction, financial relationship or even a location proximity etc.*

(iii) ***Pratik Minerals Pvt. Ltd. vs SEBI*** *dated June 28, 2018 …. Given the connection between erstwhile promoters or directors of PCL, the preferential allotment, cross directorship of various entities, usages of same address and telephone nos. etc. by some of the entities, the financial transactions between some of the entities, the off-market transactions of shares of PCL between some of the promoters and directors of PCL connection between these entities have been conclusively established.*

27. In view of the aforesaid SAT ruling and above mentioned facts and circumstances, I note that the connection can be established on the basis of factors including the fund transfer, common addresses, common directors/ shareholders, off market transaction, etc. In view of the same, I am satisfied that the Noticees were group entities' and connected directly or indirectly to each other.

<u>Position limits</u>

28. I note from the records that Noticees have traded for 25,435 contracts (5.58% of Market Volume) of Mentha Oil Futures worth Rs. 1,329.41 crore and details for the same are given as below: -

Table No. 3

Contract Expiry Date	Client Name	Gross Traded Quantity	Sum of Traded Value (Rs. in Cr)	As % of Market Traded Quantity
29-Dec-17	A G Agri Mart Private Limited	144	9.44	0.54%
	Abhishek Aggarwal	362	22.77	1.35%
	APMV Stocks & Commodities Private Limited	98	5.84	0.37%
	Fancos Trademart Private Limited	50	3.09	0.19%
	Invictus Stock Research Private Limited	80	4.94	0.30%
	Neetu Gupta	193	13.2	0.72%
	Vikram Gupta	1450	91.42	5.40%
Total		**2377**	**150.7**	**8.87%**
31-Jan-18	A G Agri Mart Private Limited	86	5.14	0.19%
	Abhishek Aggarwal	504	29.24	1.13%
	Abhishek Mishra	90	4.91	0.20%
	APMV Stocks & Commodities Private Limited	290	16.44	0.65%
	Fancos Trademart Private Limited	334	19.27	0.75%
	Invictus Stock Research Private Limited	188	10.69	0.42%
	Vikram Gupta	1506	91.77	3.37%
Total		**2998**	**177.46**	**6.71%**
28-Feb-18	A G Agri Mart Private Limited	24	1.3	0.08%
	Abhishek Aggarwal	32	1.52	0.11%
	Abhishek Mishra	332	16.94	1.16%
	APMV Stocks & Commodities Private Limited	294	15.51	1.03%
	Fancos Trademart Private Limited	218	12.26	0.76%
	Invictus Stock Research Private Limited	380	19.17	1.33%
	Vikram Gupta	852	44.7	2.98%
Total		**2132**	**111.4**	**7.45%**
28-Mar-18	A G Agri Mart Private Limited	44	2.02	0.13%
	Abhishek Aggarwal	212	11.25	0.61%
	Abhishek Mishra	470	21.89	1.34%
	APMV Stocks & Commodities Private Limited	462	22.24	1.32%
	Fancos Trademart Private Limited	546	25.46	1.56%
	Invictus Stock Research Private Limited	530	25.44	1.52%
	Vikram Gupta	1194	58.61	3.42%
Total		**3458**	**166.91**	**9.90%**
30-Apr-18	A G Agri Mart Private Limited	148	7.41	0.54%
	Abhishek Aggarwal	178	9.26	0.64%
	Abhishek Mishra	342	16.39	1.24%
	APMV Stocks & Commodities Private Limited	264	12.61	0.96%
	Fancos Trademart Private Limited	254	12.21	0.92%
	Invictus Stock Research Private Limited	292	13.97	1.06%
	Shamugpriya International Pvt Ltd	230	12.07	0.83%
	Vikram Gupta	582	27.61	2.11%
Total		**2290**	**111.53**	**8.30%**
31-May-18	A G Agri Mart Private Limited	112	5.27	0.52%
	Abhishek Aggarwal	258	12.42	1.20%
	Abhishek Mishra	176	7.97	0.82%

Contract Expiry Date	Client Name	Gross Traded Quantity	Sum of Traded Value (Rs. in Cr)	As % of Market Traded Quantity
	APMV Stocks & Commodities Private Limited	266	12.14	1.24%
	Fancos Trademart Private Limited	160	7.29	0.74%
	Invictus Stock Research Private Limited	132	6.03	0.61%
	Neeru Gupta	26	1.23	0.12%
	Shamugpriya International Pvt Ltd	658	30.57	3.06%
	Sita Ram (HUF)	30	1.39	0.14%
	Vikram Gupta	562	25.93	2.61%
	Yash Gupta	108	5.01	0.50%
Total		**2488**	**115.25**	**11.56%**
29-Jun-18	A G Agri Mart Private Limited	294	12.32	0.90%
	Abhishek Aggarwal	218	9.32	0.66%
	Abhishek Mishra	50	2.03	0.15%
	APMV Stocks & Commodities Private Limited	22	0.86	0.07%
	Fancos Trademart Private Limited	48	1.85	0.15%
	Invictus Stock Research Private Limited	692	29.68	2.11%
	Shamugpriya International Pvt Ltd	678	28.29	2.06%
	Sita Ram (HUF)	2	0.08	0.01%
	Vikram Gupta	634	26.41	1.93%
Total		**2638**	**110.84**	**8.04%**
31-Jul-18	A G Agri Mart Private Limited	488	24.32	1.19%
	Abhishek Aggarwal	130	6.58	0.32%
	Invictus Stock Research Private Limited	392	18.59	0.95%
	Shamugpriya International Pvt Ltd	1014	49.75	2.47%
	Vikram Gupta	592	28.64	1.44%
Total		**2616**	**127.88**	**6.37%**
31-Aug-18	A G Agri Mart Private Limited	330	18.55	0.80%
	Abhishek Aggarwal	82	4.64	0.20%
	Alok Kumar Singh	94	5.86	0.23%
	Invictus Stock Research Private Limited	352	18.99	0.86%
	Neetu Gupta	160	9.36	0.39%
	Reindus Tradeway Private Limited	114	7	0.28%
	Shamugpriya International Pvt Ltd	798	43.88	1.95%
	Sita Ram (HUF)	6	0.3	0.01%
	Vikram Gupta	154	8.11	0.38%
	Virendra Kumar Jain	292	17.05	0.71%
Total		**2382**	**133.74**	**5.81%**
28-Sep-18	A G Agri Mart Private Limited	78	4.83	0.24%
	Abhishek Aggarwal	24	1.49	0.07%
	Alok Kumar Singh	150	9.69	0.46%
	Invictus Stock Research Private Limited	188	10.21	0.57%
	Neetu Gupta	6	0.37	0.02%
	Reindus Tradeway Private Limited	146	9.06	0.45%
	Shamugpriya International Pvt Ltd	350	20.22	1.07%
	Vikram Gupta	10	0.62	0.03%
	Virendra Kumar Jain	352	21.26	1.08%
Total		**1304**	**77.75**	**3.99%**
31-Oct-18	A G Agri Mart Private Limited	132	7.98	0.47%
	Reindus Tradeway Private Limited	210	13.03	0.74%

Contract Expiry Date	Client Name	Gross Traded Quantity	Sum of Traded Value (Rs. in Cr)	As % of Market Traded Quantity
	Shamugpriya International Pvt Ltd	114	6.59	0.40%
	Virendra Kumar Jain	24	1.51	0.08%
Total		**480**	**29.11**	**1.70%**
30-Nov-18	A G Agri Mart Private Limited	18	1.14	0.07%
	Alok Kumar Singh	16	1.02	0.06%
	Neetu Gupta	16	1.04	0.06%
	Reindus Tradeway Private Limited	194	12.03	0.74%
Total		**244**	**15.24**	**0.93%**
31-Jan-19	Saurabh Kumar Vaish	4	0.23	0.02%
Total		**4**	**0.23**	**0.02%**
28-Feb-19	Saurabh Kumar Vaish	24	1.37	0.11%
Total		**24**	1.37	0.11%
Grand Total		**25435**	**1329.41**	**5.58%**

29. I note from the above that, connected entities have traded in the Mentha oil Futures contracts with expiry months starting from December 2017 till Feb 2019. They have traded for 25,435 contracts (5.58% of Market Vol) of Mentha oil Futures worth Rs. 1,329.41 crores. Further, I also note that Noticee No 7 to Noticee No 21 i.e. 15 connected entities *viz* Noticee 7 to Noticee 21 namely, A G Agri Mart Private Limited, Abhishek Aggarwal, Abhishek Mishra, Alok Kumar Singh, APMV Stocks & Commodities Private Limited, Fancos Trademart Private Limited, Invictus Stock Research Private Limited, Neeru Gupta, Neetu Gupta, Reindus Tradeway Private Limited, Shamugpriya International Pvt Ltd, Yash Gupta, Sita Ram (HUF), Vikram Gupta and Virendra Kumar Jain had traded in Mentha oil contracts during the IP. The summary of trading by aforesaid connected entities during December 2017 to March 2019 is given hereunder:

Table No. 4

Sr No	Client Name	First Trade Date	Last Trade date before the December 2017	Total Sum of Traded Qty (B+S)	% of Market Vol.	Total Sum of Traded Value (Rs. in Cr)	% of Market Turnover
1	A G AGRI MART PRIVATE LIMITED	01/12/2017	30/11/2017	1898	0.42	99.72	0.34
2	ABHISHEK AGGARWAL	01/12/2017	30/11/2017	2000	0.44	108.48	0.37
3	NEETU GUPTA	01/12/2017	30/11/2017	375	0.08	23.98	0.08
4	VIKRAM GUPTA	01/12/2017	30/11/2017	7536	1.65	403.82	1.38
5	INVICTUS STOCK RESEARCH PRIVATE LIMITED	12/12/2017	29/08/2016	3226	0.71	157.71	0.54
6	APMV STOCKS & COMMODITIES PRIVATE LIMITED	19/12/2017	27/11/2017	1696	0.37	85.64	0.29
7	NEERU GUPTA	17/05/2018	21/11/2017	26	0.01	1.23	0
8	YASH GUPTA	18/05/2018	21/11/2017	108	0.02	5.01	0.02
9	SAURABH KUMAR VAISH	21/01/2019	21/09/2017	28	0.01	1.59	0.01

Sr No	Client Name	First Trade Date	Last Trade date before the December 2017	Total Sum of Traded Qty (B+S)	% of Market Vol.	Total Sum of Traded Value (Rs. in Cr)	% of Market Turnover
10	FANCOS TRADEMART PRIVATE LIMITED	27/12/2017	Not Traded	1610	0.35	81.43	0.28
11	ABHISHEK MISHRA	24/01/2018	Not Traded	1460	0.32	70.12	0.24
12	SHAMUGPRIYA INTERNATIONAL PVT LTD	18/04/2018	Not Traded	3842	0.84	191.38	0.65
13	SITA RAM (HUF)	31/05/2018	Not Traded	38	0.01	1.77	0.01
14	VIRENDRA KUMAR JAIN	31/07/2018	Not Traded	668	0.15	39.81	0.14
15	REINDUS TRADEWAY PRIVATE LIMITED	27/08/2018	Not Traded	664	0.15	41.12	0.14
16	ALOK KUMAR SINGH	28/08/2018	Not Traded	260	0.06	16.58	0.06
Connected Entities Total				**25435**	**5.584%**	**1329.38**	**4.35%**
Market Total				**455442**	**100.00**	**29315.77**	**100.00**

30. With respect to the position limit at the agricultural commodity derivative I note that the purpose of prescribing the position limits is to prevent the concentration / control by a few participants and to limit excessive speculation so as to protect market integrity. Thus, the open positions of such persons who act in concert to circumvent the position limit norms are clubbed by the concerned stock exchange and the positions of all such persons acting together are considered as if the position is taken by a single person and monitored against the prescribed limit as applicable to a single client or member to maintain market integrity. I further note that, SEBI Circular no. CDMRD/DMP/CIR/P/2016/96 dated September 27, 2016 prescribes the criterion for clubbing such as connected through common directorship. Further, the Exchange, vide its Circular no. MCX/S&I/300/2017 dated August 23, 2017 has prescribed the additional criterion to club open positions which inter alia include - same / similar postal address, e-mail address, bank accounts, mobile number, existence of commonality of funds flow between the various parties, etc. Also, SEBI had issued Circular no SEBI/HO/CDMRD/DMP/CIR/P/2016/71 dated August 19, 2016 regarding Position Limits for Hedgers, wherein, the position limits are wider. The aforesaid provisions have been put in place to avoid limit excessive speculation in the securities market.

31. I note that SEBI vide its Circulars no. CDMRD/DMP/CIR/P/2016/96 dated September 27, 2016 and SEBI/HO/CDMRD/DMP/CIR/P/2017/84 dated July 25, 2017 has prescribed framework for determination of numerical value of overall client level position limits for agricultural commodities. In accordance with the

aforesaid Circulars, Mentha Oil is categorized as a ‘Narrow commodity'. Position limits for commodity futures on agricultural commodities are fixed on the basis of the deliverable supply of a particular commodity. Accordingly, the position limits for Mentha Oil near month contract were revised to 40 MT at client level and 400 MT at member level from October 03, 2017. Further, the position limits at commodity level was also revised to 160 MT at client level and 1600 MT at member level during the said IP.

32. I further note that for the purpose of calculating positions at Group Commodity level, all long and short positions of the client mapped under the group across all contracts are added up separately and higher of the two (long or short side) are considered at Group overall open position at Commodity Level. Similarly, at Near Month Contract level, netted long and short positions in the near month contract across all clients mapped under the group are grossed up separately and higher of the two (long or short side) are considered at Group Near Month Contract position level. The applicable Maximum allowable open position limits for Agricultural commodities are determined on a yearly basis, as per the Exchange Circular no. MCX/S&I/289/2017 dated August 14, 2017.

33. I note, from the details submitted by the MCX, that Position Limit violation by connected entities as group together in Mentha Oil during December 2017 to March 2019, was as under:

Table No. 5

Commodity Level (Mentha Oil) Position limit Violation:

Month & Year	No. of Instances During the Month	Potential Penalty as Group (in Crores)
Jan-18	15	3.64
Feb-18	4	0.30
Mar-18	15	4.15
Apr-18	21	10.46
May-18	13	0.86
Grand Total	**68**	**19.42**

Table No. 6

Near Month Contract Level Position Limit Violation:

Expiry Month	No. of Instances During the Expiry Month	Potential Penalty as Group (in Crores)
Dec 2017	9	0.97

Expiry Month	No. of Instances During the Expiry Month	Potential Penalty as Group (in Crores)
Jan 2018	22	5.01
Feb 2018	12	1.01
Mar 2018	13	2.41
Apr 2018	21	8.20
May 2018	22	6.18
Jun 2018	11	0.72
Aug 2018	15	2.04
Sep 2018	4	0.45
Oct 2018	5	0.01
Total	**134**	**26.99**

34. I note from aforementioned tables that open position of connected entities combined together exceeds both client level near month contract and commodity level open interest limit prescribed by SEBI on 134 and 68 instances, respectively, during December 2017 to March 2019. Further, I find that, out of 134 instances of near month position limit violation, in most of the instances connected group entities had taken combined long position ranging from 40.32 MT to 204.48 MT, whereas permissible client level near month contract position limit in Mentha Oil was 40 MT. The highest combined client level near month contract position limit of connected entities as on April 20, 2018 was 204.48 MT. During the 252 days of commodity level position limit violation, connected entities had taken continuous combined long position ranging from 163.08 MT to 417.96 MT, whereas permissible client level commodity position limit in Mentha Oil is 160 MT. The highest combined commodity level long position of connected entities group was on March 28, 2018 *i.e*. 417.96 MT.

35. I note that Noticee No 7 to Noticee No 21 being connected entities were trading at Mentha Oil future. They have been combined as a group together and thereby they have violated applicable position limit at commodity level on 68 instances (refer Table No. 5) and client level near month position limit on 134 instances (Table No 6) in Mentha Oil contract as permissible by MCX during IP. Further, I note that by such frequent nature of such trades by the Noticee No 7 to Noticee No 21 as group, they had avoided a penalty of ₹46.41 crore (Near month + Commodity Level) by not disclosing the collective beneficial position. This avoidance was made possible through active concealment of the actual beneficial positions through multiple

holdings of seemingly non-connected entities while using the device of layering of funds to assume the positions.

36. I note from the bank statements as available on record that Group A entities and Group B entities, have received majority of their funds from NEFM directly or indirectly through proxy entities. The details of the fund trail are given below:

Table No. 7

Sl. No.	Funding Entity	Funded Entity	Paid (in Rs Crores)	Received (in Rs Crores)
1	North End Foods Marketing Pvt. Ltd. ("NEFM)	Vimuk	3.20	7.50
		Invictus	168.80	9.25
		Yash Gupta	62.27	79.67
		Saurabh Vaish	14.00	25.94
		Gaurav Gupta	29.654	27.65
		APMV	8.00	2.33
	Total		**285.92**	**152.34**
2	Gaurav Gupta (Proxy)	NEFM	28.25	36.45
		Abhishek Aggarwal	16.05	9.75
		Vikram Gupta	3.90	0.00
		Alok Kumar Singh	4.65	0.00
		Neetu Gupta	9.70	8.30
	Total		**62.55**	**8.30**
3	Saurabh Kumar Vaish (Proxy)	NEFM	29.1	26.95
		Neetu Gupta	9.45	14.60
		Vikram Gupta	17.5	15.46
	Total		**56.05**	**57.01**
4	Vimuk Enterprises ("Vimuk") (Proxy)	NEFM	14.20	14.20
		Reindus	10.86	0.06
	Total		**25.06**	**14.26**
5	Rapid Credit and Holdings Pvt. Ltd (Proxy)	RCS	0.00	412.00
		Invictus	121.28	136.89
		Sita Ram HUF	3.72	0.95
		Abhishek Mishra	0.00	0.94
		Neeru Gupta	5.03	1.67
		Shamugpriya	5.65	0.90
	Total		**135.68**	**553.35**
6	Invictus Stock Research Private Ltd. ("Invictus")	NEFM	122.45	0.00
		Rapid	0	121.33
		Abhishek Mishra	14.13	0.00
		APMV	29.67	5.07
		A G Agri	8.30	0.90
		RCS	120.89	52.62
	Total		**295.44**	**179.92**
7	Neetu Gupta	Gaurav Gupta	10.90	13.80
		Saurabh Vaish	14.60	9.45
	Total		**25.50**	**23.25**
8	Abhishek Aggarwal	Gaurav Gupta	11.15	17.00

Sl. No.	Funding Entity	Funded Entity	Paid (in Rs Crores)	Received (in Rs Crores)
		Rapid	1.1	5.65
		R K	9.05	0.30
9	Shamugpriya	APMV	0	4.52
	Total		**10.15**	**10.47**

37. I note that in the instant case, the Group A and Group B used the funds received from the proxy entities and NEFM for taking delivery of Mentha Oil worth 168.45cr from the exchange platform. The details of delivery of Mentha Oil is by connected entities a follows: -

Table No. 8

Client Name	Dec-17	Jan-18	Feb-18	Mar-18	Apr-18	May-18	Jun-18	Jul-18	Aug-18	Total
NEETU GUPTA	-	-	-	-	-	-	-	-	32.40	**32.40**
ABHISHEK AGGARWAL	-	-	-	32.40	10.80	-	34.56	21.60	6.48	**105.84**
VIKRAM GUPTA	-	32.40	-	-	-	-	-	-	-	**32.40**
YASH GUPTA	-	-	-	-	-	38.88	-	-	-	**38.88**
ALOK KUMAR SINGH	-	-	-	-	-	-	-	-	32.40	**32.40**
ABHISHEK MISHRA	-	32.40	25.92	34.56	-	-	-	-	-	**92.88**
APMV STOCKS & COMMODITIES PRIVATE LIMITED	28.08	36.72	25.92	25.92	34.56	-	-	-	-	**151.20**
INVICTUS STOCK RESEARCH PRIVATE LIMITED	28.08	36.72	25.92	23.76	38.88	38.88	34.56	-	-	**226.80**
FANCOS TRADEMART PRIVATE LIMITED	15.12	36.72	4.32	21.60	36.72	38.88	-	-	-	**153.36**
SHAMUGPRIYA INTERNATIONAL PVT LTD	-	-	-	-	-	38.88	21.60	6.48	-	**66.96**
SITA RAM (HUF)	-	-	-	-	-	8.64	-	-	-	**8.64**
VIRENDRA KUMAR JAIN	-	-	-	-	-	-	-	-	19.44	**19.44**
REINDUS TRADEWAY PRIVATE LIMITED	-	-	-	-	-	-	-	-	38.88	**77.76**
Total										**1038.96**

Further, I find that in following instances funds received by the group B clients in close proximity to delivery date are reproduced in the table below:

Table No. 9

Clients Name	Date of First Trade in Mentha Oil during IP	Delivery Taken Month	Value of Delivery taken (in Cr.)	Fund received from Funding Entity (Rs. in Cr.)	Period of receipt of funds from NEFM
Alok Kumar Singh	28-Aug-18	Aug-18	6.67	7.15 (Gaurav Gupta)	27/08/2018 to 03/09/2018
Sita Ram HUF	31-May-18	May-18	1.13	1.55 (Rapid)	04/06/2018 to 28/06/2018
Reindus	27-Aug-18	Aug-18	8.00	8.14 (Vimuk)	28/08/2018 to 04/09/2018

Clients Name	Date of First Trade in Mentha Oil during IP	Delivery Taken Month	Value of Delivery taken (in Cr.)	Fund received from Funding Entity (Rs. in Cr.)	Period of receipt of funds from NEFM
APMV	19-Dec-2017	Dec 2017 to May 2018	24.79	25.67 (Invictus)	Dec 2017 to May 2018
Invictus	12-dec-2017	Dec 2017 to Jun 2018	34.94	59.90 (NEFM)	Dec 2017 to June 2018
Fancos	27-dec-2017	Dec 2017 to May 2018	23.74	-	-
Abhishek Mishra	24-Jan-2018	Jan 2018 to Mar 2018	14.71	10.22 (Invictus/Rapid)	Jan 2018 to Mar 2018
Shamugpriya	18-Apr-2018	May 2018 to July 2018	9.20	9.67 (Rapid/ APMV)	June 2018 to Aug 2018
Neetu Gupta	01-Dec-2017	Aug 2018	8.00	2.30 (Gaurav Gupta)	Aug 2018
Yash Gupta	18-May-2018	May 2018	5.08	13.40 (NEFM)	April 2018 to May 2018
Abhishek Agarwal	01-Dec-2017	Mar 2018 to Aug 2018	16.29	13.05 (Gaurav Gupta)	Mar 2018 to May 2018
Vikram Gupta	01-Dec-2017	Jan 2018	5.71	12.40 (Saurabh Kumar Vaish)`	Jan 2018

38. I note from the bank statements that details of Trading in Mentha Oil by other Group B entities and the respective funds trail from the other connected entities is as follows:

Table No. 10

Clients Name	Date of First Trade in Mentha Oil during IP	Trade Month	Value / Margin of Trades (Rs. in Cr.)	Fund received from NEFM / Funding Entity	Period of receipt of funds
A G Agri	01-Dec-2017	Dec 2017 to Nov 2018	99.72	8.30 (Invictus)	Jan-Aug 2018
Neeru Gupta	17 May 2018	May 2018	1.22	4.36 (Rapid)	Apr-Jun 2018
Saurabh Kumar Vaish*	21 Jan 2019	Jan–Feb 2019	1.59	13.60 (NEFM)	Dec 2017 - Mar 2018

39. I note from the above table no. 9 that connected entities traded in Mentha Oil future contracts for the first time during the IP, just before the expiry of the respective contracts through the funding by NEFM/Proxy entities/other connected entities. I also find that the funds were received in close proximity to delivery/position taken by those clients in the Mentha Oil contracts.

40. I find that Noticees in their submissions both oral and written, have contested the fact that the entities belonging to the Group of ‘A’ and Group ‘B’ category have

received funding from NEFM directly or indirectly through the proxy entities, have traded in Mentha Oil contracts and have also carried out off-market transfers of Mentha Oil stock. From the fund trails, I note that NEFM, directly or indirectly through its proxy entities *viz* Rapid, Gaurav Gupta, Saurabh Kumar Vaish and Vimuk Enterprises, transferred ₹350.35 crore (approx.) to Group B connected entities, who subsequently took delivery of Mentha Oil to the tune of ₹140.41 crore (861.84 MT) from the Exchange during the IP. Thus, I find that entire delivery of Mentha Oil taken by Group B entities on the exchange platform during IP was part of a scheme, which in effect resulted in cornering of the Mentha stock at the exchange platform.

41. Noticee 6 submitted that SEBI did not provide any evidence that they have received the any funding from the NEFM. In this regard, I note Notice 6 is part of the group and connected to other Noticees. that three entities *viz* Shamugpriya, Abhishek Mishra, and Sita Ram (HUF), out of the six entities (funded by Rapid) had traded in Mentha oil futures for the first time during the IP and had no prior trading experience in Mentha oil. I also note from the MCX inspection report dated December 28, 2018, that Shamugpriya reported Nil income under 'Revenue of operations' during F. Y. 2017-18 and had no prior experience of trading in Mentha oil. I find that Rapid is continuously granting loan/advances to the entities without prior experience and proper financial strength as per its discretion due to the reasons best known to it. Further, said Noticee unable to produce any supporting documentary evidence with respect to the funding on the basis of collateral to the connected entities. Thus, I find that Noticee 6 being a NBFC and part of group entity, is assisting in the formation of a scheme/artifice to corner the exchange deliverable stock of Mentha oil.

42. Noticee 12 submitted that existence of the common objective and purpose are essential and for this purpose placed reliance on Daichii Sankyo (supra) and MCX Stock Exchnage vs SEBI (supra). In this regard, I note that said Noticee is connected with other Noticees through common directorship (AG Agri), Off market equity share transfer (Rapid, Invictus, RCS), off market Mentha oil transfer (Invictus, Neetu Gupta & Abhishek Agarwal) and fund transfer (Rapid, RCS,

Invictus and Shamugpriya). Further, said Noticee has been unable to prove that the genuineness of the transactions and the reasons of undertaking such transactions. Noticee 12 has taken substantial amount i.e. 151.20 MT of Mentha Oil delivery during the Investigation Period from the exchange platform. Thus, considering the aforementioned facts and circumstances and close netted connection of the Noticee 12 with other Noticees, shows that said Noticee was acting in connivance with other connected entities in this case. In view of this, I note that aforementioned cases can be factually distinguished from the present case and thus, I reject such contention.

43. On perusal of the bank transfer details of NEFM I find that it had transferred funds to Invictus of Rs. 168.80 crores. I find that from the bank transfer details that Invictus has funded to other connected entities from the available bank statements is as follows:

Table No. 11

Funding entity	Funded entities	Fund paid	Fund received
Invictus	NEFM, Abhishek Mishra, APMV A G Agri and RCS	295.44	179.92

44. Furthermore, I note that Invictus is a related entity of 'RCS' and 'Rapid' through common directorship and shareholding (refer table no. 2). Thus, from the perusal of aforementioned facts, I find that Invictus along with its *alter ego* RCS and Rapid aided in carrying out the entire scheme by means of fund received from NEFM.

45. I note that Group B entities made off-market transfers of 490.76 MT Mentha Oil to Group A entities during March 2018 to September 2018 and same is not disputed by the Noticees. The details of off-market transfers of 490.76 MT Mentha Oil to Group A entities during March 2018 to September 2018 are given below:

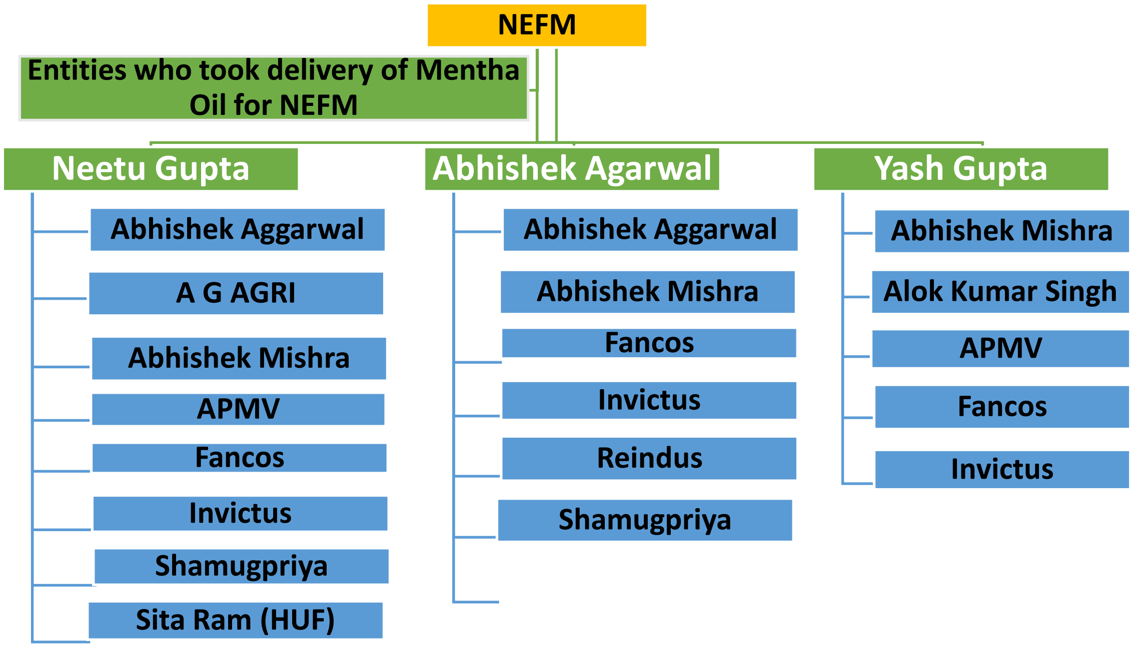
Table No.12

Date	Transferor Client Name	Transferee Client Name	Mentha Oil (in MT)
16/04/2018	Abhishek Aggarwal	Neetu Gupta	15.13
16/04/2018		Yash Gupta	2.16
17/04/2018			15.14
15/09/2018	A G Agri Mart Private Limited	Neetu Gupta	4.32
19/09/2018		Yash Gupta	10.80
17/04/2018	Abhishek Mishra	Abhishek Aggarwal	8.64

Date	Transferor Client Name	Transferee Client Name	Mentha Oil (in MT)
16/04/2018		Neetu Gupta	4.33
16/04/2018		Yash Gupta	6.48
17/04/2018			15.13
05/09/2018	Alok Kumar Singh	Abhishek Aggarwal	15.13
06/09/2018			12.96
10/09/2018			4.32
17/04/2018	APMV Commodities Private Limited	Abhishek Aggarwal	10.82
10/05/2018		Invictus Stock Research Private Limited	34.56
14/04/2018		Neetu Gupta	2.17
16/04/2018			13.00
17/04/2018	Fancos Trademart Private Limited	Abhishek Aggarwal	12.96
16/04/2018		Neetu Gupta	8.65
13/06/2018		Abhishek Aggarwal	38.91
10/05/2018		Yash Gupta	36.77
17/04/2018	Invictus Stock Research Private Limited	Abhishek Aggarwal	21.64
10/05/2018			34.56
14/04/2018		Neetu Gupta	2.16
10/05/2018			38.88
13/06/2018			38.93
07/07/2018		Yash Gupta	34.61
10/09/2018	Reindus Tradeway Private Limited	Yash Gupta	38.92
13/06/2018	Shamugpriya International Private Limited	Abhishek Aggarwal	23.79
13/06/2018		Neetu Gupta	15.13
09/08/2018			2.16
10/08/2018			2.16
13/08/2018			2.16
07/07/2018		Yash Gupta	21.62
13/06/2018	Sita Ram (HUF)	Neetu Gupta	8.65
11/09/2018	Virendra Kumar Jain	A G Agri Mart Private Limited	15.12
12/09/2018			4.32
Grand Total			**577.16**

46. Further, I find that as on June 22, 2018, Group A entities were holding 417.29 MT of Mentha oil which was 75.38% of deliverable stock (553.54 MT) at exchange platform. Further it is noted that by March 2019, the entire stock which was held by these entities (i.e. Abhishek Aggarwal, Neetu Gupta and Yash Gupta) was completely withdrawn.

47. In view of above facts and circumstances, I note that Group A and Group B entities along with proxy entities assisted and played its role in delivery of Mentha Oil from exchange platform. The graphical representation of the delivery taken for the ultimate beneficiary is provided below:



48. I note from the submission of the Noticees, that they have contended that they did not belong to any group nor did they act in concert with each other while dealing in the Mentha Oil. They submitted that they have traded in Mentha Oil futures and also have purchased Mentha Oil stock from the physical market in their respective individual capacities as commodity traders or agents on behalf of other principal commodity traders. Further, Noticees contended that the order received for Mentha Oil were directly or indirectly delivered to Group A entities on the instructions of NEFM. In this regard, I find that Noticees have not been able to provide sufficient corroborating evidence for eg: *any documentary evidence of the communication of the instruction details for delivery to Group A entities on procurement or the business/operation relationship with Group A entities,* the business/operation relationship with Group A entities to substantiate their claims before me.

49. At this stage I note that Noticee 22 submitted that insignificant volume is traded at the MCX in comparison to the total production of Mentha Oil during the year. Further, Noticee 17 submitted that stock as held by him of total deliverable stock,

could not affect the price of Mentha Oil in the physical market. In this regard, I note that the commodity trading and position taken, by any entity, on the exchange platform is independent of position of the commodity in the physical market. In the instant case, specific allegation has been made with respect to the said Noticee that whether they played role in the cornering of substantial amount of exchange traded deliverable receipt of the Mentha Oil. In the instant case, specific allegation has been made with respect to the Noticees that being a part of group they have played role in the cornering of substantial amount of exchange trade deliverable receipt of the Mentha Oil. Thus, such contention of the Noticee is not acceptable.

50. Noticee 17 submitted that it had the mandi license and a general agreement with NEFM for procurement of commodities in pursuance thereof, it had purchased the said quantity. In this regard, I note that, from the perusal of the documents submitted by the Noticee that it had not any Mandi license. Documents provided by the Noticee 17 clearly shows that mandi license is with the Jai Balaji Trading Company. Further, I note that purchase invoices also nowhere mentioned the name of the Noticee 17. Said Noticee has also been unable to provide any supporting documents wherein it had received the direction or consideration amount from NEFM for acquiring the Mentha Oil. Thus, such contention of the Noticee is not acceptable.

51. I note that Group ‘A’ entities have claimed that they were only providing handling and transportation services to NEFM, whereas, it has been observed that the stock of Mentha Oil in exchange approved warehouses were held in the names of respective Noticees as owners, hence the claim made by them about providing only handling and transportation services does not conform to their actual transactions.

52. I note that the funding to or procuring through such connected entities who are not physical market traders or have experience in commodity trading (first time traders *namely* Abhishek Mishra, Sita Ram (HUF), Reindus, Alok Kumar Singh, Fancos, Virendra Kumar Jain) (refer the table no. 4), is apparent to be with the intention to create a disguise in order to procure such large quantities from the Exchange

platform. I, further, note that there is no dispute pertaining to the fixed monthly payment received by the Group 'A' entities and certain proxy entities, and Group A entities have received the payment of warehouse rent from NEFM. In view of aforesaid circumstances, I note that Group A entities were having the knowledge of the fact that the stock was acquired through Exchange platform and the whole scheme was for cornering substantial amount of Menta oil stock. Furthermore, I find that deliverable receipt of Mentha Oil was accumulated/cornered with the assistance of connected entities *i.e.* Group A and Group B entities along with proxy entities and majorly trading through RCS, during the IP in a planned manner. Once a particular set of entities were identified and clubbed by the exchange, another set of connected entities were taking positions in the market. I find that Noticees abetted/assisted, NEFM in acquiring the dominant position in the Mentha Oil stock which has been done in a deliberate and blatant manner.

53. I note that Noticees have been cornering the Mentha Oil deliverable receipt on stock exchange platform through layering of funds and positions undertaken through connected entities. In other words, even though officially the trades were executed and the stock of Mentha Oil was held in the name of group A and Group B entities, the fund flow analysis showed that they were either receiving funds from NEFM or had indirectly funded them through proxy entities to buy Mentha Oil futures contracts and take delivery of the underlying stock of such huge quantities. The proxy entities did not trade or hold any position in Mentha Oil for themselves, but acted as conduits for transfer of funds from NEFM to Group A and Group B entities.

54. I find that Mentha Oil has been categorized as a narrow commodity on account of its low size of supply. Mentha Oil as a commodity has its peak season in June to November wherein historically most of the arrivals take place. It has entered into lean season from December 2018 which will last till April-May. Being a narrow and localized commodity, any concentration of large stocks with a single entity can be detrimental to price discovery. Any entity holding a sizeable stock conforming to the exchange specifications is in a position to dictate prices of futures contracts on Exchange during the lean season. Furthermore, the accumulated stock position is

that of exchange deliverable stock. This stock, which conform to quality specifications by the Exchange, is considered superior to the Mentha Oil stock ordinarily available in the physical market at large, hence generally commands a premium over the regular stock. It is only stock of this quality that is deliverable on the exchange platform and thus, which can serve as an underlying for deliverable trades and price discovery thereof. The application of such scheme or artifice by Noticee, to the detriment of the operation of the free forces of demand and supply in the securities market needs to be viewed seriously. If an investing party/group gets hold of a huge number of a specific security, it gives them power to manipulate the Mentha Oil future contract at exchange. The position limit is in place to ensure the fairness in the market. Thus, I find that, in the instant matter the Noticees assisted in the activity of cornering the Mentha Oil stock at exchange platform by taking positions in Mentha contracts in violation of the prescribed position limits and with an intention to dominate the future trading in commodities by engaging front entities. Thus, Noticees contentions that no action should be initiated when insignificant volume is traded at the MCX in comparison to the total production is not acceptable.

55. Noticee 6 submitted that there is no adverse finding against us in the entire SCN w.r.t fraudulent or unfair practice. Noticee contended that in our case there is no purchase/ sale and/or dealing in Mentha Oil contracts nor is there any allegation of any fraud or fraudulent practice against us. Thus, provision of section 15HA cannot be made applicable in our case. In this regard, I note that SEBI Act, being a social welfare legislation to ensure an orderly growth of securities market and to protect the interest of the investors, has to be interpreted for furtherance of its purpose and not to frustrate it. Hon'ble Supreme Court in **SEBI vs Ajay Agarwal** vide its judgment and order dated February 25, 2010 held as under:

39. If we look at the legislative intent for enacting the said Act, it transpires that the same was enacted to achieve the twin purposes of promoting orderly and healthy growth of securities market and for protecting the interest of the investors. The requirement of such an enactment was felt in view of substantial growth in the capital market by increasing participation of the investors. In fact

such enactment was necessary in order to ensure the confidence of the investors in the capital market by giving them some protection.
40. The said Act is pre-eminently a social welfare legislation seeking to protect the interests of common men who are small investors.
41. It is a well -known canon of construction that when Court is called upon to interpret provisions of a social welfare legislation the paramount duty of the Court is to adopt such an interpretation as to further the purposes of lawand if possible eschew the one which frustrates it.

56. Further, a beneficial statute has to be construed in its correct perspective so as to fructify the legislative intent and provision in the statute granting incentives for promoting growth and development should be construed liberally, so that real object of such enactments not frustrated - **Bajaj Tempo Ltd. v. CIT** AIR 1992 SC 1622. Therefore, the interpretation of socio-economic legislation such as the SEBI Act, which are also aimed at social or economic development apart for investor protection, should not be narrow but should be in the perspective favouring the securities market and investors having regard to 'teleological purpose and protective intendment of the legislation.

57. I find that in the instant case Noticee 6 did not directly participate for taking position in the deliverable receipt of the Mentha oil at exchange, however it had played its role by providing funding to Rapid has transferred amounts to six (6) Group B entities including Invictus (under common directorship and shareholding and also funded by NEFM), Shamugpriya, APMV, Abhishek Mishra, Neeru Gupta and Sita Ram (HUF). All 6 entities which were funded by Rapid were clients of RCS. I also note that by actively concealing its role in the entire scheme while funding connected, Noticees played its part in the entire scheme of unfair practice *i.e*. cornering of significant amount of Mentha Oil future contract. I also note that such scheme of building up open interest above position limits set by SEBI has also interfered with the forces of supply and demand operating normally in the market, which is harmful to market integrity and undermines the free and fair process of determining the price of the commodity. In view of the above, I am of the view that

Noticee 6, by granting loans to connected entities without exercising any care and due diligence, just acted as intermediate for the sake of creating layers in the funds movement. Thus, I am of the view that WTM (SEBI) order dated 28.05.2021 in the matter of Tatia Global Vennture Limited (supra) can be factually distinguishable from the instant adjudication proceedings.

58. I note that Noticees submission that no alert was generated by any regulatory body to the public regarding the trading in the scrip is devoid of any merit. Any trading pattern which may not have been thrown up as surveillance alert based on surveillance parameters, does not mean such a trade is not fraudulent. Whether there is any concern with respect to trading pattern in scrip is a subject matter of examination / investigation in that scrip and its outcome. Any direction or measure, if warranted, based on the outcome of such examination/investigation, is a *post facto* action taken to safeguard the interest of investors in securities market and protect the market from further damage, as done in the instant case. Thus, the time taken to arrive at such decision/action is a subjective matter and depends on the complexity of the matter, its scale and *modus operandi* involved. Further, I note that Supreme Court in the matter of **SEBI vs Rakhi Trading Private Ltd.** (MANU/SC/0096/2018) held that - "*The platform of the stock exchange has been used for a non-genuine trade. .... The stock market is not a platform for any fraudulent or unfair trade practice. The field is open to all the investors.... It also has an adverse impact on the fairness, integrity and transparency of the stock market*." Thus, I do not find any merit in the said contention of the Noticees.

59. Noticees submitted that strict proof along with compelling evidence required for a serious charge of 'fraud'. For this purpose, reliance has been placed on the Hon'ble SAT orders viz R. K. Global v/ s SEBI (Appeal no. 158/2008 decided on 16.09.2010); Narendra Ganatra v/ s SEBI (Appeal No 47 of 2011 _ decided on 29.07.2011); Sterlite Industries (India) Ltd. V. SEBI (2001) 34 SCL 485 (SAT); Parsoli Corporation v/ s SEBI (Appeal No 146/2011 decided on 12.08.2011) and Hon'ble Supreme Court judgments *viz* Ram Sharan Yadav v/ s Thakur Muneshwar Nath Singh (AIR 1985 SC 24). In this regard, I note that aforementioned orders of appellate court can be distinguishable since the instant adjudication proceedings

are civil in nature and charges can be proved on the basis of preponderance of probabilities. Thus such contention of the Noticee is not acceptable. For this purpose, I have placed reliance on following judgments of Hon'ble Supreme Court:

a) ***SEBI vs Rakhi Trading Private Ltd.*** *(supra), wherein the Apex Court held that "the entities were engaged in a fraudulent and unfair trade practice while dealing in Options and hence were liable for violation of SEBI (PFUTP) Regulations". The Hon'ble Apex Court has also held that in the absence of direct proof of meeting of minds, the test should be one of preponderance of probability and also stated that the conclusion has to be gathered from various circumstances like volume of trade, period of persistence of trading, particulars of buy and sell orders, proximity of time between the two and such other relevant factors.*

b) ***SEBI vs Kishore R Ajmera*** *(AIR 2016 SC 1079), wherein it was held that: "'* ... *According to us, knowledge of who the 2nd party/ client or the broker is, is not relevant at all. While the screen-based trading system keeps the identity of the parties anonymous it will be too naive to rest the final 9 conclusions on said basis which overlooks a meeting of minds elsewhere. Direct proof of such meeting of minds elsewhere would rarely be forthcoming. The test, in our considered view, is one of preponderance of probabilities so far as adjudication of civil liability arising out of violation of the Act or the provisions of the Regulations framed there under is concerned…The conclusion has to be gathered from various circumstances like that volume of the trade effected; the period of persistence in trading in the particular scrip; the particulars of the buy and sell orders, namely, the volume thereof; the proximity of time between the two and such other relevant factors. The illustrations are not exhaustive..."*

c) ***Kanaiyalal Baldev Bhai Patel v. SEBI*** *[(2017) 143 SCL 124 (SC)} have observed that: " ... To attract the rigor of Regulations 3 and 4 of the 2003 Regulations, mens rea is not an indispensable requirement and the correct test is one of preponderance of probabilities ... ". "…The inferential conclusion from the proved and admitted facts, so long the same are reasonable and can be legitimately arrived at on a consideration of the totality of the materials, would be permissible and legally justified ... "*

60. Considering the totality of circumstances, I note that in this case the unfair trade practice at the platform of exchange was devised in order to deliberately mislead the market and get hold of a dominant stock position in Exchange specified quality of Mentha Oil and to circumvent the said SEBI Circular on position limit compliance. Further, I note that premeditated arrangement and concealment of the same is an artifice to control the market of Mentha Oil future contract and can disturb the market equilibrium and harm market integrity and operated as deceit to the market. Thus, I find that the Noticees by concealing whole scheme wherein trades were done/funds transferred by the connected entities without disclosing their connection deliberately mislead the market and thereby, they get hold of a dominant stock position in comparison to the Exchange specified quality of Mentha Oil.

61. I note that Regulation 4(1) to the PFUTP Regulations before 2019 read as "*without the prejudice to the provisions of regulation 3, no person shall indulge in a fraudulent or an unfair trade practice in securities*". Thus, Regulation 4(1) has put the complete prohibition on all fraudulent or unfair trade practice relating to securities market. I note that Regulation 3 prohibits certain dealings in securities, whereas regulation 4 prohibits fraudulent and unfair practices. While unfair trade practice is not defined in the PFUTP Regulations, it is not difficult to ascertain true meaning of these terms and consequent scope and ambit of Regulation 4(1), by reading the various terms defined in and the objective of, PFUTP Regulations, 2003, as a whole. I am of the view that objective of the PFUTP Regulations is to prohibit any fraudulent or unfair trade practice which can impact the integrity of the security market.

62. At this stage, I note from aforementioned paras, that Noticees acted as conduits in cornering substantial amount of deliverable receipt of Mentha Oil. Supreme Court in the matter of **SEBI vs Kanaiyalal Baldev Bhai Patel (2017) 15 SCC 1 held** that *Broadly trade practice is unfair if the conduct undermines the ethical standards and good faith dealings between parties engaged in business transactions.* Further, Supreme Court in the case of **SEBI vs Rakhi Trading Private Limited** (2018) 13 SCC 753, held that: "*Having regard to the fact that the dealings in the stock*

exchange are governed by the principles of fair play and transparency, one does not have to labour much on the meaning of unfair trade practices in securities. Contextually, it means a practice which does not conform to the fair and transparent principles of trades in the stock market....”

63. In view of above facts and circumstances of the case, I find that Noticee 3 to Noticee 21, through a premeditated arrangement and artifice for active concealment of actual beneficiary positions and in violation of position limits as prescribed by SEBI, has deliberately accumulated/ cornered stock of Mentha Oil through connected Noticees. Noticees played a role of conduit and assisted the NEFM to take an influential beneficiary position in Mentha Oil contracts through unfair means and misuse of the exchange mechanism. Furthermore, through the artifice of accumulation of open interest beyond position limits specified by SEBI, the Noticees has also interfered with the normal operation of the forces of demand and supply in the market which was detrimental to market integrity thereby defeating the free and fair price discovery process of the commodity. In the light of above findings of Supreme Court and facts and circumstances of the present case, I find that by actively concealing ultimate beneficial ownership of Mentha Oil stock so acquired, Noticees has created false and misleading appearance of trades wherein trades were done/funded by Noticees without disclosing their connection.

64. Considering the detailed discussion so far in above paras, I note that Noticee No 3 to Noticee No 21 had failed to disclose their *inter-se* connection amongst them while they were trading on Mentha Oil futures on the Exchange. Further, as established from the above paras that aforesaid Noticees 3 to Noticee 21 are working under scheme with the common objective to corner the substantial amount of Mentha Oil future contract. Thus, in this case said Noticees have been considered as a single entity for the purpose of calculation of position limits as prescribed by SEBI Circular dated September 27, 2016 and SEBI Circular dated July 25, 2017. In view of totality of aforesaid circumstances, I note that Noticee No. 3 to Noticee No. 21 are liable for violation of the provisions of Section 12A (a), (b), (c) of SEBI Act and Regulation 3 (a), (b) (c) and (d) and Regulation 4 (1) & 4 (2) (a) of PFUTP Regulations r/w SEBI Circulars No. CDMRD/DMP/CIR/P/2016/96

dated September 27, 2016 and SEBI/HO/CDMRD/DMP/CIR/P/2017/84 dated July 25, 2017.

Issue II: Whether Noticee 22 has violated the Code of Conduct for Stock Brokers as specified in Schedule II under Regulation 9 of Stock Brokers Regulations?

&

Issue III: Whether Noticee 22 to Noticee 25 have violated the provisions of Section 12A (a), (b), (c) of SEBI Act and Regulation 3 (a), (b) (c) and (d) and Regulation 4 (1) of PFUTP Regulations?

65. I note that due to the interconnectedness of the 'Issue II' and 'Issue III', I find that it fits to deal with the aforementioned issues together in the upcoming para.

66. I note that RCS is connected with Invictus through common directorship, common address and common contact details and shareholding. 11 connected entities *namely*, A G Agri, Abhishek Mishra, APMV, Fancos, Invictus, Neeru Gupta, Reindus, Shamugpriya, Shivrudra, Sita Ram (HUF) and Virendra Kumar Jain, have traded in Mentha oil contracts through RCS. I also note that that proxy entity, Rapid' an NBFC through which funding to multiple connected entities was done, is connected with trading member RCS through common directorship. Furthermore, I find that Noticee 22 has admitted that majority of these connected entities trading through the exchange platform are known to him.

67. Noticee 22 submitted that Rapid and RCS both are having completely different businesses and are run and managed independently by different professionals. In this regard, I note that it is relevant to observe that the connection amongst the Noticees, whether direct or indirect, is considered one of the bases for alleging the connection between the Noticees and not any violation in itself. Further, I note that it is reasonable to assume that a director would know/participate in the work of the Company in which he/she is the director. Thus, by having a common directorship in two entities, it would be reasonable to conclude that entities are connected Furthermore, I note from the perusal of the unique client code (UCC) details that Noticee 22 is connected with Rapid based on the common mobile number, e-mail, and address of Navdeep Varshneya.

68. Noticee 22 contended that Neeru was not a director during examination period i.e. from 01.12.2017 to 31.08.2018. Hence, no adverse inferences of any nature ought to be drawn on the aforesaid ground. In this regard I note that in the table no. 2 connection has been alleged on the basis of Neeru Gupta being a promoter-shareholder (with 53% shareholding) and previous director. Thus, such contention of the Noticee is not acceptable.

69. With respect to the In Person Verification (IPV), and, I note from the perusal of the MCX letter having reference no. MCX/INSP/CNU/SM/ 1920/679 dated October 31, 2019, that Noticee 22 has duly conducted the IPV with respect to all the 11 connected entities which traded through RCS. Furthermore, with respect to the allegations that RCS did not collect adequate margin, I note from the perusal of the Review closure letter having reference no. MCX/1NSP/CNU/SM/20-21/1004 dated December 10, 2020, that no adverse reference drawn by the exchange and reply of the Noticee 22 is accepted. Thus, the reply of the Noticee 22 is accepted in this regard.

70. With respect to the disproportionate exposure to the clients to client's updated financial information Noticee 22 submitted that we provided exposure of 10 times of income to our clients and if once it exceeds the limit of 10 times of their updated income range, we call upon the clients for requisite documents satisfying their positions. It is also submitted that policy before giving exposure to any client we need to check the Risk taking ability of the clients and the clients mentioned were registered with us either in Equity or commodity almost from more than 5-7 years. In this regard I note from the perusal of MCX reports dated December 28, 2018 and letter having reference no. MCX/INSP/CNU/SM/ 1920/679 dated October 31, 2019 and Review closure letter having reference no. MCX/1NSP/CNU/SM/20-21/1004 dated December 10, 2020 that Noticee 22 was held liable for giving disproportionate exposure to the clients to client's updated financial information i.e. income/ net worth/ profit. I also note that Noticee 22 being a member of a stock exchange cannot start giving exposure to its client on its own discretion while flouting the norms as prescribed by exchange. Further, I note that said Noticee

submitted that it provided exposure of 10 times of income to its clients and if once it exceeds the limit of 10 times of their updated income range, its call upon the clients for requisite documents satisfying their positions is not backed documentary evidence. Furthermore, I note that Noticee 22 has failed to do the due diligence with respect to the registering of the client, and the same is also observed in the exchange in its letter dated December 10,2020.

71. I also note that Noticee submitted that there no adverse findings on the motive or intent on the trades executed on MCX by us on behalf of clients. In this regard, I note major observation of the MCX report which are as follows:
    a. The KYC documents of one of the director/authorized signatory of Fancos and Samugpriya was fabricated since the photograph and address of Mr. Vinay Kumar Gupta of Fancos and Mr. Alok Ray of Samugpriya were identical which indicated an element of fraud in submission of KYC to trading member namely, RCS.
    b. Aforementioned 11 connected entities (refer para 66) traded through RCS, RCS has given exposure to the clients disproportionate to the clients' updated financial information i.e. income/net worth/profit.
    c. No adequate system in place to generate & scrutinize alerts based on set parameters for suspicious transactions and report them to Financial Intelligence unit.
    d. Enhance due diligence measures have not been applied for clients (with respect to 11 entities) categorized as high risk and special category
    e. 9 connected entities were funded by RCS or its connected entities such as ‘Rapid’/Invictus in the form of funds and securities.
    f. Securities received / transferred from/to clients as collaterals were not recorded in books of accounts of RCS.

72. Noticee 22 has submitted that there is no adverse finding with respect to his trade on the MCX platform. Further, Noticee 22 submitted that merely because we executed transaction of the clients on the floor of the exchange. In this regard, I note from the aforementioned paras that said Noticee has played an active role by enabling other Noticees by executing their trades and by channelizing funds to

Group B entities through its connected entities Rapid and Invictus. Further, RCS did not raise any alerts regarding trading of these clients. Thus, it is reasonable to conclude that by not following the adequate due diligence with respect to the reporting to stock exchanges Noticee 22 had played its part in the whole scheme *i.e.* cornering of the Mentha Oil future contract.

73. In view of the above, I find that RCS has failed to act with due skill, care and diligence in the conduct of its business and thereby also violated clauses A (1), A (2) and A (4) of Code of Conduct for Brokers as specified in Schedule II under regulation 7 of SEBI (Stock Brokers and Sub-Brokers) Regulations, 1992 (hereinafter referred to as "**Stock Brokers Regulations**").

74. I note that it is clear from the preceding para that Noticee 22 is a connected entity and has played an active role in the scheme of cornering the substantial amount Mentha Oil future contract. Further, I note that Noticee No 23-25 are directors of the Noticee 22 (commodity member).

75. At this stage it is imperative to state that being an artificial person, a company can function only as per the directives of and under the superintendence of its Board of Directors which comprises natural persons with appropriate abilities and expertise to run the company. The Board of Directors is the source of the wisdom and thus, performs those functions for a company that are performed by a brain for an individual person. In view of the same, all commission and omissions on part of a company have to be necessarily attributed to its Directors who ran the affairs of such a company at the time of the alleged violations. Thus, the corporate veil could be ignored so as to find out the actual party who is guilty and hold him liable. I note that the duty and responsibility of directors of a company, has been explained by appellate courts in following cases: The Hon'ble Supreme Court, while describing what is the duty of a director of a company, held in ***Official Liquidator vs P. A. Tendolkar*** *(1973) 1 SCC 602* that: *"...a Director may be shown to be placed and to have been so closely and so long associated personally with the management of the company that he will be deemed to be not merely cognizant of but liable for fraud in the conduct of business of the company even though no specific act of*

dishonesty is provide against him personally. He cannot shut his eyes to what must be obvious to everyone who examines the affairs of the company even superficially..." Further, Hon'ble SAT in the matter of ***Mr. N. Narayanan vs SEBI*** (order dated October 05, 2012) held that: *"With the changing scenario in the corporate world the concept of corporate responsibilities is also rapidly changing day by day. The director of a company cannot confine himself to lending his name to the company but taking light responsibility for its day to day management. While functions may be delegated to professionals, the duty of care, diligence, verification of critical points by directors cannot be abdicated. The directors are expected to have a hands on approach in the running of the company and take up responsibility not only for the achievements of the company but also the failings thereto."*

76. I also note that during Investigation Period, Directors of RCS *viz* Rajendra Kumar Gupta, Navdeep Varshney and Divya Varshney, along with Neeru gupta (family member) had controlling stake of 86% in RCS and Invictus. The directors as part of the Board of Directors are responsible for running the company's business and have statutory duty towards the Company to act diligently and are responsible for the operations of the Company. Further, I note that RCS is directly connected with Invictus and Rapid through common directors and promoters/shareholding. Therefore, being directors of the connected entities they are directly involved in the whole scheme and are complicit in the entire scheme or artifice. Further, Rajendra Kumar Gupta, Navdeep Varshneya and Sundeep Chadha, have not been diligent in compliance of the act and conduct of RCS, Invictus and Rapid and thereby they have played a major role in the scheme/artifice Thus, I find that the directors (Noticee 23 to Noticee 25) have aided and facilitated in deceptive transactions or schemes with a view to distorting market which regarded as the unfair trade practice in securities. Considering the aforementioned circumstances, I find that Noticee 22 to Noticee 25 are liable for the violation of regulation Section 12A (a), (b), (c) of SEBI Act and Regulation 3 (a), (b), (c) and (d) and Regulation 4 (1) of PFUTP Regulation.

Issue No. IV. If answer to any of the above Issues I, II, II are yes, whether Noticees' act would attract monetary penalty under Section 15HA and 15HB of

the SEBI Act? If so, what would be the amount of monetary penalty that can be imposed upon the said Noticees taking into consideration of the factors stipulated in Section 15J of the SEBI Act read with Rule 5(2) of the SEBI Adjudication Rules.

77. I note that, in the present issue, it is pertinent to refer to the decision of the Apex Court in the matter of ***SEBI vs Shri Ram Mutual Fund*** (Appeal Civil 9523-9524 of 2003) dated May 23, 2006, wherein it is held that *"In our considered opinion, penalty is attracted as soon as the contravention of the statutory obligation as contemplated by the Act and the Regulations is established*".

78. I note that from the proceedings paras that Noticees has concealed the connection between each other and they acted as conduits in the whole scheme so that a significant amount of Mentha Oil future contract accumulated/cornered. This unfair trade practice created a dominant position by connected Noticees which had the potential to disturb the market equilibrium and harm market integrity and operated as deceit to the market. Thus, I note that Noticee 3 to Noticee 21 being part of the whole scheme/artifice are liable under 15HA for the violation of Section 12A (a), (b), (c) of SEBI Act and Regulation 3 (a), (b) (c) and (d) and Regulation 4 (1) of PFUTP Regulations r/w SEBI Circulars No. CDMRD/DMP/CIR/P/2016/96 dated September 27, 2016 and SEBI/HO/CDMRD/DMP/CIR/P/2017/84 dated July 25, 2017. Further, Noticee No 7 to Noticee No 21 have traded in the Mentha Oil future contract at the exchange are also liable under 15HB for the violation of SEBI Circulars No. CDMRD/DMP/CIR/P/2016/96 dated September 27, 2016, and SEBI/HO/CDMRD/DMP/CIR/P/2017/84 dated July 25, 2017.

79. At this stage, I also note that it is clear from the facts that Noticee No 3 to Noticee No. 6 have not traded at the exchange floor. They are proxy entities who facilitated in the fund transfer between the connected entities. Thus, I note that since Noticee No 3 to Noticee No. 6, had not traded in Mentha Oil future at the exchange floor, said Noticees are not liable under 15HB for breaching the total permissible limit as specified by the SEBI Circulars CDMRD/DMP/CIR/P/2016/96 dated September 2016 and SEBI/HO/CDMRD/DMP/CIR/P/2017/84 dated July 25, 2017.

80. Noticee 22 being a trading member has a duty to act with due skill, care, and diligence in the conduct of its business operation. However, Noticee 22 being a part of the whole scheme/artifice has aided and facilitated unfair practices which impacted the market integrity while flouting its duty as a commodity member to generate alerts. Thus, I am of the view that Noticee is liable for the penalty under 15HA of the SEBI Act for the violation of Section 12A (a), (b), (c) of the SEBI Act and Regulation 3 (a), (b) (c) and (d) and Regulation 4 (1) of the PFUTP regulation and under 15HB of the SEBI Act for the violation of clauses A (1), A (2) and A (4) of the Code of Conduct for Brokers. Further, Noticee 23 to Noticee 25, being a director of the company ('RCS') and being a part of the scheme due to their connection with other Noticees, they are liable under 15HA for the violation of Section 12A (a), (b), (c) of SEBI Act and Regulation 3 (a), (b) (c) and (d) and Regulation 4 (1) of PFUTP regulation.

81. I note that having regard to the factors listed in section 15J of the SEBI Act read with Rule 5(2) of the Adjudication Rules, which provides that factors while adjudging quantum of penalty, and in the light of the Supreme Court's judgment in the matter of **SEBI vs Bhavesh Pabari** (2019) 18 SCC 246, I note from the material available on record, any quantifiable gain or unfair advantage accrued to Noticee or the extent of loss suffered by the investors as a result of the default, in this case, cannot be computed.

G. Order

82. After taking into consideration the nature and gravity of the violations established in the preceding paragraphs, the factors mentioned under 15J of SEBI Act, and the principle pronounced under the judgement of **Bhavesh Pabari** (Supra) and in exercise of the powers conferred upon me under section 15-I of the SEBI Act read with Rule 5 of the Adjudication Rules, I hereby impose following penalty under Section 15HA and Section 15HB of the SEBI Act on the following Noticees:

<table>
<tr><th>S. No.</th><th>Noticee No.</th><th>Entities Name</th><th>PAN</th><th>Penalty under Section</th><th>Penalty(Rs)</th></tr>
<tr><td>1</td><td>3</td><td>Gaurav Gupta</td><td>ARLPG4012E</td><td rowspan="4">15 HA of SEBI Act</td><td rowspan="4">Rs 5,00,000/- (Rupees Five Lakh Only) on each Noticee No 3 to Noticee No 6 under Section 15 HA of SEBI Act

(Individual Liability)</td></tr>
<tr><td>2</td><td>4</td><td>Saurabh Kumar Vaish</td><td>AEHPV0866L</td></tr>
<tr><td>3</td><td>5</td><td>Vimuk Enterprises</td><td>AANFV4919L</td></tr>
<tr><td>4</td><td>6</td><td>Rapid Credit & Holdings Pvt Ltd</td><td>AAACR0021K</td></tr>
<tr><td>5</td><td>7</td><td>A G Agri Mart Private Ltd.</td><td>AAJCA9398M</td><td rowspan="15">15HA of SEBI Act
&

15HB of SEBI Act</td><td rowspan="15">Rs 5,00,000/- (Rupees Five Lakh Only) on each Noticee No 7 to Noticee No 21 under Section 15 HA of SEBI Act

(Individual Liability)

&

Rs 1,00,000/- (Rupees One Lakh Only) on each Noticee No 7 to Noticee No 21 under Section 15 HB of SEBI

(Individual Liability)</td></tr>
<tr><td>6</td><td>8</td><td>Abhishek Agarwal</td><td>AIDPA1545K</td></tr>
<tr><td>7</td><td>9</td><td>Neetu Gupta</td><td>AJOPG5806B</td></tr>
<tr><td>8</td><td>10</td><td>Vikram Gupta</td><td>AAOPG1467H</td></tr>
<tr><td>9</td><td>11</td><td>Invictus Stock Research Private Ltd</td><td>AACCI4638M</td></tr>
<tr><td>10</td><td>12</td><td>APMV Stocks & Commodities Private Ltd.</td><td>AAICA9644F</td></tr>
<tr><td>11</td><td>13</td><td>Fancos Trademart Private Ltd</td><td>AACF8546P</td></tr>
<tr><td>12</td><td>14</td><td>Abhishek Mishra</td><td>APHPM6773J</td></tr>
<tr><td>13</td><td>15</td><td>Shamugpriya International Pvt Ltd</td><td>AAYCS6149K</td></tr>
<tr><td>14</td><td>16</td><td>Neeru Gupta</td><td>ADTPG9314M</td></tr>
<tr><td>15</td><td>17</td><td>Yash Gupta</td><td>BTKPG6004J</td></tr>
<tr><td>16</td><td>18</td><td>Sita Ram (HUF)</td><td>ABCHS8882F</td></tr>
<tr><td>17</td><td>19</td><td>Virendra Kumar Jain</td><td>ABPPJ9524Q</td></tr>
<tr><td>18</td><td>20</td><td>Reindus Tradeway Private Ltd</td><td>AAICR9376D</td></tr>
<tr><td>19</td><td>21</td><td>Alok Kumar Singh</td><td>ACQPS1889K</td></tr>
<tr><td rowspan="2">20</td><td rowspan="2">22</td><td rowspan="2">R. K. Commodities Services Pvt Ltd</td><td rowspan="2">AADCR3305H</td><td>15HB of SEBI Act</td><td>Rs 5,00,000/- (Rupees Five Lakh Only) on each Noticee 22 under Section 15 HB of SEBI

(Individual Liability)</td></tr>
<tr><td>15HA of SEBI Act</td><td rowspan="4">Rs 10,00,000/- (Rupees Ten Lakh Only) on Noticee No 22 to Noticee No 25 under Section 15 HA of SEBI

(Joint and Several Liability)</td></tr>
<tr><td>21</td><td>23</td><td>Rajendra Kumar Gupta</td><td>ADTPG0459K</td><td rowspan="3">15HA of SEBI Act</td></tr>
<tr><td>22</td><td>24</td><td>Navdeep Varshneya</td><td>ADFPV9839A</td></tr>
<tr><td>23</td><td>25</td><td>Sundeep Chadha</td><td>AAHPC9809N</td></tr>
</table>

83. I find that aforementioned penalty is commensurate with the violation committed by the Noticees as mentioned in the above paras to meet the ends of justice in the present matter.

84. The Noticees shall remit / pay the said amount of penalty within 45 days of receipt of this order through online payment facility available on the SEBI website www.sebi.gov.in on the following path by clicking on the payment link. **ENFORCEMENT → ORDERS → ORDERS OF AO → PAY NOW**

21. 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 for realization of the said amount of penalty along with interest thereon, *inter alia*, by attachment and sale of movable and immovable properties.

Date: March 31, 2023 **Vijayant Kumar Verma**

Place: Mumbai **Adjudicating Officer**