BEFORE THE ADJUDICATING OFFICER

SECURITIES AND EXCHANGE BOARD OF INDIA

[ADJUDICATION ORDER NO. Order/VV/AA/2021-22/13634-13635]

UNDER SECTION 15-I OF SECURITIES AND EXCHANGE BOARD OF INDIA ACT, 1992 READ WITH RULE 5 OF SEBI (PROCEDURE FOR HOLDING INQUIRY AND IMPOSING PENALTIES) RULES, 1995.

In respect of

1. **Akriti Advisory Services Private Limited (now known as Jagruti Infra Developers Private Limited) (PAN: AAICA9057G)**
2. **Sarvottam Advisory Private Limited (PAN: AAMCS7291N)**

In the matter of Surabhi Chemicals & Investments Limited (Now known as Superspace Infrastructure Ltd.)

BACKGROUND OF THE CASE

1. Securities and Exchange Board of India (hereinafter referred to as '**SEBI**') conducted an investigation into the trading activities in the scrip of Surabhi Chemicals & Investments Ltd. (Now known as Superspace Infrastructure Ltd.) for the period of August 01, 2012 to January 06, 2015 for possible violation, if any, of the provisions of Securities and Exchange Board of India Act, 1992 (hereinafter referred to as "**SEBI Act**") and rules and regulations made thereunder.

2. The company is listed on Bombay Stock Exchange Limited (BSE). During the investigation period, the price of the scrip opened at Rs.2.52 on August 10, 2012 and reached a price of Rs.59.35 on April 09, 2013. After stock split in 10:1 ratio, price of the scrip opened at Rs.6.00 on April 10, 2013, reached a high of

Rs.123.00 on December 02, 2014 and closed at Rs.99.40 on January 06, 2015. Base on price volume movements, 3 patches, patch-1 (August 10, 2012 to April 09, 2013) and patch-2 (April 10, 2013 to September 04, 2013) and patch-3 (September 05, 2013 to January 06, 2015) were observed during the investigation period.

3. SEBI observed that neither the financials nor the corporate announcements made by the Company supported such a significant price rise of scrip during Patch-1 and Patch-2 of the Investigation Period. It was noted that Akriti Advisory Services Private Limited (hereinafter referred to as '**Noticee no. 1**") and Sarvottam Advisory Private Limited (hereinafter referred to as "**Noticee no. 2**") were connected with each other and during the Patch-2 of the Investigation Period, despite availability of pending buy orders of large quantities of shares in the trading system, had released shares in smaller quantities at prices higher than the Last Traded Price ("**LTP**"). Noticee no. 1 and Noticee no. 2 are hereinafter collectively referred to as "**Noticees**". It was observed that the said trading pattern of the Noticees resulted in positive LTP of Rs. 8.07, which was 24.80% of the total positive LTP during Patch-2 of the investigation period in the scrip of Surabhi.

4. On the basis of the above trading pattern of the Noticees, it was alleged that the Noticees were instrumental in establishing a price higher than the LTP and had contributed to increase in scrip price through unfair, manipulative and fraudulent trades. Based on the findings of the investigation, SEBI initiated Adjudication Proceedings against the Noticees for violation of the provisions of Regulations 3(a), (b), (c), (d) and Regulations 4(1), 4(2)(a) & (e) of SEBI (Prohibition of Fraudulent and Unfair Trade Practices Relating to Securities Market) Regulations, 2003 (hereinafter referred to as **'PFUTP Regulations**').

APPOINTMENT OF ADJUDICATING OFFICER

5. SEBI appointed Shri Jeevan Sonparote as Adjudicating Officer, vide order dated September 28, 2017, under Section 15-I of the SEBI Act read with Rule 3 of the SEBI (Procedure for Holding Inquiry and Imposing Penalties by Adjudicating Officer) Rules, 1995 (hereinafter referred to as '**Adjudication Rules**') to inquire into and adjudge under Section 15HA of the SEBI Act, the violations alleged to have been committed by the Noticee. Pursuant to the transfer of Shri Jeevan Sonparote, the undersigned was appointed as the Adjudicating Officer vide communique dated August 13, 2019.

SHOW CAUSE NOTICE, REPLY AND HEARING

6. A Show Cause Notice dated May 21, 2018 (hereinafter referred to as '**SCN**') was issued to the Noticees under Rule 4(1) of the Adjudication Rules to show-cause as to why an inquiry should not be initiated against the Noticees and why penalty should not be imposed upon the Noticees under Section 15HA of the SEBI Act for the alleged violation of Regulations 3(a), (b), (c), (d) and Regulations 4(1), 4(2)(a) & (e) of PFUTP Regulations.

7. I note from available records that Noticee no. 1, vide letters dated December 26, 2018 and April 16, 2021, had *inter alia* requested for additional time to respond in the matter. However, I note that Noticee no. 1 has failed to submit any reply on the merits of the matter till the date of this order.

8. I also note that Noticee no. 2, vide email dated August 24, 2021, submitted scanned copy of written submission dated September 9, 2021 and an additional written submission in the matter. Noticee no. 2 *inter alia* made the following submissions in the matter:
   (i) *At the outset, Noticee denies contributing to any positive LTP as alleged above. It was submitted that the Noticee had only traded in the Patch 2. Further, all such trades were carried out in the ordinary course of business. Moreover, at the time*

of trading, no word of caution or any red flags were raised by any authority. Infact, it is also submitted that there has been an inordinate delay of 7 years.

(ii) *It was also submitted that, SEBI has failed to take into account the impact of the corporate announcements on the price of the scrip. It was also submitted that; SEBI has erroneously concluded that there was no major corporate announcement which could support the significant price rise in the scrip. However, it is Noticee's contention is that each corporate announcement would have some positive impact upon the price of the scrip, and the same shall be taken into consideration.*

(iii) *It was also submitted that, Noticee never had any intention of trading in particular way. It was submitted that it had only traded in 778 shares throughout the investigation period. This amount forms a very miniscule portion of the trade carried out in this period.*

(iv) *It was also alleged that, the Noticee along with Akriti Advisory Services Private Limited had entered in 110 trades, out of which, it was alleged that 24 traded contributed to the positive LTP. Moreover, Noticee states that it had only entered into 9 trades out of these 24 trades. Thus, the Noticee's trades form a very miniscule portion of the trades when compared trades carried out throughout the investigation period. Therefore, it is submitted that the Noticee could not have manipulated the scrip price, as alleged in the SCN*

(v) *It was also submitted that, Noticee entered into the abovementioned trades because there were pending buy orders available. Moreover, it is submitted that as a seller, Noticee made every endeavor to sell to the best offer available. Moreover, since there was a bullish trend in the scrip, no prudent seller would sell all the shares at once. It was submitted that*

(vi) *every person has a right to sell at such price and such quantity, as it may deem fit. Merely by selling the shares at a particular price, Noticee could not have manipulated the scrip.*

(vii) *It was also submitted that, though the Noticee and Akriti Advisory Services Private Limited have common directors, however, there is no allegation that both were involved in circular trading. Further, the SCN has not established any relation of Noticee with the other Noticee mentioned in the SCN. Thus, it was submitted that, the Noticee has not indulged in any particular trading pattern and* *further, does not stand to gain from indulging in any form of trading, as alleged in the SCN.*

(viii) Without prejudice to the above, it was submitted that, promoters of Noticee, i.e., Mr. Dilip Doshi and Mr. TapanmDoshi ("the promoters") had acquired the Noticee on 28th February 2013. Noticee had a bank account with ING Vysya and a broking account and DP account with Shilpa Stock Broker Private Limited. It is pertinent to mention that, the authorized signatories of the bank accounts and the KYC of the Noticee remained unchanged even after being acquired by the promoters. Moreover, we submit that, the promoters had no knowledge of the said bank account and the fact that the authorized signatories have remained unchanged. It was also submitted that, the amount realized from selling of the shares are not utilized by Noticee.

(ix) It was also submitted that, one Mr. Kanchan Ramesh Mokal continued to be signatories of the abovementioned bank account, broking and DP Account. Moreover, it was Mr. Kanchan Ramesh Mokal, who had traded in the scrip. Thus, it is submitted that promoters of the Noticee, i.e., Mr. Dilip Jaisukhlal Doshi and Mr. Tapan Jaisukhlal Doshi had no knowledge of the any of such dealings by the erstwhile shareholdcrs/promoters of the Noticee.

(x) It is submitted that all the shares were sold by the erstwhile promoters. However, it is pertinent to mention that this DP account, from which all the transaction has been carried out, came to Noticee's knowledge much after all the shares were sold.

(xi) Therefore, the present Directors were unaware of such DP accounts, and are consequently unaware of the source and mode of acquisition of the shares of Surabhi Chemicals and Investments Limited.

9. The Noticees were granted opportunities of hearing on April 16, 2021 by the undersigned, vide hearing notice dated March 26, 2021. However, the Noticees did not avail the hearing opportunity granted to them. Thereafter, another opportunity of hearing was granted to the Noticees on July 8, 2021, vide hearing notice dated June 15, 2021. However, the Noticees again failed to avail the said hearing opportunity. Thereafter, Noticee no. 2, vide the aforesaid email

dated August 24, 2021, has stated that it does not require any hearing in the matter.

10. In view of the above, I now proceed further in the matter. I note that the Noticees had sufficient opportunities file written submissions in the matter and Noticee no. 2 has filed its submissions. The Noticees have also been granted sufficient opportunities of hearing in the matter, which they have not availed. I am of the view that principles of natural justice have been complied with in the present matter. Therefore, the present proceedings against the Noticees are undertaken on the basis of available documents and available submissions.

CONSIDERATION OF ISSUES

11. I have carefully perused the charges levelled against the Noticees, their reply and the documents / material available on record. The issues that arise for consideration in the present case are :

(a) Whether the Noticees have violated regulations 3(a), (b), (c), (d), 4(1), 4(2)(a) and 4(2)(e) of PFUTP Regulations?

(b) Does the violation, if any, attract monetary penalty under Section 15HA of the SEBI Act?

(c) If so, what would be the quantum of monetary penalty that can be imposed on the Noticee after taking into consideration the factors mentioned in section 15J of the SEBI Act?

12. Before proceeding further, I would like to refer to the relevant provisions of the PFUTP Regulations as below:

PFUTP Regulations, 2003

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.

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;

…….

(e) any act or omission amounting to manipulation of the price of a security;

……

13. I note that, during patch-2 of the investigation period, the price of scrip opened at Rs.6.00 on April 10, 2013 and reached a high of Rs.38.35 on September 04, 2013 and closed at price of Rs.38.35 on September 04, 2013 with a net LTP of Rs.32.35 and a market positive LTP of Rs.32.54 with a total traded volume of 29130 shares. I note that the Noticees share common UCC phone number and Kanchan Ramesh Mokal and Tapan Jaisukhlal Doshi were common directors between these two Noticee companies. I note from the SCN that the Noticees were repeatedly placing sell orders for small order quantity across different days when buy order at prices higher than last traded price and for large quantity was pending in the scrip. The trading details of the Noticees are as below:

Noticee Name	Total No. of trades	Total No. of trades (LTP >0)	Total no. of orders	Sell order Qty range	Trade Qty	(+)ve LTP contribution (Rs.)	% of (+)ve LTP to Total Market (+)ve LTP
Akriti Advisory Services Pvt Ltd	68	15	68	2 - 75	1321	5.04	15.49%
Sarvottam Advisory Pvt Ltd	42	9	42	5 - 70	778	3.03	9.31%

14. I also note that the Noticees had total shareholding of 58,790 shares but they placed 110 sell orders for small order quantity during the period. They had traded on 29 days with total 110 trades. In 24 of 110 trades, they contributed positive LTP. Each of these positive LTP contributing trades was first trade. Total LTP contribution by these connected entities is Rs.8.07 (24.80% of the total market positive LTP). Details of the Noticees' positive LTP trades during patch-2 are given below:

TRADE DATE	Seller Name	Buy Order Time	Sell Order Time	Buy Order Rate	Sell Order Rate	Trade Rate	LTP Diff	%LTP	Buy Order QTY	Sell Order QTY	Trade QTY
16/04/2013	Akriti Advisory Services Private Limited	09:30:00	10:07:29	6.4	6.4	6.4	0.10	0.31%	1000	20	20
08/05/2013	Akriti Advisory Services Private Limited	12:30:02	12:33:36	7.92	7.92	7.92	0.15	0.46%	12000	25	25
11/05/2013	Akriti Advisory Services Private Limited	11:30:00	11:34:25	8.39	8.39	8.39	0.16	0.49%	999	50	50
13/05/2013	Sarvottam Advisory Private Limited	10:30:00	10:36:52	8.55	8.55	8.55	0.16	0.49%	999	20	20
16/05/2013	Akriti Advisory Services Private Limited	10:30:13	11:01:11	9.06	9.06	9.06	0.17	0.52%	200	20	20
03/06/2013	Akriti Advisory Services Private Limited	11:30:00	11:39:20	11.2	11.2	11.2	0.21	0.65%	10000	75	75
04/06/2013	Akriti Advisory Services Private Limited	12:30:01	12:42:55	11.42	11.42	11.42	0.22	0.68%	10000	75	75
05/06/2013	Sarvottam Advisory Private Limited	12:30:01	12:56:21	11.64	11.64	11.64	0.22	0.68%	300	50	50
06/06/2013	Sarvottam Advisory Private Limited	13:30:00	13:37:43	11.87	11.87	11.87	0.23	0.71%	1000	50	50
07/06/2013	Akriti Advisory Services Private Limited	12:30:00	12:50:25	12.1	12.1	12.1	0.23	0.71%	300	50	50
14/06/2013	Sarvottam Advisory Private Limited	11:30:00	12:13:26	13.34	13.34	13.34	0.26	0.80%	3000	25	25
17/06/2013	Sarvottam Advisory Private Limited	11:30:00	12:06:13	13.6	13.6	13.6	0.26	0.80%	3000	40	40
15/07/2013	Sarvottam Advisory Private Limited	11:30:00	11:57:43	19.8	19.8	19.8	0.35	1.08%	3000	10	10
22/07/2013	Akriti Advisory Services Private Limited	12:30:00	12:31:44	21.75	21.75	21.75	0.40	1.23%	3000	10	10
23/07/2013	Akriti Advisory Services Private Limited	09:30:00	09:49:14	22.15	22.15	22.15	0.40	1.23%	3000	10	10
24/07/2013	Akriti Advisory Services Private Limited	10:30:00	10:31:45	22.55	22.55	22.55	0.40	1.23%	3000	10	10
25/07/2013	Akriti Advisory Services Private Limited	10:30:00	10:51:27	23	23	23	0.45	1.38%	3000	10	10
26/07/2013	Akriti Advisory Services Private Limited	11:30:00	11:31:16	23.45	23.45	23.45	0.45	1.38%	3000	10	10
01/08/2013	Sarvottam Advisory Private Limited	11:30:00	11:33:32	25.25	25.25	25.25	0.45	1.38%	1500	25	25
13/08/2013	Sarvottam Advisory Private Limited	09:30:00	09:34:29	28.85	28.85	28.85	0.55	1.69%	1500	10	10
14/08/2013	Sarvottam Advisory Private Limited	09:30:00	09:50:36	29.4	29.4	29.4	0.55	1.69%	1500	10	10
16/08/2013	Akriti Advisory Services Private Limited	09:30:00	09:46:41	29.95	29.95	29.95	0.55	1.69%	1500	10	10
19/08/2013	Akriti Advisory Services Private Limited	09:30:00	09:44:11	30.5	30.5	30.5	0.55	1.69%	1500	10	10
21/08/2013	Akriti Advisory Services Private Limited	09:30:00	09:59:02	31.7	31.7	31.7	0.60	1.84%	1500	15	15

15. It is pertinent to note here that through these 24 trades which resulted into positive LTP, the Noticees have together traded in only 640 shares, which is 2.19% of the total shares traded (29130) during Patch-2 of the Investigation Period. The trading pattern of the Noticees, wherein by trading in approximately 2% shares of the total market volume in the scrip of Surabhi, they have

contributed to approximately 25% of the total positive LTP in the scrip, *prima facie*, creates a suspicion about the said trading pattern of the Noticees.

16. I also note that the 24 trades of the Noticees which contributed to positive LTP in the scrip of Surabhi during Patch- 2 of the Investigation Period, were placed only after the respective buy orders were placed in the stock exchange system. I further note that all the aforesaid 24 trades were first trades of those respective days. I also note that the Noticees chose to sell a very small quantities of shares in each of their trades despite huge buy orders being available in the stock exchange's trading system. I note that while placing the said 24 sell orders by the Noticees for 640 shares, corresponding buy orders for 69,798 shares were already pending in stock exchange's system at the respective expected prices. The afore-stated trading pattern reveal the intent of the Noticees whereby they apparently placed their sell orders for smaller quantities only to mark the price of the scrip higher and not to enter into any genuine sell transactions as a genuine investor of the Securities Market. It is also seen that the Noticees have taken turns amongst them while executing trades and have executed one transaction at a time on different trading days which resulted in continuous increase in the price of the share of the Company. Therefore, I am of the view that the trading pattern of the Noticees indicates that have placed their orders with a view to distort the market mechanism and not as prudent investors, who would have otherwise tried to deal in the scrip with a motive to either consolidate their holding or to make profit through their bonafide trades executed in normal course of trading in the market. However, the strange way of placing sell orders over a period thereby offering miniscule quantities of shares in each trade and causing artificial rise in the price of the scrip cannot be viewed as normal way of dealing in securities.

17. I also note from the trading details that, though the price of the scrip was rising, the Noticees have not placed any sell order first, to exhibit their intent to sell

the scrip as genuine investors. They have rather entered into the market with their sell orders of miniscule quantities only to match the price of already existing buy orders in the system. Therefore, in the absence of any plausible explanation justifying their action of selling the stock in such miniscule quantities and always executing the first trade of the day, the trades executed by the Noticees in such an unusual manner cannot be held as trades executed in a fair manner by any genuine investors of securities market in the normal course of trading in securities.

18. I note that Noticee no. 2 has contended that SEBI has ignored and overlooked various corporate announcements made by the Company during the Investigation Period and such announcements would have had definite impact on the price and volume in the shares of Surabhi. In this regard, I observe that the Company made announcements for payment of interim dividend, purchase of land, taking up infrastructure project and awarding of infrastructure project to contractor. Details of such announcements are given below:

S. No.	Date and Time	Announcement/ News
1	14/02/2013	Surabhi bags its first infrastructure project worth Rs. 1042 Lacs venturing in to infrastructure sector
2	26/02/2013	Board approves Sub-Division of Equity Shares
3	25/03/2013	Board declares Interim Dividend, Rs. 0.10 for each share of face value Rs. 10 per share
4	30/04/2013	Surabhi awarded work order to M S Engineers for Construction of Commercial Units in Malad, Mumbai. The duration of work order is 15 months and consideration is Rs. 200 lacs
5	06/05/2013	Surabhi enters in to agreement to acquire 1223.61 Sq. Mtrs. Land at Nagpur. The total consideration for said land is Rs. 527.20 lacs and Company proposed to construct residential and commercial units on the same.

19. I note that there was increase in the price of the scrip after each of the corporate announcements, but the trading volume in the scrip remained low. It is also pertinent to note that the financials of the Company were in no way supporting

such price rise during the Investigation Period. Details of the financials of the Company are tabulated below:

Particulars	Year Ended		
	2012-13	**2013-14**	**2014-15**
Sales	3.88	1.76	3.25
Other Income	0.00	0.00	0.00
Total Sales	3.88	1.76	3.25
Profit /Loss after Tax	0.83	0.80	0.57

20. I note from above that the sales revenue of the *Company* was less than Rs. 9 crore cumulatively for 3 Financial Years and cumulative profit after tax for those corresponding 3 years was approximately Rs. 2 crore. Therefore, considering the weak fundamentals highlighted by financial reports of the *Company,* such unrealistic, spectacular and sustained price rise in the scrip from Rs. 2.52 to Rs. 1230 (adjusted for split) during the period from August 2012 to December 2014 can no way be justified by abovementioned announcements.

21. I also note that Noticee no. 2 has also contended that the buy orders were already available in the trading system of the exchange at a price higher than the LTP and it has only placed their sell orders at the same price to match the buy orders. In this regard, I note that each of the aforementioned alleged trades executed by the Noticees, was the first trade of those respective trading days and could be executed only because the Noticees chased those buy orders with their sell orders of small quantities of shares but for which those trades would not have been executed. Despite the fact that the buyers have placed their buy orders much ahead of the sell orders at a price higher than LTP, I note that there was no seller in the scrip with whom such buy orders could have matched on those days. Therefore, such arguments of the Noticees cannot be accepted particularly after considering the fact that they were placing sell orders for miniscule quantities on a continuous basis even though the counterparty pending buy orders were available in the system for large quantities. The peculiar pattern of trading strategy adopted by the Noticees

certainly give rise to a belief as if the Noticees were well aware of further demands in the scrip and therefore, despite confronting buy orders for larger quantities, have decided to offer shares in smaller quantities over a long period.

22. With regard to the contention of Noticee no. 2 that their alleged sell trades are very miniscule as compared to the total number of shares traded in the scrip of Surabhi *a*nd therefore, with such small quantities, Noticees could not have manipulated the price of the scrip of Surabhi, I note that though the individual contribution to positive LTP in the scrip of Surabhi may be small but the cumulative impact of all such small individual contributions together, has resulted in large amount of contribution to total market positive LTP in the scrip during the respective patches. I note that the Noticees through their alleged sell trades have contributed to 24.80% of the total market positive LTP in the scrip of Surabhi during Patch-2 of the investigation Period. I would also like rely on the observations of the Hon'ble SAT in the matter of *Giriraj Kumar Gupta HUF Vs. SEBI* (DoD: February 25, 2020), in which the Hon'ble Tribunal have, inter alia, observed that - *“Having heard the learned counsel for the parties, we are of the considered view that the impugned transactions, in the facts and circumstances of the matter, would fall in the realm of violations of PFUTP Regulations. Individual argument that each entity's trade is miniscule and only on a few days alone etc. is not sufficient to rebut the findings in the impugned order."* The observations of the Hon'ble SAT are squarely applicable in the instant proceedings wherein, each of the Noticees has contributed to the positive LTP of the scrip but has not been able to provide any strong rationale for such unconventional trades of miniscule quantities. Therefore, the said contention of the Noticee no. 2 cannot be accepted.

23. I also note that Noticee no. 2 has submitted that Mr. Kanchan Ramesh Mokal was the authorized signatory in the bank accounts and trading accounts of Noticee no. 2, from where the alleged trades were executed and the present promoters, who acquired the majority stakes in the year 2013 were not aware

about such trading. Noticee no. 2 has furnished a certificate from the present promoter Mr. Tapan Doshi in support of the above submission, it has been stated on affidavit that the present promoters were not aware of the alleged trades. I have gone through the reply as well as the affidavit furnished by Noticee no. 2 to claim their ignorance of the alleged trades. Having gone through the same, I find the above submission as an afterthought exercise, lacking in any substance as the alleged trades were admittedly executed through the accounts of Noticee no. 2 and were executed after the new promoters had already acquired those companies. The attempt of Noticee no. 2 to project some other entities behind the said fraudulent activities and trades cannot be accepted in the absence of initiation of any credible action against the said entities who were according to them responsible for executing those manipulative trades from their trading accounts. Therefore, the said contention by Noticee no. 2 is devoid of any merit.

24. I note that Regulation 3 of PFUTP Regulations, 2003 prevents any person from buying, selling or dealing in securities in fraudulent manner, use or employ any manipulative or deceptive device in contravention to the provisions of the Act, employ any device, scheme or artifice to defraud in connection with dealing in securities or engage in any act, practice, course of business which operates as fraud or deceit upon any person in connection with any dealing in or issue of securities. Regulation 4(1) of PFUTP Regulations, 2003 provides that no person shall indulge in a fraudulent or an unfair trade practice in securities. Regulation 4(2)(a) of PFUTP Regulations, 2003, prohibits a person from indulging in an act which creates false or misleading appearance of trading in the securities market. Regulation 4(2)(e) of PFUTP Regulations, 2003, prohibits any act or omission amounting to manipulation of the price of a security.

25. In this regard, I would also like to refer to the observations of the Hon'ble Securities Appellate Tribunal (SAT) in its order dated July 14, 2006 in Ketan Parekh Vs. SEBI, wherein it was held that: "*When a person takes part in or enters into transactions in securities with the intention to artificially raise or depress the price he thereby automatically induces the innocent investors in the market to buy /sell their stocks. The buyer or the seller is invariably influenced by the price of the stocks and if that is being manipulated the person doing so is necessarily influencing the decision of the buyer / seller thereby inducing him to buy or sell depending upon how the market has been manipulated. We are therefore of the view that inducement to any person to buy or sell securities is the necessary consequence of manipulation and flows therefrom. In other words, if the factum of manipulation is established it will necessarily follow that the investors in the market had been induced to buy or sell and that no further proof in this regard is required. The market, as already observed, is so wide spread that it may not be humanly possible for the Board to track the persons who were actually induced to buy or sell securities as a result of manipulation and law can never impose on the Board a burden which is impossible to be discharged. This, in our view, clearly flows from the plain language of Regulation 4(a) of the Regulations*."

26. Hon'ble SAT further observed that, - *"…. Any transaction executed with the intention to defeat the market mechanism whether negotiated or not would be illegal. Whether a transaction has been executed with the intention to manipulate the market or defeat its mechanism will depend upon the intention of the parties which could be inferred from the attending circumstances because direct evidence in such cases may not be available. The nature of the transaction executed, the frequency with which such transactions are undertaken, the value of the transactions, whether they involve circular trading and whether there is real change of beneficial ownership, the conditions then prevailing in the market are some of the factors which go to show the intention of the parties. This list of factors, in the very nature of things, cannot be exhaustive. Any one factor may or may not be decisive and it is from the cumulative effect of these that an inference will have to be drawn."*

27. Further, Hon'ble Supreme Court of India in the matter of SEBI v Kishore Ajmera (order dated February 23, 2016), had observed that: *"It is a fundamental principle of law that proof of an allegation levelled against a person may be in the form of direct substantive evidence or, as in many cases, such proof may have to be inferred by a logical process of reasoning from the totality of the attending facts and circumstances surrounding the allegations/charges made and levelled. While direct evidence is a more certain basis to come to a conclusion, yet, in the absence thereof the Courts cannot be helpless. It is the judicial duty to take note of the immediate and proximate facts and circumstances surrounding the events on which the charges/allegations are founded and to reach what would appear to the Court to be a reasonable conclusion therefrom. The test would always be that what inferential process that a reasonable / prudent man would adopt to arrive at a conclusion..."*

28. Keeping in mind the dicta of the Hon'ble SAT and Hon'ble Supreme Court as reproduced above, I am of the considered view that this scheme, plan, device and artifice exhibited in the said pattern of trading tantamount to fraud in the securities market in as much as it involves manipulative transactions in securities and misuse of the securities market. The manipulative / deceptive transactions of the Noticees are, *prima-facie*, covered under the definition of 'fraud' and the dealings of the Noticees as discussed herein above were "fraudulent", as defined under regulation 2(1)(c) of the PFUTP Regulations, 2003 and prohibited under the provisions of regulations 3(a), (b), (c), (d), 4(1), 4(2)(a) and (e) of PFUTP Regulations, 2003. Therefore, I conclude that the Noticees viz. Akriti Advisory Services Private Limited and Sarvottam Advisory Private Limited have done manipulative trading in the scrip of Surabhi and, therefore, have violated the provisions of regulations 3(a), 3(b), 3(c), 3(d), 4(1), 4(2)(a) and 4(2)(e) of PFUTP Regulations, 2003.

29. Hon'ble Supreme Court of India in the matter of SEBI Vs. Shri Ram Mutual Fund [2006] 68 SCL 216(SC) 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 and hence the intention of the parties committing such violation becomes wholly irrelevant…".

30. In view of the same, I am convinced that it is a fit case for imposition of monetary penalty on the Noticees under the provisions of Section 15HA of the SEBI Act, which reads as under:

    SEBI Act

    Penalty for fraudulent and unfair trade practices.

    15HA. If any person indulges in fraudulent and unfair trade practices relating to securities, he shall be liable to a penalty of twenty-five crore rupees or three times the amount of profits made out of such practices, whichever is higher.

31. While determining the quantum of penalty under Section 15HA of the SEBI Act, it is important to consider the factors relevantly as stipulated in Section 15J of the SEBI Act which reads as under:-

    SEBI Act

    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.

32. I note that the Whole Time Member of SEBI in Order dated January 27, 2021 had restrained the Noticees from dealing in securities market for a period of 6 months. In view of the same, I find it appropriate to consider the direction in the

nature of debarment that has already been passed against the Noticees herein as a relevant factor while deciding the quantum of penalty. I note that on the basis of data available on record, it is difficult, in cases of such nature, to quantify exactly the disproportionate gain or unfair advantage enjoyed by the Noticees and the consequent losses suffered by the investors. Further the amount of loss to an investor or group of investors also cannot be quantified on the basis of available facts and data. Even though the monetary loss to the investors cannot be computed, any manipulation in the volume or price of the stocks caused by vested interest always erodes investor confidence in the market so that investors find themselves at the receiving end of market manipulators. The PFUTP Regulations aim to preserve and protect the market integrity in order to boost investor confidence in the securities market. By executing manipulative trades, as has been executed by the Noticees in the instant matter, the price discovery system itself is affected. It also has an adverse impact on the fairness, integrity and transparency of the stock market.

ORDER

33. Having considered all the facts and circumstances of the case, the material available on record, the factors mentioned in Section 15J of the SEBI Act and in exercise of the powers conferred upon me under Section 15-I of the SEBI Act read with Rule 5 of the SEBI Adjudication Rules, I hereby impose the following penalty on the Noticees under Section 15HA of the SEBI Act:

S. No.	Name of the Noticee	Penalty
1.	Akriti Advisory Services Pvt Ltd (now known as Jagruti Infra Developers Private Limited)	Rs. 1,00,000 (Rupees One Lakh Only)
2.	Sarvottam Advisory Pvt Ltd	Rs. 1,00,000 (Rupees One Lakh Only)

I am of the view that the said penalty is commensurate with the lapse/omission on the part of the Noticees.

34. The Noticees shall remit / pay the said amount of penalty within 45 days of receipt of this order either by way of Demand Draft in favour of "SEBI - Penalties Remittable to Government of India", payable at Mumbai, OR through online payment facility available on the website of SEBI, i.e., www.sebi.gov.in on the following path, by clicking on the payment link: ENFORCEMENT -> Orders -> Orders of AO -> PAY NOW. In case of any difficulties in payment of penalties, the Noticees may contact the support at portalhelp@sebi.gov.in.

35. The Noticees shall forward said Demand Draft or the details / confirmation of penalty so paid to the "The Division Chief, EFD-1, DRA-II, SEBI, SEBI Bhavan 2, Plot No. C –7, "G" Block, Bandra Kurla Complex, Bandra (E), Mumbai –400 051". The Noticee shall provide the following details while forwarding DD/ payment information:
    a) Name and PAN of the entity
    b) Name of the case / matter
    c) Purpose of Payment – Payment of penalty under AO proceedings
    d) Bank Name and Account Number
    e) Transaction Number

36. In the event of failure to pay the said amount of penalty within 45 days of the receipt of this Order, recovery proceedings may be initiated under Section 28A of the SEBI Act for realization of the said amount of penalty along with interest thereon, *inter alia*, by attachment and sale of movable and immovable properties.

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

Date: September 30, 2021	**VIJAYANT KUMAR VERMA**
Place: Mumbai	**ADJUDICATING OFFICER**