BEFORE THE ADJUDICATING OFFICER

SECURITIES AND EXCHANGE BOARD OF INDIA

[ADJUDICATION ORDER NO. Order/SM/S./2022-23/22257]

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

Subhash Chander Verma
(PAN No: AAFPV1354H)

In the matter of Edynamics Solutions Limited

FACTS OF THE CASE IN BRIEF

1. Securities and Exchange Board of India (hereinafter referred to as '**SEBI**') carried out an investigation in the matter of trading in the scrip of the Edynamics Solutions Limited (hereinafter referred to as '**Company/Edynamics/ESL**') by certain entities, to ascertain any violation of the provisions of the SEBI Act, 1992 (hereinafter referred to as '**SEBI Act**') and SEBI (Prohibition of Fraudulent and Unfair Trade Practices Relating to Securities Market) Regulation, 2003 (hereinafter referred to as '**PFUTP Regulations**') during the period March 02 to October 06, 2017 (hereinafter referred to as '**investigation period/IP'**). The shares of the company were listed on Bombay Stock Exchange Limited (herein after referred to as '**BSE**').

2. During the investigation, SEBI observed that during the month of February 2017, the scrip had traded only on 14 trade days and average number of shares traded on these 14 trade days was about 900 shares with close price in the range of ₹8.72 to ₹10.50. It is further observed that on March 01, 2017, only 6 trades for 52 shares had taken place with close price of ₹10.40/- and on March 02, 2017, 302 trades for 3,30,851 shares was executed. On further analysis of trading in the scrip of ESL, SEBI observed that Noticee has created

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artificial/fictitious volume and gave a false and misleading appearance of trading in the scrip of ESL. Therefore, in view of the above it is alleged that Noticee has violated the provisions of Section 12A (a), (b) and (c) of the SEBI Act and regulation 3 (a), (b), (c) and (d), regulations 4(1) and 4(2)(a) and 4(2)(e) of the PFUTP Regulations.

APPOINTMENT OF ADJUDICATING OFFICER

3. Vide order dated March 04, 2021, Shri Amit Pradhan was appointed as Adjudicating Officer ('**AO**') under Section 15-I of the SEBI Act and Rule 3 of SEBI (Procedure for Holding Inquiry and imposing Penalties by Adjudicating Officer) Rules, 1995 (hereinafter referred to as '**Adjudication Rules'**) read with Section 19 of SEBI Act to inquire into and adjudge under the provisions of Section 15HA of SEBI Act for the aforesaid alleged violations by Noticee. Since, Shri Amit Pradhan was transferred to another department of SEBI, the undersigned was appointed as the AO in the said matter by SEBI vide its order dated June 18, 2021.

SHOW CAUSE NOTICE, REPLY AND PERSONAL HEARING

4. A show-cause notice dated March 22, 2021 was issued to Noticee (hereinafter referred to as 'SCN') under Rule 4 of the SEBI Adjudication Rules to show-cause as to why an inquiry should not be initiated against Noticee and penalty, if any, not be imposed upon him under the provisions of Section 15HA of SEBI Act, for the aforesaid violations alleged to have been committed by him.

5. SCN was served on the Noticee through SPAD at the last known address. However, Noticee failed to file any reply to the SCN. Thereafter, vide Hearing Notice dated May 31, 2022, an opportunity of hearing was granted to Noticee on June 23, 2022 and the same was duly served on the Noticee through SPAD and digitally signed email. However, Noticee neither appeared for the hearing nor submitted his reply to SCN. Therefore, vide Hearing Notice dated June 29, 2022, Noticee was granted another opportunity of hearing on July 13, 2022 and the same was duly served on the Noticee through SPAD and digitally signed email. However, Noticee neither appeared for the hearing nor submitted his reply to SCN.

6. Considering the fact that Noticee has neither filed any reply nor has availed the opportunity of personal hearing despite being granted opportunities for the same, I am of the view that principles of natural justice have been complied with but Noticee has nothing to submit,

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and therefore, in terms of rule 4(7) of the Adjudication Rules, the matter can be proceeded ex-parte on the basis of material available on record.

7. In this regard, I place reliance on the order of Hon'ble Securities Appellate Tribunal (hereinafter referred to as '**Hon'ble SAT**') in the matter of Harihar Kirtibhai vs SEBI (Appeal No. 181 of 214 dated December 19, 2014) wherein it was, inter alia, held that – "*...further, it is being increasingly observed by the Tribunal that many persons/entities do not appear before SEBI (Respondent) to submit reply to SCN or, even worse, do not accept notices/letters of Respondent and when orders are passed ex-parte by Respondent, appear before Tribunal in appeal and claim non-receipt of notice and do not appear and/or submit reply to SCN but claim violation of principles of natural justice due to not being provided opportunity to reply to SCN or not provided personal hearing. This leads to unnecessary and avoidable loss of time and resources on part of all concerned and should be eschewed, to say the least. Hence, this case is being decided on basis of material before this Tribunal".*

8. In view of the aforesaid observations made by the Hon'ble SAT, I find no reason to take a different view and accordingly, I deem it appropriate to proceed ex-parte against the Noticee based on the material available on record.

CONSIDERATION OF ISSUES, EVIDENCE AND FINDINGS

9. I have carefully perused the charges levelled against the Noticee, and other documents/evidence available on record. The issues that arise for consideration in the present case are:

    I) Whether Noticee has violated Section 12A(a), (b), (c) of SEBI Act and Regulations 3(a), (b), (c), (d), 4(1), 4(2)(a) and 4(2)(e) of PFUTP Regulations?

    II) Do the violations, if any, attract a monetary penalty under Section 15HA of SEBI Act?

    III) If the answer to the aforesaid issues is in the affirmative, then what should be the quantum of monetary penalty?

10. The relevant applicable provisions of the SEBI Act and PFUTP Regulations, are reproduced as under:

Relevant provisions of SEBI Act:

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CHAPTER VA
PROHIBITION OF MANIPULATIVE AND DECEPTIVE DEVICES, INSIDER TRADING AND SUBSTANTIAL ACQUISITION OF SECURITIES OR CONTROL

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

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 recognised stock exchange, in contravention of the provisions of this Act or the rules or the regulations made thereunder;

Relevant provisions of PFUTP 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.

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;

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

Issue No. 9(I) - Whether Noticee has violated Section 12A(a), (b), (c) of SEBI Act and Regulations 3(a), (b), (c), (d), 4(1), 4(2)(a) and 4(2)(e) of PFUTP Regulations?

11. It has been alleged in the SCN that during the IP, Noticee had executed trades which did not have any economic rationale other than manipulating the price of scrip of ESL. In this regard, from the BSE Price-Volume data pertaining to the scrip of Edynamics, I observe the following movement in the Price and Volume of the said scrip at BSE before, during and after the IP:

TABLE- 1

Period	Dates		Volume/ Opening Price on first day of period (₹)	Volume/ Closing price on last day of period (₹)	Lowest volume/ lowest price during the period (₹)	High Price (Volume) during the period (₹)	Avg. no. of (shares) traded daily during the period
Pre-investigation period	Feb. 8 – Mar.1, 2017	Price	9.50	10.40	8.82 (Feb 21, 2017)	10.49 (Feb 14, 2017)	562
		Vol.	1566	52	15 (Feb 22, 2017)	1593 (Feb 14, 2017)	
Patch 1 (1st SMS Patch)	Mar. 2 – May 9, 2017	Price	10.92	14.64	8.97 (Mar 10, 2017)	15.45 (May 09, 2017)	162130
		Vol.	330851	220490	4723 (Mar 10, 2017)	1429590 (Mar 03, 2017)	
Patch 2	May 10 – Sept. 18, 2017	Price	13.91	6.38	5.24 (Jul 11, 2017)	13.91 (May 10, 2017)	10521
		Vol.	16260	1535	10 (Aug 7, 2017)	144165 (May 23, 2017)	
Patch 3 (2nd SMS Patch)	Sept. 20 – Oct. 6, 2017	Price	6.38	7.89	6.26(Sep 20, 2017)	7.9 (Oct 06, 2017)	145953
		Vol.	180969	485517	1955 (Sep 29, 2017)	726192 (Oct 05, 2017)	
Post-investigation period	Oct. 9 – Dec. 21, 2017	Price	7.75	3.61	3.61(Dec 21, 2017)	7.75 (Oct 09, 2017)	1897
		Vol.	13735	2200	2 (Nov 13, 2017)	13735 (Oct 09, 2017)	

12. I note that before the IP, during the month of February 2017, the scrip had traded only on 14 trade days and average number of shares traded on these 14 trade days was about 900 shares with closing price in the range of ₹8.72/- to ₹10.50/-. I observe that on March 01, 2017, only 6 trades for 52 shares had taken place with close price of ₹10.40/- and on March 02, 2017, 302 trades for 3,30,851 shares were executed. The extremely low trading volume during the aforesaid period in the scrip of Edynamics shows that it was an illiquid scrip before the start of IP.

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13. I have perused the BSE trade log and order log pertaining to the scrip of Edynamics during the IP. I observe that Noticee had traded in the scrip during Patch 1 of the IP. The details of Noticee's trades during Patch 1 of the IP are as under:

Table - 2

TRADE_DATE	CLIENTNAME	CP_CLIENTNAME	ORDER_TIME	CP_ORDER_TIME	TRADE_RATE	LTP_RATE	LTP_PERCENT	TRADED_QTY	ORDER_QTY	CP_ORDER_QTY
02-03-2017	SUBHASH CHANDER VERMA	BHIMJIBHAI VIRJIBHAI PATEL	09:36:40	09:38:46	10.92	0.52	5	50	500	50
02-03-2017	SUBHASH CHANDER VERMA	BHIMJIBHAI VIRJIBHAI PATEL	09:36:40	09:39:38	10.92	0	0	45	500	45
02-03-2017	SUBHASH CHANDER VERMA	SHRI BALAJI COMFIN TRADERS	09:36:40	10:27:46	10.92	0	0	405	500	25000
03-03-2017	DHANLAXMI BUILDERS AND DEVELOPERS PRIVATE LIMITED	SUBHASH CHANDER VERMA	09:03:02	10:21:15	10.87	-0.02	-0.18	500	25000	500

14. From the aforesaid details, I observe that during the entire investigation period, the Noticee had traded on 2 days i.e. on March 02, 2017 and March 03, 2017. I observe that on March 02, 2017, Noticee had placed 1 buy order for 500 shares at a buy order rate of ₹10.92 at 9:36:40 hrs. Immediately thereafter, Bhimjibhai Virjibhai Patel ('**BVP**') had placed two sell orders for 50 shares and 45 shares at ₹10.92 each at 9:38:46 hrs and 9:39:38 hrs, respectively. In respect of these orders, two trades for 50 shares and 45 shares at ₹10.92 each got executed between the Noticee and its counterparty seller, BVP. I note that the first of the aforesaid two buy trades executed on March 02, 2017 by Noticee for 50 shares at the rate of ₹10.92 at 9:38:46 hrs, raised the Last Traded Price ("**LTP**") rate by ₹0.52 which amounted to an LTP contribution of 5% by Noticee. The aforesaid first trade which raised the LTP to ₹10.92/- also established a high price on March 02, 2017. Thereafter, Noticee bought 405 shares at the rate of ₹10.92 from the counterparty seller, Shri Balaji Comfin Traders at 10:27:46 hrs on March 02, 2017. Thereafter, on March 03, 2017, Noticee sold 500 shares to Dhanlaxmi Builders and Developers Private Limited at ₹10.87, reducing the LTP rate by ₹-0.02 i.e. 0.18%. Thus, the net LTP contribution made by Noticee's trades during the IP amounted to 4.82%.

15. From the foregoing observations, I note that in an Investigation Period spreading 156 trading days, Noticee had executed only 4 trades (three buy trades and one sell trade) on only two days in the scrip of Edynamics. I have also perused the UCC data and off market transaction details as placed on record in the investigation report. From a perusal of the aforesaid records, I observe that no connection has been established between the Noticee and the counterparties to the Noticee's trades, i.e., Bhimjibhai Virjibhai Patel, Shri Balaji

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Comfin Traders and Dhanlaxmi Builders and Developers Private Limited. I also note that the traded volume of Noticee was only 500 shares on each of the two days which was a meagre 0.05% of the total traded volume of 17,60,441 shares on the aforesaid trading days during the IP. I further note that although Noticee bought 500 shares on March 02, 2017 at a rate of ₹ 10.92, he offloaded 500 shares on March 03, 2017 by executing one sell trade at a rate of ₹10.87 at a reduced LTP rate of ₹-0.02 i.e. 0.18%. I also note that the LTP contribution made by the Noticee was merely 5% on March 02, 2017 and -0.18% on March 03, 2017. Thus, I find that the frequency of Noticee's trades was negligible as he had traded on only two days out of 156 days of the IP. I find that Noticee's trades do not demonstrate any significant repetitive pattern. I also find that Noticee's trades contributed a negligible trading volume to the total trading volume of the market in the said scrip and the LTP contribution made by Noticee's aforesaid trades was also insignificant.

16. At this juncture, I find it pertinent to discuss the scope and ambit of PFUTP Regulations. I note that Regulations 3(a)–(d) of the PFUTP Regulations, *inter alia,* prohibit employment of any manipulative/deceptive device, scheme, or artifice to defraud in connection with dealing in securities; engaging in any act, practice, course of business which operates or would operate as fraud or deceit upon any person in connection with dealing in securities. Regulation 4(1) of the PFUTP Regulations provides for prohibition on indulging in fraudulent or unfair trade practices in securities. Regulations 4(2)(a) and (e) of the PFUTP Regulations provide that an act in the course of dealing in securities shall be deemed to be fraudulent or an unfair trade practice if it involves indulging in an act that creates a false or misleading appearance of trading in the securities market or any act or omission which amounts to manipulation of the price of a security.

17. I note the judgement of Hon'ble Supreme Court of India in SEBI vs. Kishore R. Ajmera (2016) 6 SCC 368 (Judgment dated February 23, 2016), wherein it had been held 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.*"

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18. The aforesaid observation was also relied upon by Hon'ble Supreme Court in its decision dated February 08, 2018 in the matter of SEBI vs. Rakhi Trading and Ors. [(2018) 13 SCC 753] wherein the following was held:

"*Findings must be gathered from patterns of trading data and the nature of the transactions etc... The evidence, direct or circumstantial, should be sufficient to raise a presumption in its favour with regard to the existence of a fact sought to be proved. As pointed out by Best in "Law of Evidence", the presumption of innocence is no doubt presumption juris; but everyday practice shows that it may be successfully encountered by the presumption of guilt arising from circumstances, though it may be a presumption of fact. Since it is exceedingly difficult to prove facts which are especially within the knowledge of parties concerned, the legal proof in such circumstances partakes the character of a prudent man's estimate as to the probabilities of the case.*"

19. Thus, placing reliance upon the aforesaid judgements and applying the tests laid therein, I find that in the present case no direct or circumstantial evidence leads to an inference that the Noticee executed the aforesaid trades in order to manipulate the market. I note that in an Investigation Period spreading 156 trading days, Noticee had executed only 4 trades (three buy trades and one sell trade) on only two days wherein the LTP contribution made by the Noticee was merely 5% on March 02, 2017 and -0.18% on March 03, 2017. Thus, I find that an insignificant trading volume and LTP contribution on account of Noticee's trades does not demonstrate any pattern of manipulative trades carried out by Noticee. I am of the view that such insignificant volume and frequency of the trades of the Noticee when coupled with a lack of connection between the Noticee and the counterparties to his trades does not lead to any inference of manipulation of price or trading volume by Noticee in the scrip of Edynamics during the IP. Moreover, the evidence placed on records of investigation also do not show any substantial impact of the impugned trades on the price of the scrip of Edynamics.

20. In view of the aforesaid observations, I find that the trading pattern of Noticee in the scrip of Edynamics during the IP does not indicate any manipulation on the part of Noticee to artificially increase the price of the scrip and generate a false or misleading appearance of trading in the scrip. Thus, in view of the foregoing findings and placing reliance on the aforesaid judgements, I find that the trades executed by Noticee cannot be held to attract violations of Section 12A (a), (b) and (c) of SEBI Act, read with Regulations 3 (a), (b), (c) and (d), 4 (1), 4(2)(a) and (e) of PFUTP Regulations. Therefore, I find that the allegation that Noticee has violated the provisions Section 12A (a), (b) and (c) of SEBI Act, read with

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Regulations 3 (a), (b), (c) and (d), 4 (1), 4(2)(a) and (e) of PFUTP Regulations does not stand established.

21. Since the aforesaid alleged violations do not stand established against the Noticee, issues No. 9(II) and 9(III) require no consideration. Therefore, I conclude that imposition of penalty is not warranted against the Noticee in the present matter.

ORDER

22. Having considered all the facts and circumstances of the case and the material available on record, I, in exercise of the powers conferred upon me under Section 15-I of the SEBI Act read with Rule 5 of the Adjudication Rules, hereby dispose of the Adjudication Proceedings initiated against the Noticee by way of SCN dated March 22, 2021.

23. In terms of the provisions of Rule 6 of the Adjudication Rules, a copy of this order is being sent to Noticee and also to SEBI.

S Majumder

Place:Mumbai
Date: December 20, 2022

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ADJUDICATING OFFICER