BEFORE THE ADJUDICATING OFFICER
SECURITIES AND EXCHANGE BOARD OF INDIA
ADJUDICATION ORDER NO. Order/PM/PA/2022-23/16346

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

In respect of:

M/s Adamina Traders Private Ltd.
PAN: AAICA0681J

In the matter of trading activities of certain entities in the scrip of Secunderabad Healthcare Ltd.

A. BACKGROUND

1. Securities and Exchange Board of India (hereinafter referred to as "**SEBI**") in the wake of sharp price rise in the scrip of Secunderabad Healthcare Ltd. (hereinafter referred to as "**SHL**"), conducted an investigation into the trading activities of certain entities in the scrip of SHL to ascertain any violation of the provisions of the Securities and Exchange Board of India Act, 1992 (hereinafter referred to as the "**SEBI Act**") and SEBI (Prohibition of Fraudulent and Unfair Trade Practices Relating to Securities Market) Regulations, 2003 (hereinafter referred to as "**PFUTP Regulations**"). The investigation period taken was from November 01, 2011 to January 15, 2015 (hereinafter referred to as "**IP**").

2. During the IP, it was observed that the price of SHL opened at Rs. 6.02 on the first day of the IP (*i.e,* November 01, 2011) and closed at Rs. 2.89 on the last day of the IP (*i.e,* January 15, 2015). Further, it was observed during the

IP that the price of the scrip reached a high of Rs. 33.6 on February 26, 2013, and low of Rs. 2.68 on January 06, 2015. Based on the price trend, it was observed that during the period from May 14, 2013 to October 24, 2013 (hereinafter referred to as "**Price Rise Patch**"), M/s Adamina Traders Pvt. Ltd. (hereinafter referred to as "**Noticee**") had traded in the scrip of the SHL and contributed to significant positive last traded price (hereinafter referred to as "**LTP**") which led to alleged violation of regulations 3(a), 3(b), 3(c), 3(d), 4(1), 4(2)(a) and 4(2)(e) of the PFUTP Regulations.

3. Given the above, proceedings were initiated under section 11(1), 11(4) and 11B of the SEBI Act against the Noticee pursuant to which an order dated January 08, 2020 was passed by the Whole Time Member (hereinafter referred to as "**WTM**") holding the Noticee guilty for the aforesaid alleged violations. Further, SEBI initiated adjudication proceedings against the Noticee for the same violations under section 15HA of the SEBI Act and the undersigned was appointed as the adjudicating officer.

4. A show cause notice bearing reference no. EAD/AO-PM/NK/1796/2018 dated January 18, 2018 (hereinafter referred to as "**SCN**") was issued to the Noticee. The SCN was sent at two addresses, out of which it was delivered at one. The Noticee addressed a letter to SEBI dated December 10, 2018, on its letterhead which bore the same address as the one at which the SCN was delivered, requesting for the investigation report, trade log for the entire IP, order log for the entire IP and annexure to SCN. Thereafter, a hearing opportunity was granted to the Noticee on February 13, 2020 *vide* hearing notice dated January 17, 2020 which was sent to the same address from which the letter dated December 10, 2018 was received from the Noticee. As per the records before me, the aforesaid hearing notice was delivered. In light of the above, the proceeding was concluded based on the material available on record wherein *vide* order dated May 27, 2020, the Noticee was found guilty of the provisions provided in paragraph 2 above and a penalty of Rs.10,00,000 was imposed (hereinafter referred to as "**AO Order**").

5. Thereafter, the Noticee filed an appeal before Hon'ble Securities Appellate Tribunal (hereinafter referred to as "**SAT**") against the aforesaid WTM order and the adjudication order. With respect to the adjudication order, the Noticee argued that it did not receive the hearing notice as the same was delivered at its previous office. After the delivery of SCN, the Noticee shifted its office which was updated on the ministry of corporate affairs website. *Vide* order dated December 15, 2021 in Appeal No. 331 of 2020 and Appeal No. 366 of 2020 (hereinafter referred to as "**SAT Order**"), the appeal filed against the WTM order was dismissed, however the appeal against the adjudication order was allowed by Hon'ble SAT on the ground that the Noticee did not receive the said hearing notice. In relation to the above, Hon'ble SAT *inter alia* held:

"In view of the aforesaid, Appeal No. 331 of 2020 against the order of the WTM dated January 08, 2020 does not suffer from any error of law and is dismissed with no order as to costs. Appeal No. 366 of 2020 which is against of the AO dated May 27, 2020 is quashed. The appeal is allowed. The matter is remitted to the AO to decide the matter afresh within six months after giving an opportunity of hearing to the appellant. In this regard the appellant will appear before the AO on December 28, 2021 and the AO will proceed thereafter in accordance with law."

B. APPOINTMENT OF ADJUDICATING OFFICER

6. In accordance with the directions of Hon'ble SAT, SEBI appointed the undersigned as the adjudicating officer *vide* communication dated December 15, 2021 under section 19 of the SEBI Act read with sub-section (1) of section 15-I of the SEBI Act and rule 3 of the SEBI (Procedure for Holding Inquiry and Imposing Penalties) Rules, 1995 (hereinafter referred to as the "**SEBI Adjudication Rules**") to inquire into and adjudge under section 15HA of the SEBI Act for the aforesaid alleged violations.

C. SHOW CAUSE NOTICE REPLY AND HEARING

7. The allegations levelled in the SCN have been summarized hereunder:

(i) Price of the scrip opened at Rs. 12.05 on May 14, 2013 and closed at Rs. 24.05 on October 24, 2013. The details of LTP contribution of top 10 net positive LTP contributing entities as buyers during the Price Rise Patch is as under:

Buyer name	**All trades**			**LTP diff > 0**			**LTP diff < 0**			**LTP diff = 0**		**% of positive LTP to total market positive LTP**
	LTP impact in Rs.	**QTY traded**	**No. of trades**	**LTP impact in Rs.**	**QTY traded**	**No of trades**	**LTP impact in Rs.**	**QTY traded**	**No of trades**	**QTY traded**	**No of trades**	
Adamina Traders Private Limited	21.77	864961	6519	130.31	131696	554	-108.54	56909	1844	676356	4121	68.34
Aristo Media and Entertainment Private Limited	8.40	206114	183	10.07	17187	24	-1.67	5509	9	183418	150	5.28
Parkway Properties Private Limited	2.92	146615	119	2.97	6675	10	-0.05	1052	5	138888	104	1.56
Pavitra Mall Management Company Private Limited	1.79	54305	113	1.82	60	5	-0.03	3820	3	50425	105	0.95
Venkateswara Capital Management Limited	1.72	377811	191	2.30	23875	6	-0.58	10000	1	343936	184	1.21
Mehta Harshit	1.35	30000	11	1.35	3200	2	0.00	0	0	26800	9	0.71
MohdZafarullah Khan	1.29	1	1	1.29	1	1	0.00	0	0	0	0	0.68
Priti Manish Shah	1.25	100	1	1.25	100	1	0.00	0	0	0	0	0.66
Rahul Parikh	1.10	500	10	1.10	50	1	0.00	0	0	450	9	0.58

Buyer name	All trades			LTP diff > 0			LTP diff < 0			LTP diff = 0		% of positive LTP to total market positive LTP
	LTP impact in Rs.	QTY traded	No. of trades	LTP impact in Rs.	QTY traded	No of trades	LTP impact in Rs.	QTY traded	No of trades	QTY traded	No of trades	
Khengar Purshottam Gangani	1.05	200	2	1.05	200	2	0.00	0	0	0	0	0.55
Total by top 10 entities	**42.64**	**1680607**	**7150**	**153.51**	**183044**	**606**	**-110.87**	**77290**	**1862**	**1420273**	**4682**	**80.51**
Total by market	**12.15**	**8119992**	**10398**	**190.68**	**325536**	**759**	**-178.53**	**337241**	**2252**	**7457215**	**7387**	**100.00**

(ii) From the above table, it was observed that the total positive LTP contribution by the top 10 net positive LTP contributing entities was 80.51% of the total market positive LTP during the Price Rise Patch. Out of this, Noticee contributed 68.34% of total market positive LTP.

(iii) It was observed from the positive LTP buy trades of the Noticee that it had placed small quantity buy orders. Details of these trades along with their LTP contribution is given below:

Sl. No.	Description	No. of trades	LTP contribution (Rs.)	Percentage of total market positive LTP
1	Trades where buy order quantity is 1 share	386	96.04	50.37
2	Trades where buy order quantity is 2 - 10 shares	29	6.23	3.27
3	Trades where buy order quantity is more than 10 shares	139	28.04	14.71
4	All buy trades which contributed to positive LTP	**554**	**130.31**	**68.34**

(iv) It is seen from the above table that out of 554 buy trades contributing to positive LTP of Rs. 130.31, in respect of 386 trades (69.68%), the buy order quantity was 1 share which had contributed to positive LTP of Rs 96.04. Further, in respect of 415 trades (74.91%) (including the above 386 trades), the buy order quantity was in the range of 1-10 shares and had contributed to positive LTP of Rs. 102.27, *i.e.,* 53.64%

(including Rs. 96.04 in respect of aforesaid 386 trades) of total market positive LTP during Price Rise Patch.

(v) It was also observed that of the above 554 positive LTP contributing trades the disclosed quantity of sell orders were large (*i.e.,* more than or equal to 100 shares), however, in respect of 176 trades, the buy order was placed for small quantity (*i.e.,* less than or equal to 10 shares).

(vi) The aforesaid 176 trades were executed over a period of 57 days out of total 80 trading days when the Noticee had bought shares which resulted in LTP contribution of Rs 50.23 (26.34% of total market positive LTP). An illustration of the top 5 LTP contributing trades of such 176 trades wherein the Noticee is the buyer is given below:

Batch Date	**Seller Name**	**Trade Time**	**Buy Order LMT**	**Sell Order LMT**	**Trade Price**	**LTP Diff**	**Buy Order LMP**	**Sell Order LMP**	**Traded Qty**	**Sell Order Disclose Volume**	**Buy Order LMQ**
16.07.2013	Pratik Kantilal Shah	13:44:41.5377410	13:44:41.5222630	09:33:08.6836110	18.00	1.30	18.00	18.00	1	100	1
17.07.2013	Mittal Kalpesh Tank	11:43:19.1292010	11:43:19.1186850	11:20:13.1246800	18.50	1.40	18.50	18.50	1	100	1
23.07.2013	Jaya V Kadagad	15:14:31.8931630	15:14:31.8715030	11:04:55.4566600	17.30	1.60	17.30	17.30	1	300	1
26.07.2013	Jihan Mercantile Private Limited	11:47:25.7312940	11:47:25.7042240	09:30:56.7460720	16.45	1.25	16.45	16.45	1	4000	1
26.07.2013	Godavari Commercial Services Pvt Ltd	15:19:57.8514100	15:19:57.8108340	14:52:55.5603370	16.25	1.05	16.25	16.25	1	1000	1

(vii) As can be seen from the above illustration in respect of top 5 LTP trades, while the disclosed volume of the sell orders were large, buy orders were placed for small quantities. These 5 trades for small quantity were executed on 4 days and contributed to significant positive LTP.

(viii) Based on the above, it was alleged that the Noticee was not a genuine buyer and had no *bona fide* intention to buy as it had repeatedly placed: (i) small quantity buy orders by either matching the price of the sell order or placing orders slightly higher than sell order rate which was already above LTP at the time of buy order entry; or (ii) buy orders at prices above LTP which were subsequently matched by sell orders. Thus, it was alleged that the Noticee has manipulated the price of the SHL scrip and created a misleading appearance of trading in the said scrip by executing 176 trades over 57 days which contributed to significant positive LTP of Rs 50.23 (26.34% of total market positive LTP).

8. The chronology of events that transpired after the SAT Order including the hearing opportunities provided to the Noticee is summarized below:

(i) <u>First hearing opportunity</u>: In compliance with directions of Hon'ble SAT, the Noticee was given a hearing opportunity on December 28, 2021 *vide* hearing notice sent *vide* email on December 22, 2021. On the said date, the authorized representative (hereinafter referred to as "**AR**") of the Noticee appeared before me and requested for additional time till January 12, 2022 for submitting a detailed reply in the matter. The AR also requested for another hearing opportunity after submitting the reply, which was acceded to.

(ii) <u>Second hearing opportunity</u>: *Vide* email sent on February 18, 2022, the Noticee was informed that no reply has been received yet and it was granted time till February 28, 2022 to submit the same. Further, the Noticee was also granted another hearing opportunity on March 02, 2022. *Vide* email on February 28, 2022, it was communicated to the Noticee and the AR that the Noticee/AR have neither submitted a reply nor confirmed their attendance for the hearing opportunity given. In light of the above, the Noticee/AR were given time till the end of the day on February 28, 2022 to submit a reply and confirm their attendance for the hearing.

(iii) <u>Third hearing opportunity, submissions and additional submissions</u>: *Vide* email sent on March 09, 2022, it was communicated to the Noticee and AR that they did not attend the last hearing opportunity granted to them or submitted a request for rescheduling the same. The Noticee/AR were also informed that a response to the SCN is pending from their end. The Noticee/AR were given final opportunity to submit a reply by March 12, 2022 and a final opportunity of hearing was granted to them on March 14, 2022. *Vide* email sent on March 14, 2022, the AR requested for adjournment and the said hearing finally took place on March 15, 2022. *Vide* emails sent on March 14, 2022 and March 15, 2022, the Noticee/AR submitted its detailed response. On the scheduled hearing date *i.e,* March 15, 2022, the ARs reiterated the submissions contained in the reply sent by the Noticee *vide* the aforesaid emails. The ARs requested for further time till March 21, 2022 for making additional submissions, which was acceded to. Thereafter, *vide* email sent on the same day, the AR requested for order logs for Price Rise Patch, which was duly provided the next day along with relevant extract of the investigation report. *Vide* email on April 02, 2022, the AR requested for trade logs for the Price Rise Patch, which was also provided *vide* email on April 05, 2022. *Vide* the aforesaid email, the Noticee and AR were informed that no additional submissions have been received yet and they were given final opportunity to submit the same by April 12, 2022. *Vide* email sent on April 14, 2022, the AR submitted additional submissions of the Noticee in the matter.

9. As stated earlier, the Noticee submitted its reply *vide* emails on March 14, 2022, March 15, 2022 and April 14, 2022. In its submissions, the Noticee has denied that it has violated manipulated the price of the SHL scrip and thereby violated regulations 3(a), 3(b), 3(c), 3(d), 4(1), 4(2)(a), and 4(2)(e) of PFUTP Regulations The contentions of the Noticee are summarized below:

9.1 <u>Contention 1: Delay in initiating proceedings</u>

(i) The SCN in the instant proceedings was issued after more than 4 years from the date of last impugned transactions of the Noticee. The said delay is solely attributable to SEBI.

(ii) In support of the above, the Noticee has relied upon the decision of Hon'ble SAT in Mr. Rajeev Bhanot and Ors. vs. SEBI (Misc. Application No.337 of 2018 And Appeal No.396 of 2018) dated July 09, 2021.

9.2 <u>Contention 2: Multiple proceedings initiated against the Noticee</u>

(i) For the same cause of action, proceedings have been initiated by the adjudicating officer and the WTM. Further, two separate orders have been passed against the Noticee which were appealed before Hon'ble SAT. *Vide* the SAT Order, Hon'ble SAT allowed the appeal against the order passed by the adjudicating officer, however, dismissed the appeal filed against the WTM order. Pursuant to the SAT Order, the Noticee has filed a review application dated December 15, 2021 before the Hon'ble SAT, for reviewing the order passed in appeal no. 331 of 2020 (*i.e*., order passed by WTM). According to the Noticee, Hon'ble SAT in order has wrongly recorded that the Noticee had created price rise of Rs. 50.23 when the actual price rise was only Rs.12 and the Noticee's objectionable trades had created a positive LTP of Rs. 50.2. The review application is pending before Hon'ble SAT and is listed for final disposal on May 31, 2022.

(ii) Due to the WTM order, the Noticee was debarred from securities market for 3 years and is still undergoing debarment. In this regard, the Noticee has relied upon the order passed by Hon'ble SAT in P.G. Electroplast Ltd. and Ors. vs. SEBI (Appeal No. 281 of 2017) dated August 02, 2019, wherein given the technical nature of violation and the debarment ordered, it was held that the penalty imposed on the appellants was disproportionate to the violation committed by the Noticee.

9.3 Contention 3: Noticee's trades were executed in ordinary course of trading and it was a genuine buyer

(i) Positive LTP contribution for orders of quantity 1, 2, 5 and 10 are only treated as objectionable. There is no ban on placing orders for small quantity of shares. Out of total 6519 trades of the Noticee during May 14, 2013 to October 24, 2013, 4121 trades resulted into 0 LTP, 1844 trades resulted into negative LTP and only 554 trades allegedly resulted into positive LTP. Further, out of the 554 trades of the Noticee, 176 trades have been considered towards manipulation in price of the scrip on the basis that the orders in those 176 were placed for small quantity (less than or equal to 10 shares). If the Noticee's intention was to manipulate the price of SHL scrip, it would have created LTP for every trade and not merely 554 trades out of its 6519 trades. The objectionable 176 trades are miniscule to have any impact on the price of SHL.

(ii) Co-relating positive LTP to price rise is not relevant. Actual price rise during May 14, 2013 to October 24, 2013 was Rs.12.05 wherein Noticee's objectionable positive LTP contribution was Rs. 50.23, total market positive LTP was Rs. 190.68 and net LTP was Rs. 21.77.

(iii) Every trade can either result into positive LTP, negative LTP or 0 LTP. There is no embargo on placing an order at positive LTP and not all of

Noticee’s trades have resulted into positive LTP. Further, trading at positive LTP does not lead to any price rise of the security as LTP may/may not result into new high price (hereinafter referred to as “**NHP**”). Net LTP was only Rs. 21.77. None of the 176 objectionable trades of the Noticee resulted into NHP. Also, the LTP difference is in the range of Rs. 10-25 paise *i.e.,* the Noticee was trading near the market price. When the trades are executed within permissible circuit limits, no illegality can be attributed to these trades as the price had been already established in the past.

(iv) The prices at which the trades of the Noticee had taken place had already prevailed on the previous days and thus it cannot be said that the Noticee had increased the price of the scrip in order to mark a higher price and the trades cannot be said to be of manipulative nature. The scrip of SHL was in ‘T’ group and thus under continuous surveillance/ supervision.

(v) There was change in beneficial ownership of the shares.

(vi) Total volume of the market during the entire investigation period and that of the Noticee is huge and significant and LTP price had already prevailed on previous days.

(vii) All buy orders of the Noticee were limit orders. A limit order is a direction given to a broker to buy and sell a security or commodity at a specified price or better. A buy limit order can only be executed at the limit price or lower. A sell limit order can only be executed at a limit price or higher. A limit order can be only filled if the stock’s market price reaches the limit price.

(viii) The findings are *de hors* consideration of Noticee’s investment pattern. The Noticee is unable to recollect its trading pattern as the transactions are 6 years old and it is difficult to analyse and ascertain the pattern of trading.

9.4 <u>Contention 4: No connection was found between the Noticee and other entities</u>

(i) Neither any finding has been recorded that the Noticee had acted in concert with anyone nor there is any whisper of any kind in the SCN with respect to connection of the Noticee with the company or any other seller entities. Thus, it cannot be said that the Noticee had entered into trades which were non genuine and not *bonafide* by matching the price of the scrip placed at higher rates. Its market transactions were separate and distinct and carried out with different perception, intention, anticipation and risk bearing capacity.

(ii) In support of the above, the Noticee has relied upon the order passed by Hon'ble SAT in M/s Nishith M. Shah HUF vs. SEBI (Appeal No. 97 of 2019) decided on January 16, 2020.

9.5 <u>Contention 5: Trade logs have not been analysed properly</u>

(i) There is huge/ significant difference in order 'key-in' time of buyer and seller.

(ii) All buy orders of the Noticee were limit orders.

(iii) The trading in the scrip of SHL was under continuous surveillance/ supervision. The demand in the scrip of SHL had been curbed due to restrictions imposed on the trading in the scrip at the relevant time. The scrip was in 'T' group at the relevant time.

(iv) The Noticee had placed its buy orders after seeing the market based on the best 5 available sell quotes within permissible circuit limits.

9.6 <u>Contention 6: Order logs reveal that several buy orders were placed one after the other</u>

(i) As per the order logs for the days on which the Noticee's 176 objectionable trades were executed, the Noticee had placed several buy orders one after the other. The explanation for Noticee's order placement pattern for the 176 objectionable trades is provided below on sample basis.

(ii) <u>May 21, 2013</u>: On the said date, the Noticee had placed 18 buy orders for quantity ranging between 10 shares to 1000 shares. Out of the aforesaid 18 buy orders, one buy order for 10 shares placed by the Noticee at 09:50:18 AM at the rate of Rs. 13.1 culminated into a trade resulting into a positive LTP of Rs 0.1 and is considered objectionable. However, 25 seconds prior *i.e.,* at 09:49:53 AM, the Noticee had placed a buy order for 30 shares at the rate of Rs. 13.1 and the same buy order also got culminated into a trade resulting into a positive LTP of Rs 0.1, however, this trade is not considered objectionable. Hence, it is absurd to say that the Noticee purposefully placed orders for small quantities at positive LTP to raise the price of the scrip.

(iii) <u>June 26, 2013</u>: On the said date, the Noticee had placed 113 buy orders for quantity ranging between 1 share to 25000 shares. Out of the aforesaid 113 buy orders, 86 buy orders were placed for 1 share. The aforesaid 86 buy orders for single share got culminated into 93 trades for 1 share. Out of the said 93 trades, 17 trades got executed at positive LTP ranging between Rs 0.01 to Rs 0.62. Noticee's 1 buy order (no. 2100010317337) out of the 113 buy orders placed at 02:54:04 PM at the rate of Rs. 17.35 got culminated into a trade resulting into a positive LTP of Rs. 0.53 and is considered objectionable. However, 4 other trades for single share only executed on the same date which resulted into positive LTP of Rs. 0.33, 0.37, 0.58 and 0.62 have not been considered objectionable. Thus, it is clear that the objectionable trades of the Noticee have been randomly picked and there is no concrete basis to determine the objectionability of the Noticee's trades.

(iv) Similar is the case with the remaining 174 objectionable trades of the Noticee wherein the objectionable trades of the Noticee have been randomly picked without any concrete basis for determining their objectionability.

9.7 Contention 7: Order passed by adjudicating officer in the matter of Dhenu Buildcon Infra Limited, decision dated April 26, 2018 is applicable in the present case

The Noticee's case is covered by the aforesaid order, wherein at paragraph 21 (vii), the following was held:

"I note that the Noticee had placed all its sell orders when there was pending buy orders at upper circuit limits on respective trading days. Further, I also note that buy orders were placed and available at start of the trading session i.e. 9:15 AM. I note that sell orders of Noticee were placed within 1 to 2 hours from the placement of buy orders and executed subsequently which resulted in establishing of LTP. In respect of these trades, the allegation of price manipulation for creation of LTP cannot be attributable to the Noticee, just because there was no subsequent sell orders available in the market."

9.8 Contention 8: BSE did not find the transactions executed by the Noticee objectionable

(i) BSE, as a first level regulator, did not consider the alleged transactions as objectionable and did not treat them as invalid and did not annul/ cancel them.

(ii) If BSE treated the alleged transactions as valid, and accepted/acted upon, then such trades ought not be treated as objectionable.

9.9 <u>Contention 9: SCN is ambiguous, far-fetched and lacks material particulars</u>

The SCN does not provide the following details:

(i) Benefit or gain derived by the Noticee from the alleged positive LTP contribution or increase in price.

(ii) benefit derived by the purported group entities from purported price rise.

9.10 <u>The Noticee has submitted that the following mitigating factors should be considered in the present case:</u>

(i) The Noticee had acted in good faith and was not aware of wrongdoings, if any, of others.

(ii) The movement in the price of the scrip of SHL was natural, over a period of 4 months and not overnight.

(iii) The Noticee had no connection, association or relationship with SHL or its promoters, directors or company circles. There is no whisper in the SCN with respect to the connection between the Noticee (buyer) and counter-party sellers to the 176 objectionable trades of the Noticee.

(iv) Co-relating positive LTP of Rs. 130.31 to price rise of Rs. 12.05 is of no relevance and significance.

(v) There was change in beneficial ownership of the shares.

(vi) Without prejudice to the above, there is no ban on placing of orders for 1 to 10 shares. The ticker size is one share. The Noticee has no knowledge whether the orders placed were originally for one share or the orders were originally placed for higher quantity and later modified.

(vii) The Noticee has not taken regulatory proceedings in a nonchalant manner.

(viii) The alleged violation is not repetitive in nature.

(ix) The Noticee has not received any disproportionate gain or unfair advantage and has not caused any loss to an investor or group of investors.

(x) It is not guilty of conduct which is contumacious or dishonest or acted in conscience disregard or defiance of law.

10. The Noticee has raised contentions in two segments, one being preliminary contentions and the other being contentions on merits. I find it appropriate to deal with the preliminary contentions first. The Noticee has contended that there has been delay in initiating the current proceedings as the SCN was issued after more than 4 years. In support of the above, the Noticee has cited the decision of Hon'ble SAT in *Rajeev Bhanot (supra).* I note that the aforesaid contention was also raised before Hon'ble SAT, which held the following in paragraph 6 of the SAT Order:

"Having heard the learned counsel for the parties, we find that the trades in question are of the year 2013. The show cause notice was issued on September 28, 2017 by the WTM and January 18, 2018 by the AO. We do not find any evidence to hold that there was an inordinate delay in the issuance of the show cause notice. This contention is accordingly rejected.

Further, nothing has been shown as to how this delay has prejudiced the appellant. In the absence of any prejudice the delay, if any, cannot be set aside."

11. Further, I find that the facts of *Rajeev Bhanot (supra)* are totally distinguishable from the facts of the present case. *Firstly*, in the aforesaid case, the delay found by Hon'ble SAT was 12 years whereas the delay period alleged in the current case is one third of the above. *Secondly*, I find that in the aforesaid case, the findings of delay were influenced by peculiar set of facts of the case. In the aforesaid case, an order was passed against acquirers, heirs of the deceased and the promoters of M/s. Bhanot Leasing Limited by the WTM to make an open offer in terms of SEBI takeover regulations. In this regard, Hon'ble SAT had found that: (i) the acquisition made by the appellant was in the public domain and was known to the stock exchange and SEBI, however, despite the above, SEBI did not raise any query for several years. The first query was raised after more than 6 years in November, 2011 from the target company which was provided, and thereafter in 2014 and 2015, further information was sought, which was also provided. The mere fact that SEBI made queries from time to time does not extend the period of limitation nor does it condone the delay; (ii) the show cause notice was issued to dead persons inspite of having knowledge that the two acquirers have already died; (iii) the purpose of making a public offer is to bring relief to the shareholders on the creeping acquisition. Such relief is required to be made at the earliest opportune moment and the purpose is lost if action is initiated after 12 years. I find that none of the above considerations are present in the current case. *Thirdly*, Hon'ble SAT had found that the appellant was prejudiced in the aforesaid case on account of the following: (i) since the acquirers were dead, order was passed against heirs of the deceased acquirers without impleading them and without giving them an opportunity of hearing; (ii) promoters who did not make any acquisition were held as acting in concert without a finding that they were acting with a common objective in mind. Thus, based on the aforesaid analysis, I find that the contention of delay raised by the Noticee is untenable.

12. Next, the Noticee has contended that multiple proceedings have been initiated against the Noticee for the same cause of action. In this regard, the Noticee has relied upon the decision of Hon'ble SAT in *P.G. Electroplast Ltd.*

(supra). On perusal of the aforesaid order, I note that the Hon'ble SAT had found that the appellant had committed a technical violation, and in light of the fact that the WTM had already debarred the appellant for 10 years which was reduced to 7 years by the tribunal, Hon'ble SAT set aside the order of adjudicating officer wherein he had imposed a penalty of Rs 1 crore on each of the appellants. The key term in the aforesaid order being that the violation was considered "technical" whereas in the present case the charge levelled against the Noticee is violation of the provisions of PFUTP Regulations by contributing to significant positive LTP of SHL scrip, which by any means, cannot be considered as "technical" in nature. Notwithstanding the above, even though the facts of the aforesaid case and the present case are not *pari materia,* the directions of the WTM in corresponding proceedings has been factored in while fixing the quantum of penalty in the present order.

13. At this juncture, I find it appropriate to rely on the order passed by Hon'ble SAT in ***Ms. Sunita Gupta vs. SEBI*** (Appeal No. 193 of 2016) dated April 21, 2017, wherein it held that:

"<u>Where a person violates the provisions contained in the SEBI Act and the regulations made thereunder, then, SEBI is empowered to initiate penalty proceedings against that person under Chapter VIA of SEBI Act and also issue directions in the interests of investors or securities market as it deems fit under Chapter IV of SEBI Act. Thus, the powers conferred on the Board under Chapter IV are independent from the powers to impose penalty under Chapter VIA of SEBI Act.</u> Accordingly, in the present case, since the appellant had indulged in synchronized/ circular trades in gross violation of SEBI Act/ PFUTP Regulations and the same was detrimental to the interests of the investors and securities market, the Board deemed it fit to issue direction under Chapter IV in addition to the penalty imposed under Chapter VIA of SEBI Act. <u>Therefore, in the facts of present case, initiation of proceedings under Chapter IV even after initiating proceedings under Chapter VIA cannot be faulted</u>". (emphasis supplied).

Thus, I find that the decision to initiate proceedings under chapter IV as well as chapter VIA of the SEBI Act is the sole prerogative of SEBI. Such a decision is on a *bonafide* satisfaction as to the existence of certain alleged irregular or illegal facts happenings or circumstances supposedly taking place in the affairs of a company.

14. As regards the review application filed by the Noticee before the Hon'ble SAT, on perusal of the said application, I find that paragraph 11 which concerns "Prayers" of the Noticee *inter alia* states that:

"In the facts and circumstances of the case and in the interest of justice this Hon'ble Tribunal may graciously be pleased to:

a) re-call and review the order dated 15th December 2021 passed by this Hon'ble Securities Appellate Tribunal <u>in Appeal number 331 of 2021</u>; and
b) <u>re-hear the above-mentioned Appeal 331 of 2021</u> and dispose of the same on merits;
c) ….
d) pending the hearing and final disposal of this Review Application, SEBI be directed not to take any coercive steps or enforce any of the direction <u>of the impugned order</u> against the Applicant;" (emphasis supplied).

It is worth stressing that appeal number 331 of 2021 was filed by the Noticee against the WTM order pursuant to which the SAT Order was passed. I find that the Noticee has not sought a review against the order passed by Hon'ble SAT in appeal number in 366 of 2020, which is the appeal preferred against the AO Order. It is important to highlight here that the proceedings before the WTM and the adjudicating officer are distinct and independent. Further, I am also guided by decision of Hon'ble SAT in the matter of ***Grishma Securities Private Limited and Ors. vs. SEBI*** (Misc. application no. 14 of 2014 and review application no. 3 of 2014 in appeal no. 151 of 2013) dated April 23, 2014, wherein Hon'ble SAT relied upon the following case of Hon'ble Supreme Court:

"…..In the case of S. Nagaraj & Others vs. State of Karnatake [JT 1993 (5) SC 27], it has been held by the Hon'ble Supreme Court that the power of review is exercised to remove an error and not for disturbing finality…"

Taking the aforesaid into account, since the review application has not been filed against the findings of Hon'ble SAT in the SAT Order with respect to the AO Order, and bearing in mind the general purpose of review which is to not reverse the decision sought for review, I find that the instant adjudication proceedings can be proceeded with despite the fact that the review application is pending before Hon'ble SAT. Further, as brought out before, *vide* the SAT Order, the undersigned was directed by Hon'ble SAT to decide the matter afresh within six months, thus, I find it appropriate to deal with the matter on merits and pass an order.

D. CONSIDERATION OF ISSUES AND FINDINGS

15. The issues that arise for consideration in the instant matter are:

I. **Issue No. I**: Whether the Noticee has violated regulations 3(a), 3(b), 3(c), 3(d), 4(1), 4(2)(a), and 4(2)(e) of the PFUTP Regulations?

II. **Issue No. II**: If yes, whether the violation, on the part of the Noticee would attract monetary penalty under section 15HA of the SEBI Act?

III. **Issue No. III**: If the answer to Issue No. II is in affirmative, what would be the monetary penalty that can be imposed upon the Noticee taking into consideration the factors stipulated in section 15J of the SEBI Act read with rule 5(2) of the SEBI Adjudication Rules?

I. Issue No. I: Whether the Noticee has violated regulations 3(a), 3(b), 3(c), 3(d), 4(1), 4(2)(a), and 4(2)(e) of the PFUTP Regulations?

16. Before moving forward, it is pertinent to refer to the relevant provisions of the PFUTP Regulations which are alleged to have been violated by the Noticee, which reads as under:

CHAPTER II PROHIBITION OF FRAUDULENT AND UNFAIR TRADE PRACTICES RELATING TO THE SECURITIES MARKET

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 [1][manipulative], fraudulent or an unfair trade practice in [2][markets]

[3][Explanation–For the removal of doubts, it is clarified that any act of diversion, misutilisation or siphoning off of assets or earnings of a company whose securities are listed or any concealment of such act or any device, scheme or artifice to manipulate the books of accounts or financial statement of such a company that would directly or indirectly manipulate the price of securities of that company shall be and shall always be deemed to have been considered as manipulative, fraudulent and an unfair trade practice in the securities market]

(2) Dealing in securities shall be deemed to be a [4][manipulative] fraudulent or an unfair trade practice if it involves [5][any of the following]:—

(a) [6][knowingly] 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 [7][including, influencing or manipulating the reference price or bench mark price of any securities];

*[1] Inserted vide the Securities and Exchange Board of India (Prohibition of Fraudulent and Unfair Trade Practices relating to Securities Market) (Amendment) Regulations, 2018 w.e.f. February 01, 2019 (hereinafter referred to as "**PFUTP 2018 Amendment Regulations**").*

[2] Ibid.

[3] Inserted vide Securities and Exchange Board of India (Prohibition of Fraudulent and Unfair Trade Practices relating to Securities Market) (Second Amendment) Regulations, 2020 w.e.f. October 19, 2020.

[4] Ibid.

[5] Substituted vide the PFUTP 2018 Amendment Regulations. Before the substitution the words read as: "fraud and may include all or any of the following, namely".

[6] Inserted vide the PFUTP 2018 Amendment Regulations.

[7] Ibid.

17. At the cost of repetition, I find that that it is worth mentioning the breakdown of the quantity of buy orders of the Noticee executed during the Price Rise Patch:

Sl. No.	Description	No. of trades	LTP Contribution (Rs)	% of total market positive LTP
1	Trades where buy order quantity is 1 share	386	96.04	50.37
2	Trades where buy order quantity is 2 - 10 shares	29	6.23	3.27
3	Trades where buy order quantity is more than 10 shares	139	28.04	14.71
4	All buy trades which contributed to positive LTP	**554**	**130.31**	**68.34**

Out of the 554 trades executed by the Noticee during the Price Rise Patch, I note that the SCN alleges that 176 trades of the Noticee which constituted 26.34% of total market positive LTP and resulted in LTP contribution of Rs. 50.23 had violated the aforesaid provisions of PFUTP Regulations. It is alleged that the Noticee lacked *bona fide* intention to buy because despite having large disclosed quantity of sell orders (100 to 1000 shares), it had repeatedly placed: (i) small quantity buy orders (less than or equal to 10 shares) by either matching the price of the sell order or placing orders slightly higher than sell order rate which were already above LTP at the time of buy order entry; or (ii) by placing buy orders at prices above LTP which were subsequently matched by sell orders, thereby contributing to significant positive LTP.

18. The Noticee has argued that there is no prohibition on placing orders for small quantity of shares and that out of 6519 trades of the Noticee, only 554 contributed to positive LTP and out of which only 176 trades are treated as objectionable. The Noticee has also stated that there was huge difference in order ‘key-in' time of buyer and seller and that the orders placed by it were modified to match the market price. At this juncture, I find it relevant to refer to the top 5 LTP contributing trades out of the 176 trades of the Noticee:

Batch Date	Seller Name	Trade Time	Buy Order LMT	Sell Order LMT	Trade Price	LTP Diff	Buy Order LMP	Sell Order LMP	Trade Qty	Sell Order Disclose Volume	Buy order LMQ
16.07.2013	Pratik Kantilal Shah	13:44:41 5377410	13:44:41 5222630	09:33:08 6836110	18.00	1.30	18.00	18.00	1	100	1
17.07.2013	Mittal Kalpesh Tank	11:43:19. 1292010	11:43:19. 1186850	11:20:13 1246800	18.50	1.40	18.50	18.50	1	100	1
23.07.2013	Jaya V Kadaad	15:14:31. 8931630	15:14:31. 8715030	11:04:55 4566600	17.30	1.60	17.30	17.30	1	300	
26.07.2013	Jihan Mercantile Private Limited	11:47:25. 7312940	11:47:25. 7042240	09:30:56 7460720	16.45	1.25	16.45	16.45	1	4000	1
26.07.2013	Godavari Commercial Services Pvt. Ltd.	15:19:57. 8514100	15:19:57. 8108340	14:52:55 5603370	16.25	1.05	16.25	16.25	1	1000	1

19. On analysing the above table, I find that the aforesaid arguments of the Noticee does not justify the economic rationale of placing orders for buying 1 share when sell orders in the range of 100 shares to 4000 shares have already been punched in. It is clear that the buy orders were entered after the sell orders were entered. Thus, the issue is not that the Noticee had placed orders for buying shares of small quantity, but that the aforesaid trading pattern of the Noticee along with the fact that there was a positive LTP contribution shows that the Noticee had traded with an ulterior motive.

20. The Noticee has further argued that the aforesaid 176 trades are miniscule to cause an impact on the scrip of SHL. It is pertinent to note that every share executed at a price which is at variance to the LTP, becomes the LTP in the particular scrip. The pattern of increase or decrease of LTP acts as a crucial indicator of the price movement of the scrip to investors which inturn influences volume. It has been already noted that the 176 trades of the Noticee has contributed Rs 50.23 to positive LTP, which was 26.34% of the

total market LTP, accordingly, I vehemently disagree that the concerned 176 trades were miniscule to cause an impact on price of SHL shares.

21. The Noticee has contended that every trade can result in either positive, negative or 0 LTP. Not all of Noticee's trades have resulted into positive LTP. It has further submitted that positive LTP does not lead to price rise of security as LTP may or may not lead to NHP. I find that the aforesaid argument does not help the case of Noticee at all since it has not been alleged in the SCN that positive LTP contribution of the Noticee has led to price rise or NHP of SHL shares. The allegation against the Noticee is that the Noticee's trades have led to positive LTP contribution to the SHL scrip and I find that there is sufficient evidence to prove that Noticee had placed buy orders above LTP. When such trades are done repeatedly, such as 176 times, one cannot resist coming to the conclusion that such trades were manipulative in nature.

22. Noticee's contention that there was change in beneficial ownership of shares and therefore the Noticee was a *bona fide* buyer is also not convincing. There is no dispute that there was change in beneficial ownership, however, that does not mean that the trade in shares in which there has been change of beneficial ownership cannot be manipulative. I find it relevant to refer to the findings of Hon'ble Supreme Court in the matter of ***SEBI vs. Rakhi Trading*** (Civil Appeal no. 1969 of 2011), decision dated February 08, 2018, wherein Hon'ble Court relied upon the following extract from the decision of Hon'ble SAT in ***Ketan Parekh vs. SEBI*** (Appeal No. 2 of 2004), decided on July 14, 2006:

"<u>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.</u> 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 <u>whether there is real change of beneficial ownership</u>, the conditions then prevailing in the market are some of the factors which go to show the intention of the parties. <u>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</u>." (emphasis supplied)

Keeping in mind the aforestated findings of the Supreme Court, I find that for determining manipulative intent, change in beneficial ownership is one of many factors from which an inference can be drawn and not the only factor. Notwithstanding the change in beneficial ownership, based on the findings recorded by me above, I find that by placing orders for small quantities coupled with placing buy orders above LTP when sell orders for larger quantities were already present in the system, it can be reasonably concluded that the Noticee has acted with vested interest to increase LTP of the SHL scrip.

23. I find that the fact the Noticee has placed limit orders to buy shares of SHL does not lend credence to the defence of the Noticee that the concerned trades of the Noticee were genuine and were entered in ordinary course of business. Further, the contention that prices at which the trades of the Noticee had taken place had already prevailed on the previous days is irrelevant as it is on record that the Noticee had placed buy trades above the LTP, and thus the fact that the shares were traded on the same price which prevailed on the previous days does not hold any merit.

24. The Noticee has also submitted that the scrip of SHL was in 'T' group and thus under continuous surveillance/supervision. In this regard, it is important to highlight that in the net profit of SHL, there was decreasing trend from FY 2010-11 till FY 2012-13, and from then, there was an increasing trend till FY 2014-15. The detailed figures are provided below:

Description	Year Ended (in Rs. million)				
	31-Mar-11	31-Mar-12	31-Mar-13	31-Mar-14	31-Mar-15
Net Sales	576.54	229.41	137.84	74.01	61.64
Expenditure	-564.43	-216.62	-139.54	-73.32	-58.03
Net Profit	3.55	2.99	0.27	0.63	1.24

As submitted by the Noticee that the SHL scrip was in surveillance/supervision and from the figures provided above, if the Noticee was an ordinary investor, it would be further disincentivized to purchase shares of SHL, however, on the contrary, the Noticee has purchased the said shares in small quantities over the course of 57 days which contributed to significant positive LTP of Rs 50.23. The aforesaid trading behavior of the Noticee raises a strong suspicion that its trading in the SHL scrip was not genuine.

25. As provided in paragraph 9.4, the Noticee has argued that no collusion has been established between the Noticee and any other entity. The Noticee has also placed reliance on the order passed by Hon'ble SAT in *M/s Nishith M. Shah HUF (supra)*. I find that the same contention was raised by the Noticee before Hon'ble SAT in the appeal filed before it, which it dismissed. The relevant paragraph from the SAT Order is reproduced below:

"Thus, in the instant case, the pattern of trading, namely, placing buy orders in small quantities which led to increase in the price of the scrip was clearly fraudulent and manipulation of the price of the scrip which was violative of Regulations 3 and 4 of the PFUTP Regulations. Thus, the finding given by the WTM does not suffer from any error of law. <u>The decision of this Tribunal in the case of M/s Nishith M. Shah is, thus, not applicable in the facts and circumstances of the present case and is clearly distinguishable.</u>" (emphasis supplied)

26. I find that Hon'ble SAT itself has distinguished *M/s Nishith M. Shah HUF (supra)* in various cases, one being ***Subhash Gangaprasad Gupta vs. SEBI*** (Misc. application no. 443 of 2020 and appeal no. 560 of 2020) dated

June 21, 2021. In the aforesaid order, similar to the Noticee, the appellants had contended that the buyers were not made parties to the case, Hon'ble SAT did not accept the aforesaid argument and *inter alia* held that:

"Having heard the learned counsel for the parties we find that even though the buyer have not been charged with the price rise nonetheless we are of the opinion that in the instant case the decision of this Tribunal in the case of M/s. Nishith M. Shah HUF and Amaresh Pathak (supra) is distinguishable on facts and therefore the principles propounded in the said decisions are not applicable in the instant case. We find from a perusal of the transactions which has been elucidated in the order of the AO that the appellants who are the sellers in the instant case were placing their orders on separate days and these orders never overlapped meaning thereby that one appellant was placing order on one particular day and the other noticee was placing order on another date. Further, majority of the orders were placed by the appellants at the circuit price in the second half of the trading days. Thus, in our opinion, <u>there was a pattern of trading between the appellants which was clearly manipulative as well as fraudulent. By this scheme / device the appellants were consistently being found to be placing small quantities of sell orders which when accepted with the buy orders led to the increase in the price of the scrip. The trading pattern clearly indicates that there was concerted effort by all the appellants to increase the LTP for vested reasons. This act, practice on the part of the appellants operates as a fraud or deceit upon any person with any dealing in the securities market. We are of the opinion that the trading pattern of the appellants was in a coordinated manner and therefore their contention that the transactions was done in the ordinary course of business and was not intended for any kind of manipulation cannot be accepted</u>." (emphasis supplied).

27. Further, in ***Tanuj Khandelwal vs. SEBI*** (Appeal No. 357 of 2020), decision dated January 04, 2021, similar argument as the Noticee was raised that the buyers were not made parties. Hon'ble SAT rejected the aforesaid contention and *inter alia* held that:

"Having heard the learned counsel for the appellant and upon perusal of the impugned order we are of the opinion that the case of the appellant is distinguishable and consequently the decision in M/s. Nishith M. Shah HUF (supra), Rajesh Marchya (supra) and Mr. Jayant Indulal Sethna (supra) cases are not applicable and are distinguishable on facts. <u>We find that except on three occasions the appellant only sold one share at a time on a daily basis. This trading pattern created misleading appearance with intention to manipulate the market if not the price. Thus, even if there is no connection with the buyer the trading pattern shows a concerted effort to manipulate the market and therefore we are of the opinion that the appellant was not acting as a genuine seller. We also find that the appellant had no bonafide intention to sell because inspite of sufficient buy orders being placed with abundant quantity being available in the market the appellant was only placing sell orders of one share at a time. This clearly shows his intention of manipulating the market for vested reasons</u>.

Consequently, we are of the opinion that the finding of the AO that the appellant had violated the provisions of Regulation 3 and 4 of PFUTP Regulations does not suffer from any error of law." (emphasis supplied).

28. In contention 9.6 summarized above, the Noticee has claimed that the trades of the Noticee have been randomly picked and there is no concrete basis to determine the objectionability of the Noticee's trades. In support of the above, the Noticee has presented an analysis of trades of two days during the Price Rise Patch *i.e,* May 21, 2013 and June 26, 2013. My observations with respect to the trades undertaken on the said dates by the Noticee are provided below:

(i) <u>May 21, 2013</u>: The Noticee has argued that trade placed by the Noticee at 09:50:18 AM at the rate of Rs 13.1 resulting in positive LTP of Rs 0.1 is considered objectionable, however, buy order placed for 30 shares at 09:49:53 AM at the same rate resulting in same positive LTP contribution is not considered objectionable. In this regard, it is important to highlight here that as per paragraph 7 of the SCN, only those trades have been considered objectionable where the sell quantity of sell orders was equal to or more than 100 shares and buy order was placed for less than or equal to 10 shares. Since the trade executed at 09:49:53 AM was placed by Noticee for buying 30 shares, the same has not been considered objectionable as only less than 10 buy shares of the Noticee have been considered objectionable.

(ii) June 26, 2013: The Noticee has contended that Noticee's 1 buy trade placed and executed at 02:54:04 PM at the rate of Rs. 17.35 resulting into a positive LTP of Rs. 0.53 is considered objectionable, however, 4 trades of 1 share each executed on the said date which led to LTP contribution of Rs. 0.33, 0.37, 0.58 and 0.62 have not been considered objectionable, which shows that there is no basis for arriving at the said 176 concerned trades. As noted earlier, only those trades have been considered objectionable where the sell quantity was equal to or more than 100 shares and buy order was placed for less than or equal to 10 shares. Each of the aforesaid 4 trades which have not been considered objectionable had less than 100 sell shares available. The same is also evident from the trade log, particularly column "AC" titled "CP ORDER_AVLQTY", relevant extract of which is reproduced below:

Trade ID (Column I)	**Trade rate (Column O)**	**LTP rate (Column P)**	**Counterparty order available quantity (Column AC)**
1137	17.41	0.62	25
1086	17.36	0.58	2
1218	17.36	0.37	22
1001	17.46	0.33	65

From the above, it can be seen that the trades cited by the Noticee had less than 100 sell shares available for matching with its own buy trades, therefore, the same have not been considered under the objectionable 176 trades where price manipulation has been alleged. In light of the analysis above, I am completely unconvinced with the Noticee's argument that objectionable trades in the present case were randomly chosen and that they lack objectionability.

29. The Noticee has stated in its defence, as summarized in paragraph 9.7 above, that the adjudication order passed in respect of *Jayant Indulal Sethna in the matter of Dhenu Buildcon Infra Limited (supra)* is applicable in the present case. In the aforesaid order, the adjudicating officer had not found the noticee therein guilty *inter alia* on the ground that sell orders of Noticee were placed within 1 to 2 hours from the placement of buy orders and executed subsequently which resulted in establishing of LTP. Thus, it was held that merely because there were no subsequent sell orders available in the market, the allegation of price manipulation for creation of LTP cannot be attributable to the Noticee. Although the adjudication proceedings are independent, it is pertinent to highlight here that after the aforesaid order was passed, the WTM, on the same set of facts, *vide* order dated October 16, 2019, restrained the noticee therein from accessing the securities market for 2 years, and *inter alia* held the following*:*

"From the trade and order log details pertaining to the said 34 trades spread over 34 trading days, which are provided in the Table above, I note that on 31 out of 34 days, the Noticee had put sell orders for 1 share even though there were pending buy orders for shares ranging from 5 to 1500 shares in the trading system. I note that the Noticee, unlike a genuine investor, was attempting to match the pending buy orders put up at incremental prices with his sell orders for 1 share each, thereby driving up the price of the scrip through low volume. I further note that out of 34 trading days during which the Noticee executed his 34 trades, his trades were the lone trades on 29 such days (i.e. there was no other trade in the scrip on that date except the Noticee's single trade). I find that the said trading pattern is inherently suspect and manipulative in nature, since the same presented to the gullible investors a positive and rosy picture of the scrip which was false and misleading." (emphasis supplied)

I find that Noticee's reliance on the aforesaid adjudication order does not help the case of the Noticee as later the WTM himself had found that trading pattern of the noticee therein of placing sell orders of 1 share each when buy orders were already present in the system amounts to manipulation. Similarly, in the case of the Noticee, the Noticee has majorly placed buy orders of 1 share each when larger sell orders were available, thus, I cannot resist coming to the conclusion that the Noticee's trades were also manipulative.

30. As regards the contention of the Noticee that if BSE treated the alleged transactions as valid, and accepted/acted upon, then such trades ought not be treated as objectionable, I note that proceedings conducted by SEBI are independent of any action taken or not taken by the stock exchanges. When and where regulatory intervention is needed is the exclusive right of SEBI and any action taken or not taken by BSE does not prevent SEBI from deciding which proceedings should be initiated in a particular matter. Therefore, I find that this unsatisfactory contention deserves to be rejected.

31. With respect to the contention of the Noticee that the SCN does not disclose (i) benefit or gain derived by the Noticee from the alleged positive LTP contribution or increase in price; and (ii) benefit derived from the purported group entities from purported price rise, it is important to bear in mind that the SCN proceeds on the charge that the Noticee executed manipulative trades mostly involving single shares per trade leading to positive LTP contribution in the scrip of SHL, thus it is the onus of the Noticee to refute the charges levelled in the SCN with evidence justifying its acts. The other contentions of the Noticee have been dealt in the previous paragraphs, and the Noticee has not been successful in providing the rationale for executing such trades, therefore, merely submitting that the SCN does not disclose benefit or gain made by the Noticee or its group companies is a feeble defence which does not merit further discussion.

32. Taking into account the previous paragraphs, I find that the charge that the Noticee has violated regulations 3(a), 3(b), 3(c), 3(d), 4(1), 4(2)(a) and 4(2)(e) of the PFUTP Regulations stands established.

II. Issue No. II: If yes, whether the violation, on the part of the Noticee would attract monetary penalty under section 15HA of the SEBI Act?

III. Issue No. III: If the answer to Issue No. II is in affirmative, what would be the monetary penalty that can be imposed upon the Noticee taking into consideration the factors stipulated in section 15J of the SEBI Act read with rule 5(2) of the SEBI Adjudication Rules?

33. Since violation of regulations 3(a), 3(b), 3(c), 3(d), 4(1), 4(2)(a) and 4(2)(e) of the PFUTP Regulations by the Noticee is established, I am of the view that the same warrants imposition of monetary penalty upon the Noticee under section 15HA of the SEBI Act, text of which is provided below:

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 *[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].*

**Substituted for the words "twenty-five crore rupees or three times the amount of profits made out of such failure, whichever is higher" by the Securities Laws (Amendment) Act, 2014, w.e.f. 08-09-2014.*

34. While determining the quantum of penalty under section 15HA of the SEBI Act, the following factors stipulated in section 15J of the SEBI Act, have to be given due regard:

(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; and

(c) the repetitive nature of the default.

35. The material made available on record has not quantified the amount of disproportionate gain or unfair advantage made by the Noticee and the loss suffered by the investors as a result of the Noticee's default. With respect to the repetitive nature of the default, it is noted that no past action has been taken against the Noticee. However, it is worth highlighting that by executing trades which led to positive LTP contribution in the price of SHL scrip, the Noticee gave an impression of demand for SHL scrip at a higher price in the securities market. Higher the demand, higher is the investors attraction towards investing in that scrip. Hence, anyone could have been carried away by price rise in the SHL scrip and induced into investing in the said scrip. Thus, this kind of activity seriously affects normal price discovery mechanism of securities market, which has an impact on the entire securities market and therefore such entities should be suitably penalized for such acts. Further, as noted above, in line with the decision of Hon'ble SAT in *P.G. Electroplast Ltd. (supra)*, the directions of the WTM in corresponding proceedings has been factored in while fixing the quantum of penalty in the present order.

E. ORDER

36. After taking into consideration all the facts of the case, the contentions of the Noticee including the mitigating factors provided in paragraph 9.10 above, in exercise of powers conferred upon me under section 15I (2) of the SEBI Act read with rule 5 of the SEBI Adjudication Rules, I hereby impose a penalty of Rs 10,00,000/- (Rupees Ten Lakhs Only) upon the Noticee *i.e,* M/s Adamina Traders Pvt. Ltd. under section 15HA of the SEBI Act for violation of

regulations 3(a), 3(b), 3(c), 3(d), 4(1), 4(2)(a) and 4(2)(e) of the PFUTP Regulations.

37. The said penalty imposed on the Noticee, as mentioned above, is commensurate with the violation committed by the Noticee and acts as a deterrent factor for the Noticee and others in protecting the interest of investors.

38. The Noticee shall remit / pay the said amount of penalty within 45 days of receipt of this order either by way of demand draft in favor of "SEBI - Penalties Remittable to Government of India", payable at Mumbai, or 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

In case of any difficulties in payment of penalties, the Noticee may contact the support at portalhelp@sebi.gov.in.

39. The Noticee shall forward the said demand draft or the details / confirmation of penalty so paid through e-payment to the Division Chief, Enforcement Department-I, DRA-IV, SEBI, in the format given in table below:

1.	Case name	
2.	Name of payee	
3.	Date of payment	
4.	Amount paid	
5.	Transaction no	
6.	Bank details in which payment is made	
7.	Payment is made for	Penalty

40. In terms of rule 6 of the SEBI Adjudication Rules, copies of this order are sent to the Noticee and SEBI.

Date: May 10, 2022
Place: Mumbai

PRASANTA MAHAPATRA
ADJUDICATING OFFICER