

BEFORE THE SECURITIES AND EXCHANGE BOARD OF INDIA

CORAM: S K MOHANTY, WHOLE TIME MEMBER

ORDER

**Under Sections 11, 11 (4) and 11B (1) of the Securities and Exchange Board of India Act,
1992**

In respect of:

Sr. No.	Noticee No.	Name of the Noticee	PAN
1	15	Mainak Comtrade Private Limited	AAGCM5750N.
2	16	Pranatpal Tradelink Private Limited	AAFCP5109D
3	29	Shalomiben Anilbhai Bariya	BWMPB3400Q
4	30	Dipakkumar Rajaram Joshi	AOEPJ9432R
5	31	Birju Pravinchandra Sanghvi	ALLPS1169E
6	42	Hitesh Chinubhai Shah	BGAPS9446R
7	43	Gaurang Pathak	BLSPP1179H
8	44	Ankit Rajeshbhai Rajput	ASWPR1312C
9	49	Bimesh Arvindbhai Jani	AHYPJ5331Q
10	58	Pratikbhai Kiritkumar Shah	BQHPS3816E
11	60	Shah Chirag	BBWPS5965G
12	61	Ronak Nayankumar Shah	FKQPS0981B
13	62	Dholakia Jayshree Kishor	AMLPD5973G
14	63	Jayshreeben Kiritkumar Shah	BQMPS6009Q

15	64	Chandrikaben Naranbhai Panchal	BXQPP2080R
16	65	Nikunj Dineshkumar Soni	BGJPS9140K
17	66	Manisha Rajendra Modi	ALTPM1311L
18	67	Kiritbhai Shantilal Shah	AWRPS2401E
19	68	Naranbhai J Panchal	AMQPP0054P
20	69	Rahim Umarbhai Ravkarda	AWPPR6156H
21	70	Dholakiya Kishorbhai S	ANHPD1507F
22	71	Rinkeshkumar N Panchal	BYCPP1543E
23	72	Yogendra J Prajapati	CIYPP6021L
24	73	Hiteshkumar Mahipatlal Patel	APOPP1463R
25	74	Manish Shah	BFOPS3849R
26	75	Anilbhai Bhalabhai Baria	BWMPB2794M
27	76	Hiral Manish	AZQPM9451N
28	77	Prajapati Niles J	BXCPP8877J
29	78	Manthan Rajendrabhai Modi	COPPM3699G
30	79	Rohitkumar Shantilal Shah	EHJPS4683H

In the matter of Dhyana Finstock Ltd.

(The aforesaid entities are hereinafter individually referred to by their respective names and collectively as “Noticees”, and the numbers are mentioned from the original SCN)

BACKGROUND

1. The present proceedings emanate from the order dated June 10, 2022 of the Hon’ble Securities Appellate Tribunal (hereinafter referred to as the “**Hon’ble SAT**”), passed in *Appeal no. 448 of 2020, Farooq Kasam Hana and others Vs. SEBI*, and other connected appeals, wherein the Hon’ble SAT has directed the Securities and Exchange Board of India (hereinafter

referred to as “SEBI”) to reconsider the matter against the present 30 *Notices* and decide it afresh. The said appeals had *inter alia* challenged the order dated July 29, 2020 passed by SEBI, wherein numerous directions entailing debarment of certain entities from accessing the securities market and disgorgement of unlawful gains were passed against the *Notices* therein.

2. The observations of the Hon’ble SAT, relevant to the present proceedings, as culled out from the aforesaid order dated June 10, 2022 are reproduced herein below:

38. Some of the notices who have traded in Patch 1 and 2 contended that their contribution towards positive LTP was less than 1% which is miniscule and, therefore, their trades does not impact the price manipulation if considered individually. It was urged that the WTM and the AO have erred in considering the LTP cumulatively contributed by all the notices. In this regard, 17 notices who contributed less than 1% are appellants are as under:

Sr. No.	Appellants	Appeal No.	Noticee No.
1.	Dholakia Jaysbreekishor	221 of 2021 & 222 of 2021	62
2.	Shalomiben Anilbhai Bariya	223 of 2021 & 224 of 2021	29
3.	Chandirkaben Naranbhai Panchal	227 of 2021 & 228 of 2021	64
4.	Gaurang Pathak	233 of 2021 & 234 of 2021	43
5.	Bimesh Arvindbhai Jani	235 of 2021 & 236 of 2021	49
6.	Dipakkumar Rajaram Joshi	243 of 2021 & 244 of 2021	30
7.	Nikunj Dineshkumar Soni	245 of 2021 & 246 of 2021	65
8.	Birju Pravinchandra Sanghvi	249 of 2021 & 250 of 2021	31
9.	Jaysbreeben Shah	251 of 2021 & 252 of 2021	63

10.	<i>Ankit Rajesbbhai Rajput</i>	257 of 2021 & 258 of 2021	44
11.	<i>Ronak Nayankumar Shah</i>	259 of 2021 & 260 of 2021	61
12.	<i>Hitesh Chinubhai Shah</i>	261 of 2021 & 262 of 2021	42
13.	<i>Pratikbbhai Kiritkumar Shah</i>	269 of 2021 & 270 of 2021	58
14.	<i>Shah Chirag</i>	275 of 2021 & 276 of 2021	60
15.	<i>Manisha Rajendra Modi</i>	279 of 2021 & 280 of 2021	66
16.	<i>Pranatapal Tradelink Pvt. Ltd.</i>	287 of 2021 & 288 of 2021	16
17.	<i>Mainak Comtrade Pvt. Ltd.</i>	289 of 2021 & 290 of 2021	15

39. In addition, 13 such noticees, have alleged that they have not contributed to the LTP, namely

<i>Sr. No.</i>	<i>Appellants</i>	<i>Appeal No.</i>	<i>Noticee No.</i>
1.	<i>Kiritbbhai Shantilal Shah</i>	231 of 2021 & 232 of 2021	67
2.	<i>Naranbbhai Panchal</i>	253 of 2021 & 254 of 2021	68
3.	<i>Rahim Umarbbhai Ravkarda</i>	297 of 2021 & 298 of 2021	69
4.	<i>Kishorbhai Sonabbhai Dholakiya</i>	225 of 2021 & 226 of 2021	70
5.	<i>Rinkeshkumar Pancabl</i>	229 of 2021 & 230 of 2021	71
6.	<i>Yogendra J. Pranjapati</i>	239 of 2021 & 240 of 2021	72
7.	<i>Hiteshkumar Mahipatlal Patel</i>	265 of 2021 & 266 of 2021	73
8.	<i>Manish Shah</i>	247 of 2021 & 248 of 2021	74

9.	Anilbhai Bhalabhai Baria	219 of 2021 & 220 of 2021	75
10.	Hiral Manish	263 of 2021 & 264 of 2021	76
11.	Prajapati Nilesb J	241 of 2021 & 242 of 2021	77
12.	Manthan Rajendrabhai Modi	237 of 2021 & 238 of 2021	78
13.	Robitkumar Shatilal Shah	277 of 2021 & 278 of 2021	79

40. These facts have not been disputed by the respondent. The only contention raised is that the LTP contribution of these noticees if considered individually may not appear significant but if considered cumulatively the contribution is more than 90% of the total market positive LTP. In this regard, the appellants have relied upon the decision in the matter of *Nikki Global Finance Ltd.*, wherein the WTM have exonerated 99 such noticees whose LTP contribution was less than 1%. The WTM found such trades executed by these noticees to be miniscule and insignificant.

41. In this regard, we have perused the order of the WTM in the case of *Nikki Global* and find that a similar scheme was hatched. The show cause notice alleged that 109 noticees had traded amongst themselves during Patch 1 which has contributed positively to net LTP significantly which were fraudulent and violative of the Regulations 3 and 4 of the PFTUP Regulations. The WTM in its order held:

“c. However, with regard to the other allegation relating to the trades by 90 connected entities resulting into contribution of 42.23% to market +ve LTP during Patch-1, I note that such a contribution is indeed a significant contribution. In this regard, many of the Noticees herein have contended that, their contribution to LTP during Patch 1, is miniscule and negligible and in some cases even zero and hence, they ought not be held liable for any allegations of manipulation in the price of NGFL. I have perused the trades of the 90 connected entities as referred in Table 1 of the SCN. After analyzing the same, I find that out of the 90 connected entities, only 75 entities have been made Noticees to the present SCN, the details of which are as under:

.....

d. From the above Table, I find that out of the above 75 Noticees, except for Noticee no. 1, 3, 18, 9, 5, 2, 4, 8, 20 and 82, the +ve LTP contribution to the market +ve LTP of the other Noticees during Patch 1 is less than 1%. The trades of Noticee no. 1, 3, 18, 9, 5, 2, 4, 8, 20 and 82 (hereinafter referred to as 'the 10 Noticees'), have resulted into 31.24% of contribution to market positive LTP during Patch 1 and 26.7% of the total market volume during Patch 1. I also note that except for the 10 Noticees, the other Noticees contribution to

the market +ve LTP is not so significant to invite the rigors of regulatory direction under section 11B of SEBI Act, 1992.”

42. The WTM accordingly, exonerated those noticees who contributed less than 1% on the ground that they did not impact the price manipulation.

43. In our opinion, considering that SEBI has issued a benchmark exonerating such trades to be insignificant where LTP contribution is less than 1%, we are of the opinion that case of these noticees requires reconsideration. We are of the opinion that a consistent stand is required to be taken by the respondent as a regulator and cannot take different stands for different noticees.” (underline supplied)

3. Thus, in compliance of the aforesaid directions of the Hon’ble SAT, the present proceedings are being conducted for the aforesaid 30 *Noticees*.

4. Before proceeding, it is essential to record in brief the necessary background facts that led to the passing of the order dated July 29, 2020. In this regard, it is noted from the records that complaints were received on July 28, 2015, from the investors who had executed buy transactions in the scrip of Dhyana Finstock Limited (hereinafter referred to as “**the Company/Dhyana**”), informing that they have purchased the shares of the *Company* on the basis of stock tips received through SMS. The complainants alleged manipulation of the price of the scrip and requested that the pay-out for the trades executed in the shares of the *Company* on July 27, 2015 may be withheld and as proposed by BSE, SEBI allowed it to withhold the payouts.

5. Based on the inputs of BSE Limited (hereinafter referred to as “**BSE**”) and examination conducted by SEBI, an *interim* order dated June 01, 2016 (hereinafter referred to as the “**interim order**”) came to be passed, which *inter alia* directed BSE to continue withholding the pay-outs of the trades executed by certain entities who had traded in the scrip on July 27, 2015, as was earlier approved by SEBI . Eventually, series of orders were passed wherein the

directions passed vide the said interim order were confirmed/modified/revoked, as the case may be, *qua* various entities

6. Subsequently, an investigation was conducted by SEBI into the scrip of Dhyana for the period of June 13, 2014 to July 27, 2015, divided into patches viz., from June 13, 2014 to November 28, 2014 (Patch-1) and from December 01, 2014 to July 24, 2015 (Patch-2); and July 27, 2015 was the last day of the investigation period.

7. In terms of the outcome of the said investigation, a show cause notice dated April 20, 2018 (hereinafter referred to as the “**SCN**”) was issued to 81 Noticees therein narrating the following:

- i. The *Company* was incorporated on February 17, 1995 and its equity shares were initially listed on Ahmedabad Stock Exchange. The shares of the *Company* got listed on BSE w.e.f June 12, 2014 in the Trade for Trade (T2T) group securities.
- ii. The *Company* had on November 30, 2013, issued 64,25,000 equity shares of INR 10 each to 49 entities under preferential allotment. The bank statements indicated that 7 preferential allottees, viz., Noticee nos. 5 to 11, had received INR 15 Lakh each on November 28, 2013 from Noticee no. 12 (Mihir Consultancy & Trading Company, hereinafter referred to as “**Mihir**”), which were used by the said entities to make payment to the *Company* for the preferential allotment on the next day itself.
- iii. Mihir had in turn received INR 1 Crore from Noticee no. 13 (AA Plus Commodity Broking Pvt. Ltd.) and INR 5 Lakh from Noticee no. 15 (Mainak

Comtrade Pvt. Ltd., hereinafter referred to as "**Mainak**"). Noticee nos. 13, 14 and 15 were found to be connected to the *Company* itself.

- iv. During the period of Patch-1, the price of the scrip witnessed a rise from the level of INR 251.00 to INR 354.00. The total market positive Last Traded Price variation (hereinafter referred to as "**LTP**") was INR 422.35.
- v. It was noticed that 10 Noticees on the buy side (Noticee nos. 17, 18, 19, 20, 21, 43, 44, 45, 80, 81) and 16 Noticees on the sell side (Noticee nos. 22 to 28, 46, 47, 50 to 56), had traded amongst themselves during Patch-1 and had contributed INR 101.00 to the market positive LTP (23.91% of the total market positive LTP) and also discovered New High Price of the scrip on 39 instances, ultimately created NHP of INR 45.30 through such trades of Noticees.
- vi. During Patch-2, the price of the scrip increased from INR 352 to INR 395, and the total market positive LTP during such time was INR 1062.50. Out of such amount of INR 1062.50, as much as INR 83.60 (7.87% of the total LTP), was contributed in 53 trades executed between 16 Noticees on one buying side namely, Noticee nos.29, 30, 31, 43, 44, 45, 49, 58, 59, 60, 61, 62, 63, 64, 65 and 81 and 21 Noticees namely, Noticee nos.9, 11, 15, 16, 18, 32, 33, 34, 35, 36, 38, 39, 40, 41, 42, 46, 47, 50, 66 and 81 acting as counter party sellers, on the other side as a result of which the price rose from Rs.352 to Rs.395 and also created a New High Price and increase in the market volume. Again, an NHP was discovered in 26 trades/occasions during Patch-2, and out of such trades, an NHP of INR 38 was achieved through 21 trades executed by 11 Noticees. Furthermore, on 13

occasions, trades were executed within the group of 9 Noticees, and such trades contributed INR 29.90 to the NHP.

- vii. During Patch-2, major volume of trading on a gross sell basis was formed due to the sale of shares by the preferential allottees. It was also noticed out of the top 30 buyer entities (who had purchased more than 20,000 shares each), as many as 28 buyer entities were funded by six entities (Noticee no. 12, Noticee no. 14, Noticee no. 15, Noticee no. 16, Noticee no. 17 and Noticee no. 18) related to the *Company* itself, for enabling them to buy the shares being sold by the preferential allottees.
- viii. The SCN also recorded that a few of the preferential allottees (Noticee nos. 5 to 11) were allotted shares without consideration (the consideration amount being funded by Company related entities). Based on the same, it has been alleged that the preferential allottees who had sold shares (all or few of those allotted under the preferential allotment) made unlawful gains and those did not sell, also allegedly made notional unlawful gains.
- ix. Further, the SCN also alleges that certain Noticees viz., Noticee nos. 16, 18, 21, 29, 31, 43, 44, 61, 62, 63, 64, 80 and 81, were engaged in manipulation of the price of the scrip of the Company, and were also the net sellers of the shares of the *Company* on July 27, 2015, and thus made unlawful gains by their trades executed on the said day.
- x. It has also been alleged that Noticee nos. 67, 68, 70, 71, 73, 74, 75, 76, and 79, who had acted as exit providers to the preferential allottees, were also the net

sellers on July 27, 2015, and have made unlawful gains by selling almost all the shares that they had purchased from the preferential allottees.

8. From the SCN, I note that the following allegations were levelled against the *Notices* in the present proceedings, viz., *Notice nos. 15, 16, 29, 30, 31, 42, 43, 44, 49, 58, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79*, who are before me in terms of the directions passed by the Hon'ble SAT:

- i. *Notice no. 16, Notice no. 29, Notice nos. 31, Notice nos. 43-44, Notice nos. 61-64, Notice nos. 67-68, Notice nos. 70-71, Notice nos. 73-76 & Notice nos. 79*, have made unlawful gains out of fraudulent and manipulative trading in the scrip of the *Company*.
- ii. *Notice nos. 15*, along with other entities viz., the *Company* and its Directors etc., was involved in the fraudulent issuance of shares on a preferential basis to the seven *Notices*, without receiving consideration from them.
- iii. *Notice nos. 15 and 16*, and certain other entities, were involved in creation of a misleading appearance of trading in the scrip of the *Company* during Patch -2 by funding certain entities to buy the shares (by posing as counter parties) from the preferential allottees who sold their shares.
- iv. *Notice nos. 15, 16, 29, 30, 31, 42, 43, 44, 49, 58, 60 to 66* have indulged in trades with a view to manipulate the price of the scrip.
- v. *Notice no. 15* has contributed to positive LTP and NHP in the scrip by indulging in trades resulting in price manipulation of the scrip and has acted as counter parties to facilitate the exit to preferential allottees during Patch- 2.

- vi. *Noticee nos. 29 to 31, and Noticee nos. 43 and 44* have contributed to positive LTP and have indulged in trades resulting in price manipulation of the scrip.
- vii. *Noticee no. 42* has contributed to positive LTP by acting as counter party to the buy orders of other entities and has thereby indulged in trades resulting in price manipulation of the scrip.
- viii. *Noticee no. 49* has contributed to positive LTP and have indulged in trades resulting in price manipulation of the scrip and contributed to NHP in the scrip.
- ix. *Noticee nos. 58, 60 to 65* have contributed to positive LTP and have indulged in trades resulting in price manipulation of the scrip and also have acted as counter parties to facilitate the exit of preferential allottees during Patch -2 of the investigation period.
- x. *Noticee no. 66* has contributed to positive LTP acting as counter parties to the buy orders and have indulged in trades resulting in price manipulation of the scrip and also has acted as counter party to help in the exit of preferential allottees during Patch 2.
- xi. *Noticee nos. 67 to 79* are connected to the *Company* and have acted as counter parties to facilitate the exit of preferential allottees during Patch 2 of the investigation period.

9. It is noted from the records that in compliance with the principles of natural justice, as well as in compliance with the directions of the Hon'ble SAT, hearing in the present matter was fixed on two different dates, for the above mentioned Noticees as per the following details:

Table 1

Sr. No.	Noticee no.	Date of hearing
1	Noticee nos. 62,29,64,43,49,30,65,31,63,44,61,42,58,60,66,16, and 15	August 23, 2022
2	Noticee nos. 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, and 79	August 24, 2022

10. I note that the Authorized Representative for the *Noticees* mentioned at Serial no. 1 of the table above (except for *Noticee no. 15* Mainak Comtrade Private Limited and *Noticee no. 16*, Pranatpal Tradelink Private Limited) appeared on August 23 and made oral submissions. The Id. Authorized Representative also sought liberty to argue the matter for the remaining 13 *Noticees*, whose personal hearing was fixed for the next day, as essentially the submissions on behalf of all such *Noticees* are identical. The said liberty was granted and the hearing in the matter got concluded *qua* all the *Noticees* as no request for adjournment was received on behalf of *Noticee no. 15* and *Noticee no. 16*. Subsequently, vide an email dated September 12, 2022, the Authority Letters issued by *Noticee no. 15* (Mainak Comtrade Private Limited) and *Noticee no. 16* (Pranatpal Tradelink Private Limited) were received in favour of the aforesaid Authorized Representative (who appeared on behalf of all other *Noticees*) and it was stated *inter alia* that all the submissions made by the AR during the personal hearing held on August 23, 2022 be taken on record and adopted for the above two *Noticees* as well. Thereafter, vide a letter dated September 19, 2022, a common post hearing written submission was also submitted on behalf of all the *Noticees*.

11. The arguments made by the *Noticees* during the personal hearing as well in their written submissions are summarized here under:

- i. The submissions in the reply are being limited to the observations made in the order of the Hon'ble SAT, hence a reply to the SCN is again uncalled for.
- ii. The Hon'ble SAT has observed that SEBI has not disputed the fact that 17 *Notices* have contributed less than 1% of the LTP and 13 *Notices* have not contributed any LTP.
- iii. The proceedings of the present matter have been remanded back to SEBI to reconsider the matter in the light of the benchmark of 1% LTP contribution, as considered by SEBI in the matter of *Nikkei Global*.
- iv. Judicial consistency needs to be followed by SEBI and further, parity and equality need to be applied in the present proceedings. To buttress the submission, reliance has been placed on the judgment of the Hon'ble Kerala High Court passed in the matter of *Joy Vs. Regional Transport Authority (judgment dated October 13, 1998)* and *Birbal Vs. Ghaziabad Development Authority (Judgment dated January 25, 2006)*.

CONSIDERATION OF ISSUES AND FINDINGS:

12. Before I proceed to examine the present matter on its merits, it would be proper to refer to the relevant provisions of the SEBI Act, Regulations which have been purportedly violated by the *Notices* as alleged in the SCN. The said provisions of the law are reproduced herein below:

SEBI Act, 1992

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;

PFUTP Regulations

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;

(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) 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 have perused the contents of the SCN and I have also carefully gone through the aforesaid order passed by the Hon'ble Tribunal wherein the Hon'ble SAT has *inter alia* remitted the case of the aforesaid *Notices* for reconsideration on the basis of the fact that SEBI has issued a benchmark in the case of *Nikki Global* (supra), exonerating the entities whose trades to LTP contribution is less than 1% from the allegation of PFUTP Regulations as the contribution of less than 1% to LTP was observed to be insignificant.

14. After perusing the findings of the Hon'ble SAT, it is viewed that the limited scope of the instant proceedings is to see whether the *Notices* herein are successful in demonstrating that their cases are similar and they are identically placed so as to be entitled to be granted exoneration by adopting and applying the threshold of LTP contribution of 1% or less, as was applied in the case of *Nikki Global* (supra) by another quasi-judicial authority of SEBI.

15. The *Notices* have emphasized on their arguments by advocating the principle of judicial consistency and by relying on the doctrine of stare decisis with reference to order passed by SEBI in the matter of *Nikki Global*. It has been submitted that the doctrine of stare decisis though an English concept but is well recognised and followed as an established principle in India as well. It has been submitted that they are placed similar and identical to the entities in *Nikki Global* and therefore, deserve exoneration from the present proceedings as their individual contribution to LTP is also less than 1% of the total LTP during the period.

16. Having gone through the submissions advanced and materials placed on record, I note that the doctrine of judicial precedent occupies an important position in any judicial system to minimize litigation by putting things in rest, which have been already adjudged previously, as uniformity and consistency is core of any judicial discipline. In this respect, Article 141 of the Constitution of India provides that the law declared by the Supreme Court of India shall be binding on all courts within the country. Similarly, a decision by a High Court of a State is binding on all the subordinate courts in that State and a decision of a Division Bench of a state High Court is binding, on the judges sitting singly in that same High Court. It is also observed that the above principle of stare decisis or judicial precedent is applicable in cases where the previously made judicial decisions involve the same legal issues brought before in the subsequent matters and not otherwise. Despite the strict rigor of this doctrine, there are two ways in which the applicability of this doctrine can be escaped: (i) *per incuriam* and (ii) *sub-silentio*. The foundational basis for the exceptions of *per incuriam* and *sub-silentio* is to balance consistency and judicial discipline, with the flexibility of revising blatantly wrong decisions. The thin line of difference between the two is that where a *per incuriam* judgment is passed in clear violation of legislation, rule or a judgment of a superior court/larger bench; a judgment passed *sub-silentio* is essentially the one passed "without consideration/without discussion" on a particular legal point, which ought to have been considered/discussed for the decision.

17. The term *per incuriam* literally means "through the lack of care". The doctrine of *per incuriam* as an exception to the doctrine of stare decisis was discussed at length by Lord Green M.R. in the case of *Young v. Bristol Aeroplane Company* [(1944) 1 KB 718, *Court of Appeal*], wherein it was *inter alia* observed as: "*The Court is not bound to follow a decision of its own if it is satisfied that the decision was given per incuriam, for example, where a statute or Rule having statutory effect*

which would have affected the decision was not brought to the attention of the earlier Court". While acknowledging *per incuriam* as a valid exception to the principle of stare decisis, the Hon'ble Supreme Court of India in the case of *State of U.P. vs. Synthetics and Chemicals Ltd.* [1991 SCC (4) 139], has *inter alia* observed as: "In practice *per incuriam* appears to mean *per ignoratium*.' English Courts have developed this principle in relaxation of the rule of stare decisis. The 'quotable in law' is avoided and ignored if it is rendered, 'in ignoratium of a statute or other binding authority.'". Further, in the case of *M/S Hyder Consulting (UK) Ltd vs Governor State Of Orissa (Civil Appeal no. 3148 of 2012)*, it has been observed that in exceptional circumstances, where owing to obvious inadvertence or oversight, a judgment fails to notice a plain statutory provision or obligatory authority running counter to the reasoning and result reached, the principle of *per incuriam* may apply. Similarly, the principle of *per incuriam* will also apply when a court omits to consider any statute while deciding that issue, as observed in the case of *Govt. of A.P. v. B. Satyanarayana Rao* [AIR 2000 SC 1729]. However, in the case of *Jaisri Sabu vs Rajdewon Dubey & Ors.* [1962 AIR 83], it has been held that it would be open for a Bench of co-equal strength to pronounce a contrary decision from what was held in another bench of equal strength.

18. On the other hand, the term '*sub-silentio*' means in or under silence. A decision passed *sub-silentio* in a technical sense has come to be attached to that phrase, when the particular point of law involved in the decision is not perceived by the Court or present to its mind. In this respect, in the case of *In Lancaster Motor Company (London) Ltd. v. Bremith Ltd.* [1941 1 KB 675], it has been observed that the court was not bound by an earlier decision as the same was pronounced 'without any argument, without reference to the crucial words of the rule and without any citation of the authority'. The most authoritative pronouncement on the principle of *sub silentio* in India is the case of *Municipal Corporation of Delhi v. Gurnam Kaur* [1989 AIR 38]

wherein the Hon'ble Supreme Court, after due consideration of the English authorities on the point, held that precedents *sub-silentio* and without argument are of no moment. The reason for the development of *sub-silentio* as a defence to the principle of stare decisis is, as observed in the case of *B. Sharma Rao v. Union Territory of Pondicherry* [1967 AIR 1480], that a decision is binding not because of its conclusions but in regard to its ratio and the principles laid down therein. This exception is, in essence, rooted in the principle that the duty of the judiciary is not to declare, but to adjudicate, i.e., decide on merits, after due consideration and reasoning. The findings as expressed by the Orissa High Court in the case of *Ferro Alloys Corporation Ltd. And vs. Union of India* [1999 1 OLR 349] is very pertinent when it has held *inter alia* as: “Uniformity and consistency are core of judicial discipline. But that which escapes in the judgment without any occasion is not ratio decidendi. In *B. Sharma Rao v. Union Territory of Pondicherry* : AIR 1967 SC 1480 it was observed, 'it is trite to say that a decision is binding not because of its conclusions but in regard to its ratio and the principles, laid down therein...'”

19. Now, having gone through the concept of stare decisis and the importance of judicial consistency, I proceed to examine as to whether the *Notices* are successful in making out a case to be exonerated from the allegations levelled on them under the instant proceedings. It has been noted above that the limited scope of the instant proceedings is to examine whether these *Notices* deserve exoneration following the order passed in the matter of *Nikki Global*. And before proceeding further, it is incumbent to reiterate that the initial order passed on July 29, 2020 (for short the ‘**Original Order**’) in the matter was appealed before the Hon'ble Appellate Tribunal. The Original Order of SEBI has recorded its findings against the *Notices* therein, in the backdrop of the facts that certain *Notices* enjoying connection with the *Company* and its directors/promoters were allotted shares in the Preferential Allotment. The said

allotment was fraudulent in character and was done under a scheme of fraud, as part of which certain other *Notices* indulged in themselves price manipulation by trading among themselves, as a result of which, the price of scrip radically went up artificially and at that phase of ascending prices of the scrip, with the help of other *Notices*, the Preferential Allottees got exit by off-loading their shares to those exit providers. The fraudulent scheme did not end there; and in fact the *Notices* expanded the scheme a step further, where under, innocent investors were enticed through SMSs circulated in the market to trade in the shares of the *Company*. Finally, on the fateful day i.e. on July 27, 2015 those exit providers too were successful in off-loading their shares (which they had bought to give exit to preferential shareholders) by selling to the innocent investors who were induced to buy the scrip through SMS promotions and in the process the sellers including Preferential Allottees and exit providers successfully sold their shares for profit and made unlawful gains in the scrip of the *Company*. In the appeals filed before the Hon'ble Tribunal against the Original Order, none of the findings of the SEBI has been set aside, rather the Hon'ble Tribunal, while upholding the findings of SEBI has made serious observations, some of which will be referred to and relied upon while dealing with the submissions of the *Notices* in the later part of the order.

20. It has been submitted in the present proceedings that following the principle of consistency and judicial discipline, the *Notices* herein ought to be granted exoneration. However, it is observed that nothing has been brought to my notice to suggest as to how in the Original Order dated July 29, 2020, SEBI has deviated or breached any established or recognized practice, set by SEBI itself through any of its previous order. Even otherwise, the *Notices* have not been successful in demonstrating either in law or on facts, that their positions are identical and they are also identically placed at par with the entities in the matter of *Nikki*

Global. As stated above, the order in the instant proceedings was passed on July 29, 2020 whereas the order in *Nikki Global* was issued on February 26, 2021. Therefore, no fault can be attributed on its face that the Original Order dated July 29, 2020 had deviated from any established principle or practice.

21. It has been contended that the *Notices* deserve treatment similar to the entities in the order dated February 26, 2021 passed in the matter of *Nikki Global*, principally on the premise of doctrine of consistency. Without differing with the above submission, I observe that it is incumbent upon the *Notices* to first show that they deserve to be treated and accorded the benefit of doctrine of stability and consistency and to avail the same; they are required to show that in law as well on fact, they are positioned similar to the corresponding entities in the matter of *Nikki Global* so as to be treated on parity with them. In this regard, it is pertinent to reiterate that the Hon'ble Tribunal has not found any fault with the fact finding of the Original Order of SEBI and the Tribunal has been pleased to uphold the findings recorded in the Original Order on each allegation. Consequently, the submission is only confined to a pleading that since the contribution to LTP by these *Notices* is either zero or less than 1 % of the total market LTP, hence by following the decision given on SEBI's order in the matter of *Nikki Global*, they should be exonerated from the outcome of the instant proceedings. So far as the consistency in law is concerned, as I have pointed out above, that findings on all the allegations made in the original order have been upheld by the Hon'ble Appellate Tribunal and no appeal has been preferred by the *Notices* against the order of the Hon'ble Appellate Tribunal. Consequently, the said findings have attained finality. It is noticed that in the matter of *Nikki Global*, the order does not record granting of any point blank exoneration in specific terms by stating that in all circumstances, allegation pertaining to the contribution of LTP of

less than 1 % does not fall within the ambit and mischief of PFUTP Regulations. It is noticed that in that order of SEBI, considering the facts of the matters, it has been observed that it may not be appropriate to proceed with the rigour of regulatory direction against certain entities, whereas in the instant matter, having gone through the record and after appreciating the evidences and submissions, it has been found that the available materials are sufficient enough to bring home the allegation successfully and the said findings about sufficiency of materials to establish the allegations have been upheld by the Hon'ble Tribunal.

22. It may also be noted that the order in *Nikki Global* was passed summarily, only based on the quantum of individual contribution of LTP to the market price of the scrip, without dwelling into the possible nexus or collusion, if any amongst the Noticees therein. Nor the findings of exoneration made in that order were premised on any settled law including any rules, regulations or circulars issued by SEBI, appreciation of which could have led me to any principle of law which I am supposed to follow to ensure consistency and judicial precedent. At this stage, I find it very crucial to refer and rely on the findings of the Hon'ble Tribunal made in Appeal No 343 of 2021 titled as *Surendra Kumar Gupta vs SEBI*. While disposing of the said appeal along with other connected appeals preferred by some of the entities who were found guilty in the matter of *Nikki Global*, when an argument was advanced by the appellants stating that they were held accountable merely because their contribution to LTP was more than 1%, the Hon'ble Tribunal, while rejecting the same observed as follows:

4. Further, out of 75 noticees, 65 noticees have been exonerated by the WTM on the ground that their individual positive LTP was less than one percent and, therefore, no direction could be issued under section 11B. The benchmark of one percent fixed by the WTM, in our opinion, is not based on any intelligible criteria nor is based on any circular or regulations framed by SEBI in this behalf to show as to how much percentage of positive LTP would be treated as violative of Regulations 3 and 4 of the PFTUP Regulations or would be treated as unfair trade practice. Classification is based on intelligible differentia. The differentia bears a reasonable nexus with the object sought to be

achieved. In the instant case, we find that classification is not based on any intelligible criteria nor has any nexus with the objective of the Regulations. In the absence of any criteria laid down by SEBI the fixation of one percent by the WTM without any reasonable basis is arbitrary.

5. The WTM cannot blow hot and cold and take positive LTP as a group on one hand and consider individual positive contribution of each noticee individually and exonerate them having found that their contribution was less than one percent.

23. In view of the above, it is observed that the decision taken by SEBI in the matter of *Nikki Global (supra)* did not lay any kind of “policy benchmark” to be followed in all similar cases, and the observations/findings made by the competent quasi-judicial authority in that case were only restricted to that particular case. The said order was passed in the set of facts and circumstances that were peculiar to that particular case and the decision taken in such facts, cannot be uniformly applied across all the cases involving price manipulation by a group of entities by way of contribution to LTPs. Under the circumstances, considering the undisputed fact that the exoneration of certain entities in the matter of *Nikki Global* was not premised on any settled law or any rules regulation or circular of SEBI, the said exoneration cannot be stated to be laying down a policy benchmark that need to be followed in other subsequent orders to ensure judicial consistency. It is observed that the *Noticees* themselves have not been able to make out a case demonstrating that the order in *Nikki Global* has laid down a law basis which, they deserve to be treated on par with the entities in *Nikki Global*. Further, I also refer to the following findings of the Hon’ble SAT passed in the matter of *Gurbanksh Singh Vs. SEBI (Appeal No. 116 of 2022- DoD- 28.03.2022)*:

7. When an order is quashed or set aside, the said order is wiped out from its existence. It is annulled. Quashing of an order results in the restoration of the position as it stood on the date of the passing of the order which has been quashed as held in Shree Chamundi Mopeds Ltd. vs. Church Of South India Trust Assn. (1992) 3 SCC 1. Thus, once the order is wiped out from its existence, the question of considering the findings of that order which is no longer in existence does not arise.”

24. It is further observed that instant matter is factually substantially distinguishable from the matter of *Nikki Global*. As indicated in the earlier above in the brief at para no. 7, in the present case, *Notices* have hatched a scheme under which, each *Noticee* had a specific role to play and few of the *Noticees* had made fraudulent unlawful gains, whereas in the matter of *Nikki Global*, there was no allegation of making unlawful gain. In *Nikki Global*, there was no discussion and adjudication on the connection enjoyed by the entities, whereas in the instant matter, the findings on the connection enjoyed by the entities amongst themselves have been upheld by the Hon'ble Appellate Tribunal. In the appeals filed against the Original Order, the Hon'ble Tribunal, while rejecting the contention of the *Notices*, has held that “*Such clear evidence of connection, meeting of minds, predetermined pattern of trading to which no plausible explanation has been given. Therefore, the contention raised cannot be accepted.*” Further, while discarding the contention of the *Notices* about their lack of knowledge of SMS being circulated to entice investors, the Hon'ble Tribunal has held that “*This submission also cannot be accepted in view of what we have held earlier that these exit providers not only bought shares from the preferential allottees from the funds provided by the Company related entities but further dumped all these shares on 27th July, 2015 when innocent investors were induced to buy shares based on the SMS. The manner in which the trades were executed by these exit providers in our view is clearly fraudulent.*”

25. Further, while going through the order passed in the matter of *Nikki Global*, it has been noticed that the role of each entity was not examined holistically in an integrated manner, nor was the cumulative effect of the LTP contributions made by the entities was taken into consideration and exoneration was passed from the rigors of regulatory direction only taking into cognizance, their insignificant individual contribution to the LTP at the threshold. In

contrast in the instant matter, the whole scheme was examined in an integrated manner and role of each of the Noticees who were connected to each other was analyzed in the light of the materials available on record and the findings of SEBI made thereon have been duly upheld by the Hon'ble Tribunal. It has been brought to my notice that in the appeal of *Surendra Kumar Gupta* (supra), on the issue of insignificant individual contribution to LTP, the Hon'ble Tribunal has observed that *"The WTM cannot blow hot and cold and take positive LTP as a group on one hand and consider individual positive contribution of each noticee individually and exonerate them having found that their contribution was less than one percent."* Under the circumstances, it is observed that in the absence any plausible explanation on the merit of each individual Noticees and his/her role in the entire scheme, granting exoneration only for the reason that the individual contribution of the Noticees to the LTP is not very significant cannot be considered favorably, when the Original Order has categorically recorded the connection enjoyed by them, explaining in detail the entire modus operandi adopted by Noticees in executing the fraudulent scheme. The said scheme was also acknowledged and upheld by the Hon'ble Tribunal, and while dismissing the appeals, the Hon'ble SAT has held the following:- *"It appears that an orchestrated scheme was planned and executed by the Company and its Directors with the help of connected entities and certain individuals forming part of the Dhyana group. In Patch 1, certain noticees were involved in pumping up the share price of the Company to an artificial level by trading amongst themselves. In Patch 2, these noticees acted as counter party buyers and provided an exit to the preferential allottees and, in this process, increased the price of the scrip and also created further artificial volume. Thus, I am of the firm view that the case of the present Noticees are completely on different footing and they have no case to be granting exoneration from the allegations, when the findings have already been upheld in the appeals preferred by them."*

26. It is also noticed that the present matter is further distinguishable on the ground of examination and findings on the aspect relating to manipulations. Unlike the case of *Nikki Global*, in the instant matter, the contributions to LTP by the concerned *Notices* have been examined and analyzed in detail and the same has also been appreciated and upheld by the Hon'ble Tribunal and the following has been held by the Hon'ble Tribunal while rejecting the contentions of the *Notices*/ appellants:-

“ We find that in Patch 1 and in Patch 2 the price manipulators were largely funded by Mainak Comtrade Pvt. Ltd and other related entities of the Company. In Patch 1, 26 notices traded amongst themselves contributing Rs.101 out of total market positive LTP of 422.35 i.e. 23.91% of the total market positive LTP. The trades executed by these 26 entities caused an artificial increase in the price of the scrip of the Company which caused misleading appearance of trading in the scrip of the Company and also adversely affected the price discovery mechanism quite apart from the fact that it artificially increased the volume. These 26 notices were funded by the Company and its related entities. We find that not only there was positive LTP but the trades also created a New High Price. Similarly, in Patch 2, we find that there were 16 notices on the buy side and 21 on the sell side. The counter party buyers who purchased the shares basically from the preferential allottees were funded by the Company related entities especially noticee nos.12, 13, 14, 15, 17 and 18. No cogent justification has been given with regard to the funds received by these notices from related entities of the Company. In the absence of any justification and the manner in which the trades were executed to artificially increase the price paving way to the preferential allottees to sell their shares at inflated price and the counter party notices buyers being funded by the Company related entities, in our opinion, was clearly fraudulent and a device hatched to dupe the innocent investors. The findings given by the WTM and the AO clearly depicts the manipulation in the price of the scrip by these notices in Patch 1 and in Patch 2 which according to us was clearly fraudulent.

20. *It is evident that 18 out of 26 notices in Patch 1, namely, noticee nos.19, 20, 21, 22, 23, 24, 26, 27, 28, 43, 44, 45, 46, 47, 51, 53, 80 and 81 were funded by Mainak Comtrade Pvt. Ltd., noticee no.15 which is a related entity of the Company. These notices were connected to other notices. We find that noticee nos.55 and 81 had fund transactions either with the Company or with noticee nos.15, 16, 17 and 18 In our opinion, all these notices are clearly connected to the Company and other related entities of the Company by virtue of fund transfers, common Directors, Promoters, transfer of shares in off market, etc. Details in this regard has been given in the impugned order which we do not find any reason to disbelieve.*

21. *We find that the notices in Patch 2 who were the buyers who bought shares from the preferential allottees were funded by related entities of the Company as is depicted in table 19 of the impugned order of the WTM. Majority of these notices had negligible balance in their bank accounts before they received funds from entities connected with the Company i.e. from noticee nos.12, 14, 15, 16, 17 and 18. We are of the opinion that the funds received by these notices buyers in Patch 2 were utilized to buy Company"s shares from the preferential allottees.*

22. *We also find that out of 81 notices, 13 notices who were involved in price manipulation in Patch 1 and 2 were the net sellers and earned substantial gains from sale of their shares on 27th July, 2015. These shares were sold at inflated price through an SMS generated through which innocent investors*

were lured to invest and, consequently, provided an exit to these noticees. It was urged that the exit providers were not aware of the counter party and, therefore, the trades cannot be faulted. This submission is patently erroneous in as much as we find that these exit providers had no funds of their own and were funded by the related entities of the Company based on which they purchased the shares of the preferential allottees and then off loaded it when SMS was circulated inducing investors to buy the scrip of the Company. These exit providers were involved in price manipulation in Patch 1 and 2 and made unlawful gains.

27. In view of the aforesaid, I observe that the fraudulent role played by the *Noticees* goes far beyond than contributing to the LTP in the scrip of Dhyana. It is also observed that the findings of the Hon'ble SAT in its order dated June 10, 2022, have also observed that there was a scheme of manipulation at play, in the scrip of Dhyana, wherein the *Company*, its Directors and other connected entities have been found to be involved in the manipulation of the price of the scrip leading to the creation of New High Prices and also that the counter party buyers to the Preferential Allottees were also funded by the *Company* connected entities, who (counter party buyers) exited the share by dumping such shares on July 27, 2015, when the general public was lured to invest in such shares through an SMS.

28. Apart from the above factual findings made in the Original Order that have been strongly upheld by the Hon'ble SAT, I find that in contrast to the case of *Nikki Global*, in this matter, the *Noticees* have so far not been able to demonstrate as to how the factual aspects of their case is exactly similar to the facts of the said case. Instead of attempting to draw my attention to the factual similarities between their case vis-à-vis *Nikki Global*, the submissions of the *Noticees* have been confined to only pleading on the ground that their contribution to LTP is below the threshold of 1% contribution to LTP (as decided in *Nikki Global*) and the principles of judicial consistency requires that they should be exonerated. I have already deliberated earlier on the principle of consistency as is being demanded by the *Noticees* to be applied to the present case and held how such a demand is unwarranted on facts and devoid merit. Thus, in

totality of the facts governing the whole issue and in light of the jurisprudence enunciated above, it seems difficult to just mechanically apply the benchmark of 1% LTP contribution in the present case by following *Nikki Global* case, as the gravity and consequences of the role played by the *Notices* in this case is far more and goes far beyond their contribution to the LTP, to excuse a fraudulent and manipulative scheme at the case of interest of investors of securities market.

29. I note from the records that the present 30 *Notices* have been indicted in the SCN *inter alia* by virtue of not only the contribution made by them to the Last Traded Price (LTP) of the scrip of Dhyana but also due to their other acts like creating New High Prices, providing exit to the preferential allottees, selling shares on July 27, 2015 (day when public was induced to buy shares by circulation of SMS). Before further moving on, for better appreciation, I must recapitulate the scheme of manipulation that was perpetrated in the scrip of Dhyana, which has also been upheld by the Hon'ble Tribunal.

30. An amount of INR 1 Crore was received by Mihir Consulting and Trading Company (Noticee no .12) from AA Plus Commodity Broking Private Limited (Noticee no. 13) and INR 5 Lakh from Mainak Comtrade Private Limited (*Noticee no. 15*). The said amount of INR 1.05 Crore was transferred to 7 entities as INR 15 Lakh each and the said 7 entities further transferred the money to Dhyana, as application money for preferential allotment of its shares. A pre-mediated scheme was implemented wherein the entities connected with the *Company* manipulated the share price of the *Company* by executing trades amongst themselves. Such pre-planned trades led to increase in the price of the scrip in Patch-1 (June 13, 2014 to November 28, 2014) of the investigation period from INR 251 to INR 354; and in Patch-2 (December 01, 2014 to July 24, 2015) from INR 352 to INR 395. Further, the scrip also witnessed New

High Prices on multiple occasions due to the manipulative trades of the entities. During the Patch-2, the shares of Preferential Allottees of the *Company* were purchased by the entities connected to the *Company* itself, and the shares so purchased were funded by the entities connected to the *Company* itself. Finally, the shares so purchased by the exit providers to the Preferential Allottees, were dumped in the open market which were purchased by gullible investors who were induced to invest in the shares by circulating a SMS on mass level. By such a well-crafted scheme, the entities connected to the *Company* purchased shares from the Preferential Allottees and were able to exit from their holdings (so purchased from Preferential Allottees) at profitable levels, thus making unlawful gains from the whole scheme.

31. From the above stated brief description of the events, the fraudulent activities indulged into by different *Notices* can be divided into following broad categories, to assess the respective roles played by the *Notices* herein:

- (i) Funding the Preferential Allottees;
- (ii) LTP Contribution;
- (iii) NHP Creation;
- (iv) Purchasing shares from the Preferential Allottees or Providing exit to the Preferential Allottees;
- (v) Dumping the shares on July 27, 2015 by Exit Providers

32. I shall now succinctly deal with the role of each of the *Notices* herein.

I. **Mainak Comtrade Private Limited (Noticee no. 15)**

- (i) *Noticee no. 15 Company* was closely connected to Dhyana through Mr. Aneelkumar Albertbhai Patel who was acting as a Director of both *Noticee no. 15* and Dhyana. Further, one of the Promoters of Dhyana viz., Priti Jayakarbhai Christian, was a

Director of *Noticee no. 15*. As held by the Hon'ble SAT, *Noticee no. 15* is closely connected with the *Company*. *Noticee no. 15* was found to have transferred funds to 7 Preferential Allottees and the contention of the such fund transfers being in the nature of loan, has been rejected by the Hon'ble SAT as no supporting documentary evidence was filed.

- (ii) It is also noted that the *Noticee no. 15* was found to have purchased as much as 319268 shares from the Preferential Allottees, which constituted 10.26% of the total shares sold by the Preferential Allottees.
- (iii) Further, while upholding the role of the *Company* and its Directors, the Hon'ble Tribunal has also observed that the connected entities including *Noticee no. 15* were involved in the fraudulent allotment of shares to the 7 Preferential Allottees and such acts have led to violation of Section 12A of SEBI Act, 1992 read with Regulation 3 and 4 of the PFUTP Regulations.
- (iv) Not only the Preferential Allottees, the *Noticee no. 15*, has also been found to have funded large number of connected entities and such funds have been used for trading in the scrip of Dhyana. As held by the Hon'ble SAT, no cogent justification has been given with respect to the fund received from *Noticee no. 15* by such entities. The justification given by another set of entities that the funds were received by them from *Noticee no. 15* in order to infuse such funds into a hospital project was also not accepted by the Hon'ble SAT by *inter alia* observing:

"In our opinion, all these noticees are clearly connected to the Company and other related entities of the Company by virtue of fund transfers, common Directors, Promoters, transfer of shares in

off market, etc. Details in this regard has been given in the impugned order which we do not find any reason to disbelieve.”

- (v) Further, Noticee no. 15 has also been seen to have funded the entities who acted as exit providers to the Preferential Allottees. As held by the Hon’ble SAT while discussing the role of exit providers: *“Majority of these noticees had negligible balance in their bank accounts before they received funds from entities connected with the Company i.e. from noticee nos.12, 14, 15, 16, 17 and 18. We are of the opinion that the funds received by these noticees buyers in Patch 2 were utilized to buy Company’s shares from the preferential allottees”.*
- (vi) Apart from providing funds to the connected entities, the Noticee no. 15 has been found to have contributed INR 4.70 to the LTP in 3 trades (0.44% of the total market positive LTP) during Patch-2. Further, it has also seen to have created New High Price in the scrip of Dhyana during Patch-2 and while acting as buyer of the shares of Dhyana, in 3 trades, NHP of INR 3 was created by it, which was 6.98% of the total market NHP. Insofar as the issue of NHP is concerned, the Hon’ble SAT has held that: *“Some of the noticees urged that matching of trades amongst noticees as per trade logs does not show New High Price unless there as matching of minds between the buyers and sellers. It was urged that this finding given by the authorities was made on the basis that the Company lacked basic market fundamentals to create an interest in scrip in order to push the price up. This contention is patently erroneous as we find that majority of the noticees who traded in Patch 1 and 2 **had fund transactions with Mainak Comtrade Pvt. Ltd and other Company related entities.** We also find that all LTP trades were matched trades which is reflected in Table 14 in the order of the WTM. Such clear evidence of connection, meeting of minds, pre- determined pattern of trading to which no plausible*

explanation has been given. Therefore, the contention raised cannot be accepted.” (emphasis supplied)

(vii) Under the circumstances, I observe that in light of the observations and findings of the Hon’ble SAT wherein the fraudulent role played by *Noticee no. 15* in the scheme has been upheld and in absence of any adverse order against the observations made by the Hon’ble SAT, I have no hesitation to hold that the *Noticee no. 15*, an entity closely connected to the *Company*, was a crucial link in the whole scheme of manipulation of the scrip of Dhyana, and in absence of such covert acts executed by the *Noticee no. 15*, the ultimate scheme deployed in the scrip of Dhyana would not have been executed with such finesse.

II. **Pranatpal Tradelink Private Limited (Noticee no. 16)**

(i) It is observed that the *Noticee no. 16* was also closely connected with the *Company*. *Noticee no. 16* was having a common Director (Hitesh Chinubhai Shah, *Noticee no. 42*) with another company namely, Parin Infrastructure Private Limited, and in the said company, one of the Promoter-Director of Dhyana (Mr. Rajeshkumar Theophilbhai Christie, *Noticee no. 3*) was one of the shareholder Directors. While discussing the role of Mr. Rajeshkumar Theophilbhai Christie (*Noticee no. 3*), Hon’ble SAT has in its order dated June 06, 2022, *inter alia* held as:

“The Company being an artificial juridical person acts through its Board of Directors. Noticee no.1 is the Company and noticee nos.2, 3 and 4 were the Directors...”

Insofar as noticee no.3 is concerned, he was not only a Promoter and an Executive Director but was also the Chairman of the Company. The contention raised before this Tribunal that he was not involved in the day to day running of the Company is apparently misconceived and an afterthought in as much as the day to day management of the

Company was conducted by the Chairman and the Managing Director, noticee no.3 in consultation with the other Directors. We are satisfied that the role played by the Directors was totally fraudulent and a conspiracy was hatched to give unlawful gains to various entities. We are of the opinion that the Directors were in full control of the activities of the Company and were responsible for the management and business affairs of the Company. Any violation committed by the Company, which is fraudulent, in nature has to be attributed to the individual acting as a Director at the relevant moment of time. Thus, we are satisfied that the Company and its Directors alongwith the connected entities such as noticee nos.12, 13 and 15 were involved in the fraudulent allotment of shares with noticee nos.5 to 11 and have clearly violated Section 12A read with Regulations 3 and 4 of the PFTUP Regulations.”

- (ii) Besides, Noticee no. 16 was also found to be involved in fund transfers to various entities like Noticee no. 29, Noticee no. 62, Noticee no. 64 etc., and all such funds were transferred by the said entities to their respective stock brokers. In this connection, the Hon’ble SAT has held as: *“We find that the noticees in Patch 2 who were the buyers who bought shares from the preferential allottees were funded by related entities of the Company as is depicted in table 19 of the impugned order of the WTM. Majority of these noticees had negligible balance in their bank accounts before they received **funds from entities connected with the Company i.e. from noticee nos.12, 14, 15, 16,** 17 and 18. We are of the opinion that the funds received by these noticees buyers in Patch 2 were utilized to buy Company’s shares from the preferential allottees.”* (emphasis supplied)
- (iii) The aforesaid observations of the Hon’ble SAT clearly affirm the close nexus which Pranatpal Tradelink Private Limited (Noticee no. 16) shared with Dhyana.
- (iv) As regards the role played by Noticee no. 16, it is noted that apart from contributing 0.05% to the LTP, it also contributed INR 3 to the NHP in

Patch-2 of the investigation period which was 6.98% of the total market NHP.

- (v) Further, *Noticee no. 16* also purchased 238368 shares from the Preferential allottees and out of the total 9500 shares sold by it during the investigation period of more than three years (June 13, 2014 to July 27, 2015), it had sold 7500 shares only on July 27, 2015, i.e., the day when the general public was being induced to trade in the scrip of Dhyana by circulation of fraudulent SMS like:

"If You Are Not Allowed To Buy DHYANAFIN (538450) then please call your broking house head office and buy from there, anyhow just buy it, don't miss.www.BSEBULL.in."

➤ *"Premium HNI Call. Buy DHYANAFIN(538450) Above 400 With Stop Loss 396 For Intraday Target 415 And 480+ By Thursday(30 July) 100% Loss Recovery Call So Don't Miss."*

- (vi) Thus, the *Noticee no. 16* was found to be complicit in the fraudulent scheme from the beginning to the end and its role was not limited to merely contributing to the LTP.

III. The role of the rest of the *Noticees* has been essentially overlapping in many aspects, which has already been covered in my findings recorded above however for ready recall and reference, their roles are being summarized hereunder in a table format:-

Table no. 2

Sr. No.	Noticee	LTP Contribution	NHP	Purchase of shares from Preferential Allottees	Whether shares sold on July 27, 2015 (number of shares)
1.	Shalomiben Anilbhai	Executed 5 trades and	—	—	Yes (8400)

	Bariya (<i>Notice no. 29</i>)	contributed INR 5.50 LTP (0.52% of the total market positive LTP) during Patch-2			
2.	Dipakkumar Rajaram Joshi (<i>Notice no. 30</i>)	Executed 2 trades and contributed INR 1.40 LTP (.13% of the total market positive LTP) during Patch-2.	–	64306 shares from the Preferential Allottees (2.07% of the total shares sold by the Preferential Allottees.)	–
3.	Birju Pravinchandra Sanghvi (<i>Notice no. 31</i>)	Executed 1 trade and contributed INR 1 LTP (.09% of the market positive LTP) during Patch-2	–	–	<u>Yes</u> (14910 shares)
4.	Hitesh Chinubhai Shah (<i>Notice no. 42</i>)	Executed 1 trade and contributed INR 0.30 LTP (0.03% of the total market positive LTP) during Patch-2	Contributed NHP of INR 1 (2.33% of the total market NHP) during Patch-2	–	<u>No</u>
5.	Gaurang Pathak (<i>Notice no. 43</i>)	Executed 12 trades during Patch-1 and contributed INR 13 LTP (3.08%	Contributed NHP of INR 10 in 9 trades (8.58% of	–	<u>Yes</u> (11000)

		of the total market positive LTP). Executed 2 trades and contributed INR 2.40 LTP (.23% of the total market positive LTP) during Patch-2 Total LTP: 3.31%	the total market NHP) during Patch-1		
6.	Ankit Rajeshbhai Rajput (Notice no. 44)	Executed 11 trades during Patch-1 and contributed INR 15 LTP (3.55% of the total market positive LTP) Executed 1 trade during Patch-2 and contributed INR 1 LTP (.09% of the total market positive LTP) Total LTP: 3.64%	Contributed NHP of INR 3 in 2 trades (2.58% of the total market NHP) during Patch-1	–	<u>Yes (11000)</u>
7.	Bimesh	Executed 3	Created	50408 shares	<u>No</u>

	Arvindbhai Jani (<i>Noticee no. 49</i>)	trades during Patch-2 and contributed INR 3 LTP (.28% of the total market positive LTP)	NHP in Patch-1 as buyer in 1 trade. Contributed INR 2.3 to the NHP (1.97% of the total market positive NHP)	from the Preferential Allottees (1.62% of the total shares sold by the Preferential Allottees)	
8.	Pratikbhai Kiritkumar Shah (<i>Noticee no. 58</i>)	Executed 2 trades during Patch-2 and contributed INR 0.70 LTP (.07% of the total market positive LTP)	–	56245 shares from the Preferential Allottees (1.81% of the total shares sold by the Preferential Allottees)	<u>No</u>
9.	Shah Chirag (<i>Noticee no. 60</i>)	Executed 2 trades during Patch-2 and contributed INR 7.50 LTP (.71% of the total market positive LTP)	Created NHP in Patch-2 in 2 trades. Contributed INR 7.30 to the NHP (16.98% of the total market positive NHP)	44221 shares from the Preferential Allottees (1.42% of the total shares sold by the Preferential Allottees)	<u>No</u>
10.	Ronak Nayankumar Shah (<i>Noticee</i>)	Executed 6 trades during Patch-2 and	–	45420 shares from the Preferential	<u>Yes (12620)</u>

	<i>no. 61)</i>	contributed INR 7.50 LTP (.71% of the total market positive LTP)		Allottees (1.46% of the total shares sold by the Preferential Allottees)	
11.	Dholakia Jayshree Kishor (<i>Notice no. 62</i>)	Executed 10 trades during Patch-2 and contributed INR 7.20 LTP (.68% of the total market positive LTP)	–	62419 shares from the Preferential Allottees (2.01% of the total shares sold by the Preferential Allottees)	<u>Yes (8400)</u>
12.	Jayshreeben Kiritkumar Shah (<i>Notice no. 63</i>)	Executed 4 trades during Patch-2 and contributed INR 6.70 LTP (.63% of the total market positive LTP)	Created NHP in Patch-2 in 3 trades. Contributed INR 4.70 to the NHP (10.93% of the total market positive NHP)	109836 shares from the Preferential Allottees (3.53% of the total shares sold by the Preferential Allottees)	<u>Yes (17582)</u>
13.	Chandrikaben Naranbhai Panchal (<i>Notice no. 64</i>)	Executed 4 trades during Patch-2 and contributed INR 4 LTP (.38% of the total market positive LTP)	Created NHP in Patch-2 in 1 trade. Contributed INR 1 to the NHP (2.33% of	52510 shares from the Preferential Allottees (1.69% of the total shares sold by the	<u>Yes (10000)</u>

			the total market positive NHP)	Preferential Allottees)	
14.	Nikunj Dineshkumar Soni (<i>Notice no. 65</i>)	Executed 2 trades during Patch-2 and contributed INR 2 LTP (.19% of the total market positive LTP)	–	39178 shares from the Preferential Allottees (1.26% of the total shares sold by the Preferential Allottees)	<u>No</u>
15.	Manisha Rajendra Modi (<i>Notice no. 66</i>)	Executed 1 trade during Patch-2 and contributed INR 1.30 LTP (.12% of the total market positive LTP)	–	63755 shares from the Preferential Allottees (2.05% of the total shares sold by the Preferential Allottees)	<u>No</u>
16.	Kiritbhai Shantilal Shah (<i>Notice no. 67</i>)	–	–	103113 shares from the Preferential Allottees (3.31% of the total shares sold by the Preferential Allottees)	<u>Yes (11164)</u>
17.	Naranbhai J Panchal	–	–	58400 shares from the	<u>Yes (10000)</u>

	(Notice no. 68)			Preferential Allottees (1.88% of the total shares sold by the Preferential Allottees)	
18.	Rahim Umarbhai Ravkarda (Notice no. 69)	—	—	58354 shares from the Preferential Allottees (1.87% of the total shares sold by the Preferential Allottees)	<u>No</u>
19.	Dholakiya Kishorbhai S (Notice no. 70)	—	—	51950 shares from the Preferential Allottees (1.67% of the total shares sold by the Preferential Allottees)	<u>Yes (8400)</u>
20.	Rinkeshkumar N Panchal (Notice no. 71)	—	—	50119 shares from the Preferential Allottees (1.61% of the total shares sold by the Preferential	<u>Yes (10000)</u>

				Allottees)	
21.	Yogendra J Prajapati (<i>Noticee no. 72</i>)	–	–	48681 shares from the Preferential Allottees (1.56% of the total shares sold by the Preferential Allottees)	<u>No</u>
22.	Hiteshkumar Mahipatlal Patel (<i>Noticee no. 73</i>)	–	–	41333 shares from the Preferential Allottees (1.33% of the total shares sold by the Preferential Allottees)	<u>Yes (13000)</u>
23.	Manish Shah (<i>Noticee no. 74</i>)	–	–	32675 shares from the Preferential Allottees (1.05% of the total shares sold by the Preferential Allottees)	<u>Yes (12675)</u>
24.	Anilbhai Bhalabhai Baria (<i>Noticee no. 75</i>)	–	–	29290 shares from the Preferential Allottees (0.94% of the total	<u>Yes (8400)</u>

				shares sold by the Preferential Allottees)	
25.	Hiral Manish (Notice no. 76)	—	—	21950 shares from the Preferential Allottees (0.71% of the total shares sold by the Preferential Allottees)	<u>Yes (13650)</u>
26.	Prajapati Nilesh J (Notice no. 77)	—	—	44947 shares from the Preferential Allottees (1.44% of the total shares sold by the Preferential Allottees)	<u>No</u>
27.	Manthan Rajendrabhai Modi (Notice no. 78)	—	—	44804 shares from the Preferential Allottees (1.44% of the total shares sold by the Preferential Allottees)	<u>No</u>
28.	Rohitkumar Shantilal Shah (Notice no. 79)	—	—	40320 shares from the Preferential	<u>Yes (12170)</u>

				Allottees (1.30% of the total shares sold by the Preferential Allottees)	
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33. Further, out of the Noticees who had sold on July 27, 2015, the following *Noticees* have been found to have sold majority (in some cases 100%) of their shares only on that day itself:-

Table no. 3

Sr. No.	Noticee	Total shares sold during the investigation period	Shares sold on July 27, 2015
1.	Noticee no. 16	9500	7500
2.	Noticee no. 63	17582	17576
3.	Noticee no. 67	11164	11160
4.	Noticee no. 68	10000	10000
5.	Noticee no. 70	8400	8400
6.	Noticee no. 71	10000	10000
7.	Noticee no. 73	13000	13000
8.	Noticee no. 74	12675	12675
9.	Noticee no. 75	8400	8400

10.	Noticee no. 76	13650	13650
11.	Noticee no. 79	12170	12157

34. As elucidated above, all the aforesaid *Noticees* have been found to have indulged in the scheme of manipulation in the scrip of Dhyana at multiple levels. While many of the *Noticees* have been found to have contributed to the LTP and have sold shares on July 27, 2015, large number of them have been found to have purchased shares of Dhyana from the Preferential Allottees so as to provide them a profitable exit only to sell such shares on July 27, 2015 and successfully exit from the scrip aided by the artificially induced demand created by the fraudulent SMS circulated in the market. Further, numerous other entities have also been found to have sold the shares of Dhyana on July 27, 2015 facilitated by the said fraudulent SMS that was in circulation among the general investors. I must underscore here that while many of the entities have successfully sold all of their Dhyana shares only on the said day, the rest of the entities have sold majority of their shares (as shown in the table above) on the said day, have successfully also made unlawful profits. These selling entities can be bifurcated into the following two broad categories:

- (i) Entities who have indulged in price manipulation and also were net sellers on July 27, 2015; and
- (ii) Entities who were exit providers to Preferential Allottees and also were net sellers on July 27, 2015.

35. As observed by the Hon'ble SAT at para no. 15 of its order, as part of the scheme, counter parties (exit providers) to the Preferential Allottees were funded by the *Company*

related entities and later on these exit providers also dumped their shares on July 27, 2015 by inducing investors to buy the scrip of Dhyana through SMS circulation and all such acts were in violation of PFUTP Regulations. In exact words, the Hon'ble SAT has observed in para 15 as:

“We also find that the counter party buyers to the preferential allottees were also funded by the entities related to the Company and, thereafter, as part of the scheme the counter party buyers exited by dumping the shares on 27th July, 2015 after luring innocent investors through SMS. Through this scheme, the preferential allottees were provided a profitable exit and other noticees also made unlawful gains by selling those shares on 27th July, 2015. In our view, the aforesaid acts of price manipulation by trading amongst themselves and subsequent selling substantial shares at inflated price constituted a scheme which was totally fraudulent and violative Regulations 3 and 4 of the Securities and Exchange Board of India (Prohibition of Fraudulent and Unfair Trade Practices relating to Securities Market) Regulations, 2003 (hereinafter referred to as the „PFUTP Regulations“).”

36. I have already held that no case of exoneration can be made out based on the threshold of 1% contribution to the LTP just because the said threshold has adopted in *Nikki Global* order of SEBI, when the factual context of this case is radically distinguishable from *Nikki Global*. I further observe that the *Noticee nos. 67 to 79* are falling in the category of exit providers who helped the preferential allottees to take profitable exit from the scrip during Patch-2 and few of these exit providers have also sold their shares on July 27, 2015. Therefore, the case of the said 13 *Noticees* (viz., *Noticee nos. 67 to 79*) squarely gets covered by the aforesaid observations of the Hon'ble SAT and being the exit providers, who have played their role as part of the scheme, the question of exonerating them based on their individual LTP contribution does not arise at all, since their role was confined to purchasing shares from Preferential Allottees during Patch-2 and further selling those purchased shares on July 27, 2016 riding on the demand wave created by the circulation of fraudulent SMS, as discussed earlier. Insofar as their contention of no allegation of LTP contribution is concerned, I may

also hasten to add here that the Hon'ble SAT has very well acknowledged that the trades of the *Notices* (even those whose contribution to LTP was of below 1%) had created artificial volume, by observing as: *In our opinion, the trades above LTP or below LTP becomes immaterial especially when the trades executed by these notices created an artificial volume which was fraudulent. In this regard, we find that the show cause notice has clearly clarified that each and every trade executed during the investigation period was not manipulative in nature. The show cause notice proceeds on the premise of the notices' connection with the Company and its related entities coupled with LTP contributing trades inter se within the group.*

37. Insofar as the reliance placed by the *Notices* on the judgment of *Joy Vs. Regional Transport Authority* is concerned, I observe that in the present case, the contribution to LTP is only one of the many factors that cumulatively led to price manipulation in the scrip of Dhyana. Evidently, there are multiple other factors like close nexus with the Company, fund transfers to entities involved in purchase of shares from the Preferential Allottees, etc., which makes the present case clearly distinguishable from the case of *Nikki Global*. At this stage, I seek guidance from the following judgments of the Hon'ble Supreme Court which would lend a better perspective of the issue in hand:

- (i) *Union of India Vs. Dhanwanti Devi [(1996) 6 SCC 44]*- In the said matter, the Hon'ble Supreme Court has *inter alia* held as:

"9.....Every judgment must be read as applicable to the particular facts proved, or assumed to be proved, since the generality of the expressions which may be found there is not intended to be exposition of the whole law, but governed and qualified by the particular facts of the case in which such expressions are to be found..."

- (ii) *The Regional Manager Vs. Pawan Kumar Dubey [(1976) 3 SCC 334]*. In the said matter, the Hon'ble Apex Court had *inter alia* held as:

“7.....Even where there appears to be some conflict, it would, we think, vanish when the ratio decidendi of each case is correctly understood. It is the rule deducible from the application of law to the facts and circumstances of a case which constitutes its ratio decidendi and not some conclusion based upon facts which may appear to be similar. One additional or different fact can make a world of difference between conclusions in two cases even when the same principles are applied in each case to similar facts.” (emphasis supplied).

(iii) *Delhi Airport Metro Express Private Limited Vs. Delhi Metro Rail Corporation (Civil Appeal 3657/2022)* – In the recent judgment, Hon’ble Supreme Court, by relying upon the aforesaid two judgments, held *inter alia* as: “... It has been held that one additional or different fact can make a world of difference between conclusions in two cases even when the same principles are applied in each case to similar facts.”

38. Thus, in my considerate view, all the afore-narrated acts of the *Notices* herein, such as creating artificial price and volume in the scrip of Dhyana; buying shares from the preferential allottees and selling those shares to the gullible investors by enticing them to the scrip after circulating SMS fraudulently had all the potential to induce the general investing public to trade in the scrip of Dhyana. All such acts on the part of the *Notices* have clearly resulted into violation of Section 12A (a), (b) & (c) of SEBI Act, 1992 read with Regulation 3 (a), (b), (c), (d) and Regulation 4 (1) of the PFUTP Regulations.

39. Insofar as the calculation of the unlawful profits is concerned, I observe that the SCN has taken into consideration the shares which were not sold by the erring *Notices*, so as to calculate the component of notional gains made by such entities. However, in my considerate view, the *Notices* need to be stripped of only that unlawful gains which actually accrued to them. Accordingly, the following calculation would reflect the actual unlawful gains by which the *Notices* were enriched due to the violation of law committed by them:

Table no.4

Name of Entity	Buy Quantity (in no.)	Buy Value (in INR)	Weighted Avg. Buy	Sell Quantity (in no.)	Sell Value (in INR)	Weighted Avg. Sell Price (in INR)	Profit (in INR)
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			Price (in INR)				
	A	B	C	D	E	F	G
Ankit Rajeshbhairaj put (Noticee no. 44)	40088	13150178.00	328.03	11000	4449500.00	404.50	8,41,170.00
Gaurang Pathak (Noticee no. 43)	43769	13982365.80	319.46	11000	4449500.00	404.50	9,35,440.00
Birju Pravinchan dra Sanghvi (Noticee no. 31)	20910	6979824.00	333.80	14910	6005280.00	402.77	10,283,42.70
Shalomibe n Anilbhai Bariya (Noticee no. 29)	32089	11430333.50	356.21	8400	3362520.00	400.30	3,70,356.00
Jayshreebe n Kiritkumar Shah (Noticee no. 63)	122939	42007348.40	341.69	17582	7038708.10	400.34	10,31,184.30
Ronak Nayankum ar Shah (Noticee no. 61)	51345	17665936.10	344.06	12620	5089314.00	403.27	7,47,230.20
Chandrikab en Naranbhai Panchal (Noticee no. 64)	66755	22942684.50	343.68	10000	4014800.00	401.48	5,78,000.00
Dholakia Jayshree Kishor (Noticee no. 62)	72530	24490547.70	337.66	8400	3371160.00	401.33	534828.00
Pranatpal Tradelinek Private Limited (Noticee no. 16)	313923	107622280.4 5	342.83	9500	3758841.20	395.67	5,01,980.00
Hiral Manish (Noticee no. 76)	26350	8765425.00	332.65	13650	5508915.00	403.58	9,68,194.50
Hiteshkum	48260	16596095.3	343.89	13000	5235700.00	402.75	7,65,180

ar Mahipatral Patel (Noticee no. 73)							
Manish Shah (Noticee no. 74)	32675	10770341.0	329.62	12675	5117152.50	403.72	9,39,217.50
Rohitkuma r Shantilal Shah (Noticee no. 79)	44930	15366006.0	342.00	12170	4902249.70	402.81	7,40,057.70
Kiritbhai Shantilal Shah (Noticee no. 67)	113640	38652132.1	340.13	11164	4477890.30	401.10	6,80,669.08
Naranbhai J Panchal (Noticee no. 68)	63800	21854112.6	342.54	10000	4023800.00	402.38	5,98,400
Rinkeshku mar N Panchal (Noticee no. 71)	61520	21075860.8	342.59	10000	4032800.00	403.28	6,06,900
Dholakiya Kishorbhai S (Noticee no. 70)	56290	19084892.0	339.05	8400	3371160.00	401.33	5,23,152
Anilbhai Bhalabhai Baria (Noticee no. 75)	35490	12517250.0	352.70	8400	3362520.00	400.30	3,99,840

40. In view of my foregoing findings recorded in the present order, I observe that the present *Noticees* have failed to make out any case, to deserve exoneration either from the allegations made in the SCN or on the ground that their contribution to LTP is less than 1%. It has been found in the Original Order that the materials and evidences on record are sufficient enough to bring home the allegations against the *Noticees* and the same is being reiterated in the instant proceedings as well more so when the allegations have been approved by the Hon'ble

Appellate Tribunal based on the said facts and evidences hence, I reiterate that *Notices* are guilty of the violations of SEBI Act, 1992 and PFUTP Regulations. The outcome in the matter of *Nikki Global* has not laid down any policy and the outcome of that matter is confined to the specific facts of the said matter only. I have also observed in details as to how the order of *Nikki Global* has not postulated any proposition premised on law to be followed as precedent and therefore, the *Notices* do not deserve any leniency. I also note that by virtue of the *interim* order dated June 01, 2016 and final order dated July 29, 2020, the *Notices* have already undergone debarment from accessing the securities market for different periods. Therefore, in my considerate view, no direction inflicting further debarment from accessing the securities market needs to be passed against the *Notices*. However, the unlawful gains that accrued to the *Notices* due to the violations committed by them needs to be disgorged.

41. Accordingly, I in exercise of powers conferred upon me under Sections 11(1),11(4),11B (1) read with Section 19 of the Securities and Exchange Board of India Act, 1992, in order to protect the interest of investors and the integrity of the securities market and to meet the ends of justice, hereby direct that the disgorgement of the amounts be determined as mentioned in the respective columns of the *Notices* in the table below:

Table no. 5

Noticee no.	Name of the Noticee	Amount of unlawful gains directed to be disgorged (in INR)
Noticee no. 16	Pranatpal Tradelink Private Limited	5,01,980.00
Noticee no. 29	Shalomiben Anilbhai Bariya	3,70,356.00
Noticee no. 31	Birju Pravinchandra Sanghvi	10,283,42.70
Noticee no. 43	Gaurang Pathak	9,35,440.00
Noticee no. 44	Ankit Rajeshbhai Rajput	8,41,170.00
Noticee no. 61	Ronak Nayankumar Shah	7,47,230.20
Noticee no. 62	Dholakia Jayshree Kishor	5,34,828.00
Noticee no. 63	Jayshreeben Kiritkumar Shah	10,31,184.30
Noticee no. 64	Chandrikaben Naranbhai Panchal	5,78,000.00
Noticee no. 67	Kiritbhai Shantilal Shah	6,80,669.08
Noticee no. 68	Naranbhai J Panchal	5,98,400.00
Noticee no. 70	Dholakiya Kishorbhai S	5,23,152.00
Noticee no. 71	Rinkeshkumar N Panchal	6,06,900.00
Noticee no. 73	Hiteshkumar Mahipatlal Patel	7,65,180.00
Noticee no.	Manish Shah	9,39,217.50

74		
Noticee no. 75	Anilbhai Bhalabhai Baria	3,99,840.00
Noticee no. 76	Hiral Manish	9,68,194.50
Noticee no. 79	Rohitkumar Shantilal Shah	7,40,057.70

42. The *Noticee nos. 16, 29, 31, 43, 44, 61, 62, 63, 64, 67, 68, 70, 71, 73, 74, 75, 76, and 79*, are directed to disgorge the unlawful gains as mentioned against their names in the respective columns in the above table. BSE is directed to transfer the respective amounts from the amounts of pay-outs pertaining to the aforesaid *Noticees* (retained by BSE) to the extent of respective disgorgement amounts, along with the interest accrued so far on such amounts, if not transferred in compliance with the earlier order dated July 29, 2020.

43. BSE is directed to release the excess amount (if not paid earlier) from the pay-outs for the trades executed on July 27, 2015 to the respective *Noticees*, after transferring the amounts of disgorgement to SEBI in terms of the above directions against the respective *Noticees*.

44. The particulars of SEBI Account for making e-payment are as under:

Name of the Bank	Branch Name	RTGS Code	Beneficiary Name	Beneficiary Account No.
Bank of India	Bandra Kurla Branch	BKID 0000122	Securities	012210210000008

Noticees who are making e- payment are advised to forward the details and confirmation of the payments so made to the Enforcement department of SEBI for their records as per the format provided

in Annexure A of Press Release No. 131/2016 dated August 09, 2016 which is reproduced as under:

1. Case Name:	
2. Name of the payee:	
3. Date of payment:	
4. Amount paid:	
5. Transaction No:	
6. Bank Details in which payment is made:	
7. Payment is made for (disgorgement amount and along with order details)	

45. The Order shall come into force with the immediate effect.

46. A copy of this order shall be forwarded to all the Noticees, all the recognized Stock Exchange, depositories and registrar and transfer agents for ensuring compliance with the above directions.

-Sd-

S.K. MOHANTY

DATE: DECEMBER 05 , 2022

WHOLE TIME MEMBER

PLACE: MUMBAI

SECURITIES AND EXCHANGE BOARD OF INDIA