BEFORE THE ADJUDICATING OFFICER
SECURITIES AND EXCHANGE BOARD OF INDIA

[ADJUDICATION ORDER Ref No.: Order/AS/AK/2022-23/22429-22433]

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

In respect of:

1. **Mr. Henal C Patel (PAN No. BCZPP8593B) ('Noticee 1'/ 'Henal')**
2. **Mr. Keval Chandrakant Shah (PAN No. CDWPS5830H) ('Noticee 4'/ 'Keval')**
3. **Mr. Nikunj C Patel (PAN No. BCZPP8595H) ('Noticee 6'/ 'Nikunj')**
4. **Mr. Dhaval Chandrakant Shah (PAN No.BRSPS0298A)('Noticee 7'/'Dhaval')**
5. **Mr. Vishal Pravinbhai Soni (PAN No. DFCPS9593L) ('Noticee 8'/ 'Vishal')**

In the matter of
Exdon Trading Company Limited

BACKGROUND OF THE CASE

1. Exdon Trading Company Limited (hereinafter referred to as 'the Company') is a listed company having its shares listed on Bombay Stock Exchange Limited (BSE). However, trading activity in the shares of the Company had been suspended by BSE from March 03, 2015 vide announcement dated February 20, 2015. Securities and Exchange Board of India ('SEBI') had conducted an investigation in the matter of trading in the scrip of Exdon Trading Company Limited (hereinafter referred to as **'Exdon'/'Company'**) to ascertain whether there was any violation of the provisions of SEBI Act and SEBI (Prohibition of Fraudulent and Unfair Trade Practices relating to Securities market) Regulations, 2003 (hereinafter referred to as 'PFUTP Regulations') in trading by certain entities in the scrip of the company during the period May 02, 2013, to March 03, 2015. (hereinafter referred to as '**Investigation period'**). During the investigation, following were observed:

(i) The price of the scrip opened at ₹1.69 on May 15, 2013 and touched a high of ₹381.45 on December 18, 2014 and closed at ₹270.40 on February 20, 2015.

(ii) Price rise from ₹14/- to ₹381/- had been observed during May 2014 – December 2014 period. Price of the scrip had increased by way of single share trades during the investigation period.

(iii) During the investigation period total 757 trades happened and the scrip was traded with an average daily volume of 5476 shares with total traded volume of 15,38,963 shares.

(iv) Monthly traded volume from May 2013 to March 3, 2015 showed that trading activity in the scrip had increased during November and December 2014. Highest number of trades (255) had been observed during the month of December 2014.

(v) Price of the scrip was rising exponentially till December 19, 2014 i.e. before the end of lock-in of preferential allotment of 2014 on January 13, 2015.

(vi) It was noted that trading activity had become negligible after December 22, 2014 and only 14 trades had happened from December 22, 2014 to March 4, 2015, the day of suspension of trading in the scrip.

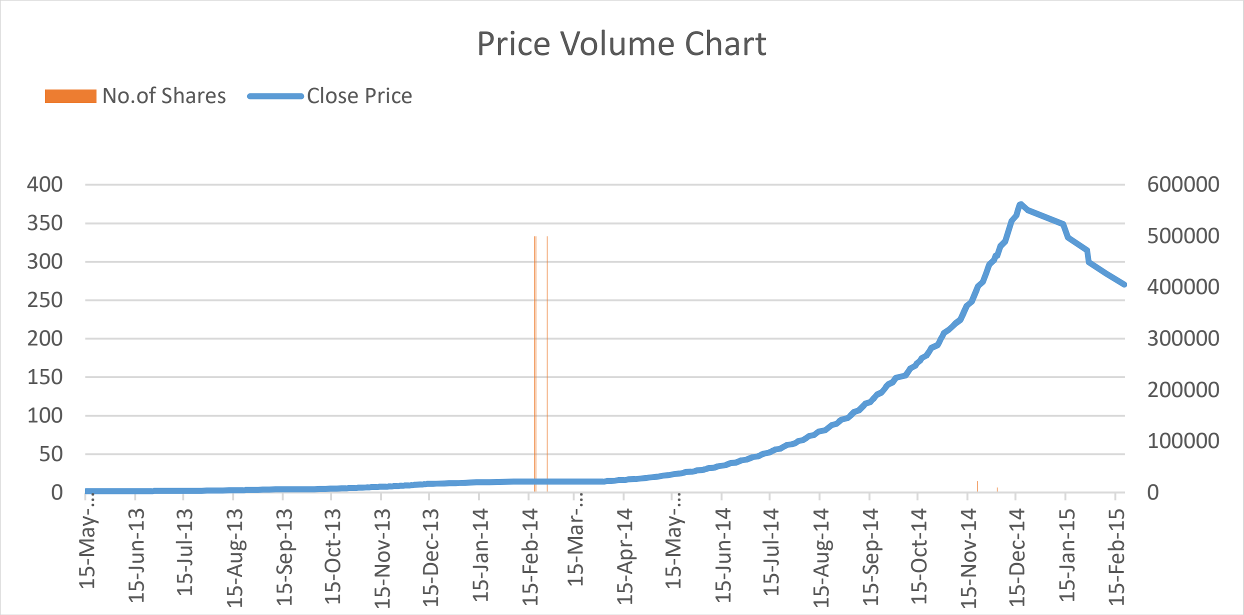
2. The price volume data of the scrip in BSE for the period before, during and after the *investigation period* was noted as mentioned in following table and graph:

Table-1: Price movement at BSE

Period	**Date**		**Opening Price (Volume) on the first day of the period (₹)**	**Closing Price(Volume) on the last day of the period (₹)**	**Low Price (Volume) during the period (₹)**	**High Price (Volume) during the period**	**Average No of shares traded daily during the period**
Before IP	**01/02/2013 To 01/05/2013**	Price	No trade executed during the period				
		Vol.					
During IP	**02/05/2013 to 03/03/2015**	Price	1.69 (15/5/13)*	270.40 (20/2/15)**	1.69 (15/5/13)	381.45(18/12/14)	
		Vol.	11 (15/5/13)	1(20/2/15)	1 (04/04/14)	5,00,000(18/02/14)	5182
After IP	**04/03/2015 to 03/06/2015**	Price	The scrip is suspended by the BSE				
		Vol.					

*No trades executed between May 02, 2013 to May 14, 2013
** No trades executed after February 20, 2015

Chart-1: Price Volume movement at BSE:



3. It was noted that:-

   (i) During the investigation period, no major corporate announcements were made by the Company other than declaration of financial results, shareholding pattern and appointment/change of directors of the Company.

   (ii) The Company did not have any income from its operations and it was incurring losses continuously since December 2013 to March 2015 quarters and annually, it had reported ₹9 lakhs loss and ₹9 lakhs profit during the years 2014 and 2015.

   (iii) The financial results of the Company as disseminated on bseindia.com were as follows:

Table-2

(Figures in ₹Million)

Description	Year Ended			Quarter Ended					
	Mar-2015	Mar-2014	Mar-2013	Jun 30, 2015	Mar 31, 2015	Dec 31, 2014	Sep 30, 2014	Jun 30, 2014	Mar 31, 2014
Net Sales	-	-0.07	1.71	0.00	-	0.00	0.00	0.00	-2.04
Other Income	-0.15	-	-	0.00	-0.15	0.00	-0.09	0.00	0.00
Total Income	-0.15	-0.07	1.71	0.00	-0.15	0.00	-0.09	0.00	-2.04
Net Profit	**-0.86**	**-0.89**	**0.06**	**-0.03**	**-0.70**	**-0.01**	**-0.11**	**-0.14**	**-2.46**

Description	Quarter Ended			
	Dec 31, 2013	Sep 30, 2013	Jun 30, 2013	Mar 31, 2013
Net Sales	-0.23	1.90	0.30	0.16
Other Income	0.00	0.00	0.00	0.00
Total Income	-0.23	1.90	0.30	0.16
Net Profit	**0.25**	**1.85**	**-0.04**	**-1.17**

(iv) From the above details, it was observed that the Company had reported 'nil' income for the financial year ended 2015. Further, it had reported negligible profit during the financial year ended 2013 and continuous losses during the financial year ended 2014 and 2015.

(v) There was change in promoter's shareholding during the investigation period solely on account of increase of share capital of the Company which resulted in reduction in %age of promoter's shareholding from 2.07% to 1.46%.

(vi) Trading in the scrip of the Company was suspended by BSE from March 03, 2015.

4. However, the price of the scrip at BSE opened at ₹1.69, touched a high of ₹381.45, and closed at ₹270.40 in BSE on February 20, 2015 despite above credentials of the scrip.

5. From UCC details, MCA data and off market transaction data, the following 11 entities were identified as suspected entities. The connection was found amongst these 11 suspected entities on the basis mentioned in the following table:

Table-3

Entity No.	Client Name	Client PAN	Observation	Basis of connection
1	Ms. Henal C Patel (Noticee No. 1)	BCZPP8593B	• Entity number 1 has received shares from entity number 9 through off market. • Entity number 1 has transferred shares to entity number 3 and 5 through off market.	Off market transfer
2	Mr. Vishal Pravinbhai Soni (Noticee No. 8)	DFCPS9593L	• Entity number 2 has received shares from entity number 9 through off market. • Entity number 2 has transferred shares to entity number 7 through off market.	Off market transfer
3	Mr. Keval C Shah (Noticee No. 4)	CDWPS5830H	• Entity number 3 has received shares from entity number 1 and 9 through off market.	Off market transfer
4	Mr. Dhaval Chandrakant Shah (Noticee No. 7)	BRSPS0298A	• Entity number 4 has received shares from entity number 9 through off market.	Off market transfer
5	Ms. Nikunj C Patel (Noticee No. 6)	BCZPP8595H	• Entity number 5 has transferred shares to entity number 6 and 1 through off market. • Entity number 5 has received shares from entity number 1 through off market	Off market transfer
6	Mr. Amish Vijaykumar Dantra (Noticee No. 2)	ALQPD5735L	• Entity number 6 has received shares from entity number 5 through off market	Off market transfer
7	Ms. Henal Hemantbhai Shah (Noticee No. 3)	EXHPS9436L	• Entity number 7 has received shares from entity number 2 through off market	Off market transfer
8	Ms. Devyaniben Jitendrakumar Gandhi (Noticee No. 5)	AOCPG5559G	• Entities number 8 and 3 are related based on common Mobile number (9974164689)	UCC details

Entity No.	Client Name	Client PAN	Observation	Basis of connection
9	Dhanlaxmi Lease Finance Ltd. (Noticee No. 9)	AABCD6189R	• Entity number 9 has transferred shares to entities number 1, 2, 3, and 4 through off market.	Off market transfer
10	Shreeji Broking Pprivate Limited	AAICS9909H	• Entity number 9 and 10 have common director Girishbhai Gatubhai Doshi	MCA Data
11	Parvatiminerals Privateltd	AAACP9191Q	• Entities number 9 and 11 are related based on common Address (3/a, Laxmi Colony ,navovas, Rakhiyal Road ,india, India, India, India, 380002)	UCC details

6. It was also observed that 10 entities out of such *connected entities* had traded on -market during the investigation period and the other *viz*. Dhanlaxmi Lease Finance Ltd. had transferred shares through off market to other *connected entities* directly or indirectly. In turn, those *connected* entities sold the shares in the market. It was noted that the *connected entities'* contribution to gross sell volume was more in comparison to gross buy volume. Summary of the trading by the said 10 *connected entities* at BSE during the investigation period is as following:

Table-4

Sr. No.	Connected entities	Gross Buy Volume	Gr. Buy% to total Market Volume	Gross Sell Volume	Gross Sell% to total Market Volume
1	Mr. Henal C Patel	0	0.0	457	0.0
2	Mr. Vishal Pravinbhai Soni	0	0.0	153	0.0
3	Mr. Keval Chandrakant Shah	22	0.0	118	0.0
4	Mr. Dhaval Chandrakant Shah	0	0.0	650	0.0
5	Ms. Nikunj C Patel	0	0.0	97	0.0
6	Mr. Dantara Amish Vijaykumar	3	0.0	103	0.0
7	Mr. Henal Hemantbhai Shah	0	0.0	1,839	0.1
8	Ms. Devyaniben Jitendrakumar Gandhi	0	0.0	150	0.0
9	Shreeji Broking Private Limited	0	0.0	500,000	32.5
10	Parvatiminerals Privateltd	0	0.0	500,000	32.5
	Total	**25**	0.0	**1003567**	**65.2**

7. Based on the variance in quantum of trading volumes and the price movement of the scrip during the investigation period, the following patches were identified :

Table-5

Patches	Price/Volume trend	Period		Exchange	Price Movement				Average Volume
		From	To		Open	High	Low	Close	
Patch-I	Price rise with high trading volume	15/05/2013*	18/12/2014	BSE	1.69	381.45	1.69	375	5307
Patch-II	Price fall with low trading volume	22/12/2014	20/02/2015**	BSE	367.50	367.50	270.40	270.40	2

*No trading executed between May 02, 2013 to May 14, 2013

** No trades executed after February 20, 2015

8. It was observed that for the 301 trades that contributed to positive LTP of ₹442.81 in Patch-I, following 8 entities out of the said 11 connected entities contributed ₹353.38 (79.80% of total market positive LTP) to positive LTP in 244 trades. From the analysis of the trade log of these 8 connected entities following were observed:

Table-6

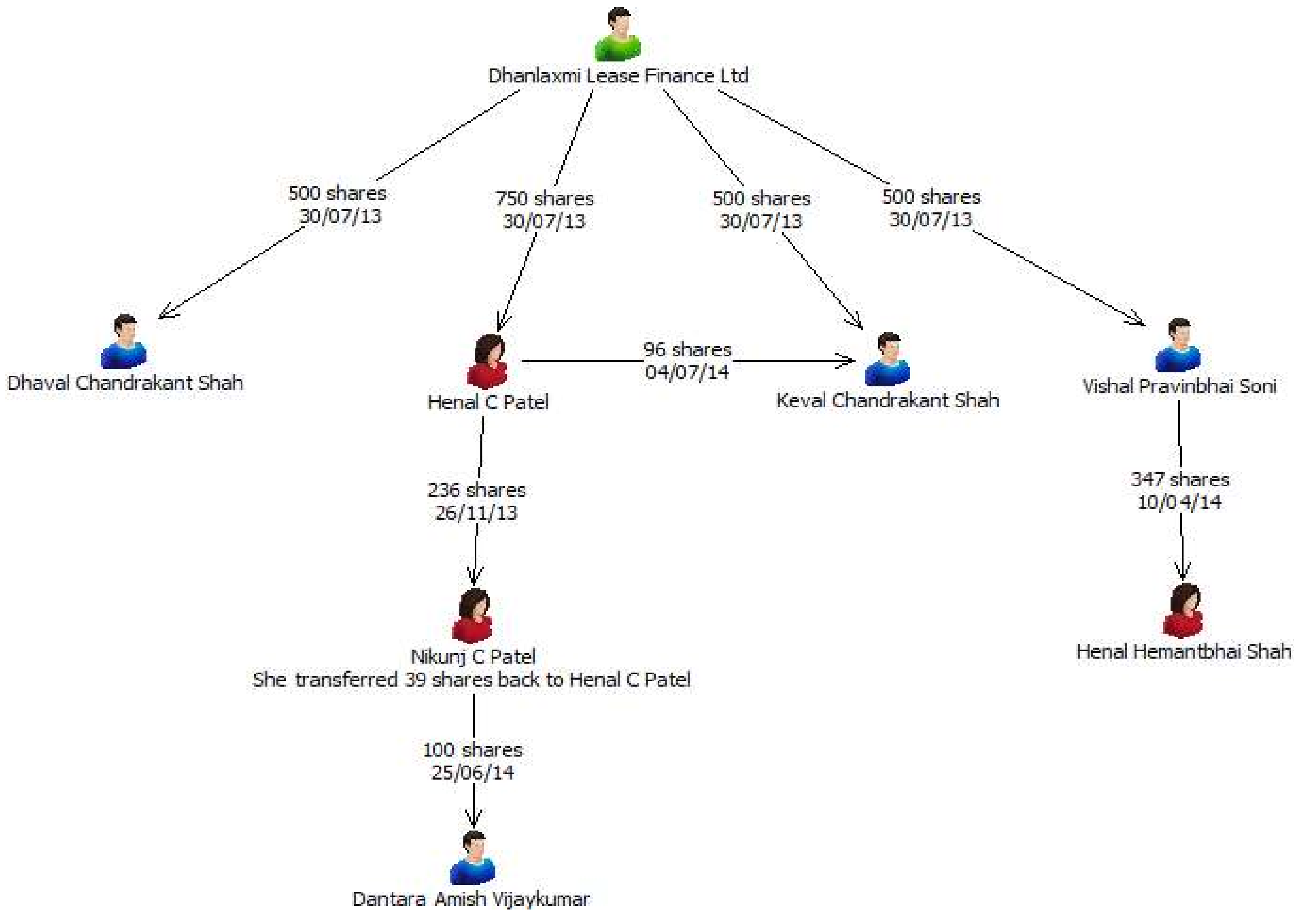
Sl. no	Seller Name	No. of trades (LTP >0)	Sell order qty Between 1-3 shares		Sell order qty Between 4-10 shares		Sell order qty between 11-25 shares		Sell order qty were more than 25 shares		Total Positive LTP contribution (₹)	% of positive LTP to Total Market positive LTP	No. of shares held before these trades (CDSL/NSDL statements)	Balance no. of shares held (CDSL/NSDL statements/Broker declarations)
			Positive LTP contribution	No. of trades	Positive LTP contribution	No. of trades	Positive LTP contribution	No. of trades	Positive LTP contribution	No. of trades				
1	Henal C Patel	109	125.71	69	13.77	40	-	-	-	-	139.48	31.50	750	246
2	Dantara Amish Vijaykumar	31	84.30	30	-	-	-	-	5.25	1	89.55	20.22	100	0
3	Henal Hemantbhai Shah	9	0.70	1	-	-	-	-	49.55	8	50.25	11.35	1000	498
4	Keval Chandrakant Shah	20	24.60	18	-	-	0.05	1	5.65	1	30.3	6.84	96	0
5	Devyaniben Jitendrakumar Gandhi	3			-	-	20.35	3	-	-	20.35	4.60	150	0
6	Nikunj C Patel	35	12.24	27	1.71	8	-	-	-	-	13.95	3.15	236	139
7	Dhaval Chandrakant Shah	14	0.75	1	0.52	12	-	-	5.15	1	6.42	1.45	650	570
8	Vishal Pravinbhai Soni	23			3.08	**23**	**-**	**-**	-	**-**	3.08	0.70	500	347
	Total	**244**	**248.30**	**146**	**19.08**	**83**	**20.40**	**4**	**65.60**	**11**	**353.38**	**79.80**		

(i) The price of the scrip rose from ₹1.69 to ₹381.45 during the period from May 15, 2013 to December 18, 2014 out of which the rise of ₹353.38 (79.80% of total market positive LTP) resulted from the 244 trades done by these 8 *connected* entities. It was observed that in the 244 trades, all the 8 *connected entities* had put their sell orders with small quantity of shares mostly in single digits whereas buy orders were available with quantity in the range of 1 to 25000 shares (mostly 500, 1000, 2000 and 5000 shares). By executing these trades, the *connected* counterparties contributed to positive LTP and thus to the increased scrip price with each of their trades. It was also observed that these 244 trades were done on 243 different trading days across the period and each trade resulted in a higher LTP.

(ii) The transaction statements obtained from depositories (NSDL/CDSL) showed that these 8 *connected entities* were holding substantial quantity of shares during the period of their respective sale transactions. Despite holding abundant quantity of shares, these 8 *connected entities* released limited number of shares and matched the above LTP buy orders with trade quantity, offering shares in small quantities. Further, they had not executed more than one transaction a day (the only exception being of Henal C Patel, who had executed 2 sell transactions on one day viz. November 07, 2014). Thus, such trading pattern of these 8 *connected entities* showed that they had no *bona fide* intention to sell shares and their intention was to mark the price higher and thereby manipulate the scrip price.

9. The other *connected entity* Dhanlaxmi Lease Finance Ltd had transferred shares to *connected entities* viz., Henal C Patel, Keval Chandrakant Shah, Vishal Pravinbhai Soni and Dhaval Chandrakant Shah through offmarket route. Further, these 4 *connected entities* also transferred shares to other 3 *connected entities* through off market route. Hence, Dhanlaxmi Lease Finance Ltd transferred shares directly or indirectly through off market route to 7 *connected entities* (out of total 8 *connected* entities referred in the table). Pictorial Presentation of the same is as follows:

Chart-2



(i) It was evident from the above that the Dhanlaxmi Lease Finance Limited, by virtue of transfer of shares through off market to other *connected entities*, who used such shares for manipulation, had facilitated such manipulation.

(ii) In view of above, these 8 *connected entities* including 7 *connected entities* (who had received shares from Dhanlaxmi Lease Finance Limited) and Dhanlaxmi Lease Finance Limited contributed to manipulation in the scrip price and created a misleading appearance of trading in the scrip by such trades as explained above.

10. In view of the above observations, it was alleged that the 9 entities viz. Mr. Henal C Patel **('Noticee 1'/ 'Henal')** , Mr. Dantara Amish Vijaykumar, Ms. Henal Hemantbhai Shah, Mr. Keval Chandrakant Shah **('Noticee 4'/ 'Keval'**), Ms. Devyaniben Jitendrakumar Gandhi, Mr. Nikunj C Patel **('Noticee 6'/ 'Nikunj'**), Mr. Dhaval Chandrakant Shah **('Noticee 7'/ 'Dhaval'**), Mr. Vishal Pravinbhai Soni **('Noticee 8'/ 'Vishal'**), (hereinafter Noticee 1, 4, 6,7 and 8 are collectively referred

to as ‘**Noticees**’) and Dhanlaxmi Lease Finance Ltd. have manipulated the price of the scrip of the Company and created a misleading appearance of trading in the scrip in Patch-I, and thereby violated the provision of regulation 3 (a), (b), (c), (d), regulation 4(1), 4 (2)(a) and 4 (2) (e) of the PFUTP Regulations.

11. SEBI felt satisfied that there are sufficient grounds to inquire and adjudicate upon the alleged violations of the provisions of the aforesaid provisions of the PFUTP Regulations, by these 9 entities. By a *communication-order* dated August 30, 2018, Shri Santosh Shukla, was appointed as Adjudicating Officer to inquire into and adjudge under section 15HA of the SEBI Act for the alleged violations by these 9 Entities.

12. A Show cause no. EAD-2/SS/VS/35220/1-9/2018 dated December 26, 2018 (hereinafter referred to as ‘**SCN**’) was issued to these 9 entities in terms of rule 4(1) of the SEBI (Procedure for Holding Inquiry and Imposing Penalties by Adjudication Officer) Rules, 1995 (hereinafter referred to as ‘the Adjudication Rules’) read with section 15I of the SEBI Act, with regards to the alleged violations of provision of regulation 3 (a), (b), (c), (d), regulation 4(1), 4 (2)(a) and 4 (2) (e) of the PFUTP Regulations by 9 entities (including the Noticees). By the SCN these 9 Entities were called upon to show cause as to why an inquiry should not be held against them in terms of rule 4 of the Adjudication Rules and penalty should not be imposed under section 15HA of the SEBI Act for the aforesaid alleged violations by them.

13. Based on the replies received, hearings granted, and the material available on record, an Adjudication order No. EAD-2/SS/VS/2019-20/3225-3233 dated May 17, 2019 was passed in the matter by the erstwhile Adjudicating Officerwith respect to these 9 entities, including the Noticees, *interalia* imposing a penalty of Rs. 10 Lakh on Noticee 1 and penalty of Rs 5 Lakh each on Noticee 4, 6,7 and 8.

14. The aforesaid Adjudication Order dated May 17, 2019 was challenged vide appeal nos. 489/490 of 2019 by Noticees before the Hon’ble SAT. Hon’ble SAT

vide its order dated June 14, 2021, set aside the above referred order and remitted the said order *qua* the Noticees to Adjudicating Officer to decide the matter afresh on merits, while taking into consideration observations of Hon'ble SAT and in accordance with law.

APPOINTMENT OF ADJUDICATING OFFICER

15. In order to proceed further in the matter, the competent authority vide *communique* dated July 09, 2021 appointed Shri Prasanta Mahapatra, CGM as the Adjudicating Officer (AO) for further proceedings. Pursuant to the transfer of Shri Prasanta Mahapatra to other department of SEBI, vide *communique* dated June 07, 2022, undersigned has been appointed as AO to further proceed in the matter.

SHOW CAUSE NOTICE, REPLY AND HEARING

16. In terms of the said Hon'ble SAT order, a Notice letter dated July 19, 2022 referring to the SCN was duly served upon the Noticees viz. viz. Mr. Henal C Patel, Mr. Keval Chandrakant Shah Mr. Nikunj C Patel, Mr. Dhaval Chandrakant Shah and Mr. Vishal Pravinbhai Soni. Vide the said Notice letter Noticees were advised to submit their respective replies to the SCN, if any, within 14 (fourteen) days from the date of receipt of the Notice letter.

17. The Noticee 1, 4, 6 & 7 vide letter(s) dated August 5, 2022 submitted their respective response, and requested for inspection of documents, which was conducted on September 21, 2022. After the inspection, Noticee 1, 4, 6 &7 have submitted their common reply vide email dated October 12, 2022 seeking hearing and a common post hearing reply dated December 02, 2022 which are summarized hereunder:

(i) *Noticee 1, 4, 6 &7 are connected as they are brothers and have not traded amongst themselves. Further, there is no connection of the Noticees with Company or its Directors, promotors, or their counterparty buyers'. Hence the*

allegation in the SCN of manipulating the price of the scrip on the basis of connection does not holds any water.

(ii) *Noticee 1, 4, 6 &7 submits that they are not connected with any of their counter parties to trade. Also, in the SCN itself the counter parties are given clean chit on the basis that the they are not connected with the counter parties' seller.*

(iii) *It is SEBI's own case that the buyers are not connected with the sellers. Also, the contribution to +ve LTP below 5 % is considered as insignificant and no negative inference is caused. The alleged contribution to LTP of Noticeces is Keval Shah (6.84%), Nikunj Patel(3.15%) and Dhaval Shah (1.45%) which is around and below 5 % and the same should be termed as insignificant. In absence of any connection between the buyer and seller and without any evidence of prior meeting of minds, the allegations of price manipulation cannot be sustained.*

(iv) *In this regard, reliance was placed on the following case:*
Nishith Shah HUF Vs SEBI

(v) *Noticee No.1 has sold only 397 shares, Noticee No. 4 sold only 106 shares, Noticee No.6 sold only 96 shares and Noticee No.7 sold only 151 shares during the entire investigation period and it is a miniscule quantity of trade.*

(vi) *large buy orders were already pending before their sell order in the trading system and hence it is the buyers who contributed to positive LTP and created misleading appearance of the liquidity and demand in the scrip.*

(vii) *The Investigation period had total 301 trading days which contributed to Rs. 442 to positive LTP, out of which the Henal Patel traded on 109 trading days, Keval Shah traded on 20 trading days, Nikunj Patel traded on 35 trading days and Dhaval Shah traded on 14 trading days, the price of the scrip has increased even on the days on which the they had not traded in the scrip.*

(viii) *There is no evidence shown by SEBI that the trades were executed with prior meetings of mind to manipulate the price of the scrip.Trades were in normal course of business and there was no mensrea or fraudulent or manipulative intent behind executing any trades. Reliance was place on the following Orders:*

a. *Order dated May 31, 2019 passed by the Ld.Whole Time Member SEBI in the matter of Essar (India) Ltd in favour of Mr. Amit H. Tilala.*

b. HB Stock Holdings Ltd. vs. SEBI (Appeal No. 114 of 2012) the Hon'ble Tribunal vide order dated August 27, 2013.

c. Jagruti Securities Ltd. vs. SEBI dated October 27, 2008 the Hon'ble Tribunal.

d. Vikas Ganshmal Bengani vs. WTM

e. Rajesh Jivan Patel Vs SEBI Appeal 222/2020 order dt. 26.08.2020

f. Mr. Amresh Pathak Vs SEBI dated February 16, 2021

(ix) Entities who have contributed to LTP as sellers have not even a single mention in the entire Investigation Report or SCN. Counter party buyers to the trades of the Notices have been exonerated.

(x) Off market transactions are per se not illegal.

(xi) Reliance was placed on the following Orders:

a. Vipul Mohan Joshi in Appeal 105/2019

b. Hon'ble Supreme Court in the matter of Securities and Exchange Board of India vs Kishroe R. Ajmera, (2016) 6 SCC 368

c. Rajendra G Parikh in Appeal 44 of 2009, the Hon'ble Tribunal held that

d. Hon'ble SAT in Appeal 16 of 2010 Jatin Manubhai Shah dated 01.03.2011

e. The Hon'ble SAT in the matter of M/s Nishith M Shah (HUF) v/s SEBI in Appeal 97 of 2019 dated 16-01-2020, which has been upheld by the Supreme Court of India.

(xii) Since, counter party with similar percentage of positive LTP have been exonerated they should also be released and given clean chit and no penalty should be imposed. By placing such huge order quantity it was buyers who were creating demand in the scrip and not the sellers. Buyers who have contributed below 5% LTP no charges have been framed against them stating that it is insignificant.

(xiii) Since the counter party buyers are exonerated in absence of connection, the same yardstick should be applied and the proceedings initiated should be dropped.

18. Noticee 8 vide his earlier reply dated March 10, 2019 to the SCN has *inter alia* submitted as following:

"…I had my trading code 391022 in Urja Investment Where the owner namely Keval Shah had asked me for Cheque of Rs.5000/- in favor of Urja Investments. Then he informed me that 500 shares of Exdon Trading Company Limited have been transferred in your demat A/c. He then sold out 153 shares partially selling in my account. Balance 347 shares where transferred to some other a/c. which was not informed by him. Note - Kindly note that I was nowhere informed related to transfer or execution of trades in my a\c. When I have asked, he had transferred balance shares to some other account…"

19. Further, upon receipt of the Notice Letter dated July 19, 2022, Noticee 8 vide letter dated August 5, 2022 submitted his response, and requested for inspection of documents, which was conducted on September 22, 2022. After the inspection Noticee 8 has submitted his reply vide letter/email dated October 10, 2022 seeking hearing and also a post hearing reply December 03, 2022 which are summarized hereunder:

(i) *It is alleged that Noticees including the Noticee 8 herein are connected with each other. Noticee 8 herein had not executed any trades amongst themselves. Since, the Noticee 8 herein is not found connected with the buyers, the allegation of contribution to +ve LTP is immaterial. Reliance was placed on the following orders:*

(i) *Hon'ble Securities Appellate Tribunal order in Premchand Shah & Ors. vs. SEBI (Date of decision 21/02/2011)*

(ii) *Narendra Ganatra vs. SEBI (Date of decision 29/07/2011)*

(iii) *Smitaben N. Shah vs. SEBI (Date of decision 30/07/2010)*

(ii) *Off-market transaction per se not illegal*

(iii) *Noticee had started trading in the scrip of the Company on 01-08-2013 and last trade was executed on 13-01-2014. The price of the scrip in between 01-08-2013 to 13-01-2014 was in the range of Rs. 2.65 to Rs. 13.41. Thereafter, the price of the scrip had increased from Rs. 13.41 to Rs. 381.45. Thus, the Noticee*

herein cannot be held liable for increase in the price of the scrip from Rs. 13.41 to Rs. 381.45 as Noticee had not executed any trade in the between these prices.

(iv) Alleged contribution of the Noticee was Rs. 3.08 (0.70% of the total market +ve LTP) i.e. too miniscule in compare to total market +ve LTP (Rs. 442.81)

(v) Price of the scrip was increasing on those days also when the supply of shares of the Company increased. Thus, the allegation of increasing price from LTP by selling shares of the Company in small quantity is based on surmises and conjectures.

(vi) Trades executed by the Noticee herein were in normal course of business and no fraudulent or manipulative practice can be alleged against the Noticee for such trades.

(vii) Lot size of the scrip of Company is 1 and therefore it is upon the buyer or seller to place the order quantity at their own wish and not depending on the counter party's order quantity.

(viii) None of the buyer entities have been made party to the SCN by SEBI or any violation of any PFUTP Regulation is alleged against them. Reliance was placed on the following order:

a. Vikas Ganshmal Bengani vs. WTM, SEBI

(ix) When the counter parties to the Noticee's trades have not been alleged of any violation and there is no allegation of any collusion or meeting of minds with such entities, the Noticee herein cannot be held for the violation of SEBI PFUTP Regulations. It is not even the case of SEBI that the Noticee had executed circular or synchronized trade therefore merely based on the connection and the LTP contributed by the Noticee which is miniscule, it cannot

be alleged that the Noticee has violated the PFUTP Regulations. Reliance was placed on the following orders:

a. KSL & Industries Ltd. vs. Chairman, SEBI (Appeal No. 9 of 2003)

b. Order dated 10th October, 2013 in Kapil Chatrabhuj Bhuptani vs. SEBI (Appeal No. 95 of 2013)

c. HB Stock Holdings Ltd. vs. SEBI (Appeal No. 114 of 2012) the Hon'ble Tribunal vide order dated 27th August, 2013

d. Jagruti Securities Ltd. vs. SEBI, the Hon'ble Tribunal vide order dated 27th October, 2008

e. Moneygrowth Investment and Consultants Pvt. Ltd. vs. SEBI, the Hon'be Tribunal vide Order dated 27th August, 2008

f. M/s Nishith M Shah (HUF) v/s SEBI in Appeal 97 of 2019 dated 16-01-2020

g. Order dated 31-05-2019 passed by the Ld. Whole Time Member SEBI in the matter of Essar (India) Ltd in favour of Mr. Amit H. Tilala

h. Order dated 24-02-2020 passed by Ld. Adjudicating Officer in favour of Ms. Sushma Agarwal in the matter of Winsome Yarns Limited

i. Order dated 06-03-2020 passed by Ld. Adjudicating Officer in favour of Ms. Sangita Pramod Harlalka in the matter of Reford global Limited

j. Order dated 23-03-2020 passed by Ld. Adjudicating Officer in favour of Mr. Lokesh N Mistry in the matter of Alexander Stamps and Coin Limited

k. Hon'ble Tribunal in the Appeal filed by Abhishek Bhutra & Anr. v/s SEBI

(x) The Noticee has not employed any device, scheme or artifice to defraud anyone nor is the charge in the SCN. The Noticee has not engaged in any act, practice, course of business which operated as fraud or deceit upon any person.

(xi) *Trades executed by the Noticee has only contributed Rs. 3.08 to the LTP in the scrip of the Company out of the total LTP of Rs. 442.81. (i.e. only 0.70%) and they were genuine trades without any intention to manipulate the price of the scrip.*

(xii) *SEBI has not recommended / taken any action against the seller entities who had contributed Rs. 7 to Rs. 12 to +ve LTP in the scrip of the Company by executing sell trades. The contribution by my client was too miniscule in comparison to the +ve LTP contributed by these entities. Therefore, similar yard stick should be applied in the case of Noticee 8.*

20. In order to conduct an inquiry in the matter, in terms of Rule 4(3) of SEBI Adjudication Rules, the Noticees were given an opportunity of personal hearing on October 13, 2022 through videoconferencing on the Webex platform. On the scheduled date of hearing i.e. October 13, 2022, Noticee 1, 4, 6 and 7 appeared through its Authorized Representative i.e., Ms. Akansha Jain, and reiterated the submissions made by Noticee 1, 4, 6 and 7 vide letter dated October 12, 2022. The Authorized Representative sought time of to make additional submissions which was done vide email/letter dated December 02, 2022.

21. Noticee 8 appeared through its Authorized Representative i.e., Advocate Mr. Vikas Bengani on the scheduled date of hearing i.e. October 13, 2022 and reiterated the submissions made by the Noticee 8 vide letter/email dated October 10, 2022. The Authorized Representative sought time of to make additional submissions which was done vide email/letter dated December 03, 2022.

CONSIDERATION OF ISSUES AND FINDINGS

22. I have carefully perused observations made by Hon'ble SAT in its order in Appeal No. 489 and 490 of 2019 dated June 14, 2021 and the charges levelled against the Noticees in the SCN and the material / documents made available during the course of the proceeding, including the respective replies furnished by the

Noticees.

23. Hon'ble SAT in its order dated June 14, 2021, while quashing the AO order dated May 17, 2019 has observed that:

Para 6: "we find that the question of collusion between the buyer and seller has not been taken into consideration. The question that if the buyer has been let off would be the consequence in so far as the seller is concerned qua the appellant has also not been taken into consideration. In this regard, we find that this Tribunal has passed several decisions some of which are M/s Nishith M. Shah HUF vs SEBI (Appeal No. 97 of 2019 decided on 16.01.2020) and Amaresh Pathak & Ors. vs SEBI (Appeal No. 332 of 2020 decided on 16.02.2021) wherein this Tribunal has found that in order to prove collusion there must be a buyer and a seller and that in the absence of collusion the contribution to Last Traded Price (LTP) becomes immaterial.

Para 7 "In the instant case, the show cause notice itself reveals the buyers have been let off who were counterparties to the trades executed by the appellants. What would be impact of this aspect and the decisions passed by this Tribunal is required to be considered by the AO."

24. I also note that, the Noticees in their respective replies have also contended the same and it is a major contentions raised by the Noticees. Hence, I would deal with the said observations of SAT and contention of the Noticees before moving forward.

25. For the purpose, the LTP analysis of the top 10 entities (in terms of contribution to positive LTP) as buyers during Patch-I as provided in the SCN is reproduced as under:

Table 7

	All trades			LTP Diff. >0			LTP Diff. < 0			LTP Diff. =0		% of positive LTP to Total Market positive LTP
Entity Name	**Net LTP**	**Sum of Quantity**	**No of trades**	**LTP impact**	**QTY traded**	**No of trades**	**LTP impact**	**QTY traded**	**No of trades**	**QTY traded**	**No of trades**	
Chandadevi Agrawal	95.98	85	40	95.98	81	36	0.00	0	0	4	4	21.68
Pliris Capital Pvt. Ltd.	66.85	325	56	73.75	208	10	-6.90	4	4	113	42	16.65

Entity Name	All trades			LTP Diff. >0			LTP Diff. < 0			LTP Diff. =0		% of positive LTP to Total Market positive LTP
	Net LTP	Sum of Quantity	No of trades	LTP impact	QTY traded	No of trades	LTP impact	QTY traded	No of trades	QTY traded	No of trades	
Vikram Sanwarmal Nangalia	37.80	96	39	37.80	75	36	0.00	0	0	21	3	8.54
Bimla Mittal	25.90	752	30	25.90	110	4	0.00	0	0	642	26	5.85
Nirav Rajababu Gandhi	18.80	39	9	18.80	38	8	0.00	0	0	1	1	4.25
Jayashree Mishra	16.40	1,750	19	16.40	332	3	0.00	0	0	1,418	16	3.70
Vipul Amratlal Doshi	13.35	9	4	13.35	9	4	0.00	0	0	0	0	3.01
Uttam Bagri Huf	11.45	170	4	11.45	61	2	0.00	0	0	109	2	2.59
Abhishek Badrinath Kapoor	11.06	356	60	11.06	351	59	0.00	0	0	5	1	2.50
Arun Kumar	9.70	6	2	9.70	6	2	0.00	0	0	0	0	2.19
Top 10 Total	**307.29**	**3,588**	**263**	**314.19**	**1,271**	**164**	**-6.90**	**4**	**4**	**2,313**	**95**	**70.95**
Market Total	**373.31**	**1,539,073**	**483**	**442.81**	**1,002,736**	**301**	**-69.5**	**760**	**20**	**535,577**	**162**	**100.00**

26. The above table shows that top 10 entities contributed ₹ 314.19 to positive LTP (70.95 % of total market positive LTP) in 164 trades with a trading volume 1271 shares during the price rise period. Further findings w.r.t to these entities are as follows:

(i) It was observed that, Chandadevi Agrawal had a positive LTP contribution of ₹ 95.98 (21.68% of total market positive LTP) in 36 trades with a trading volume of 81 shares. The trades of Chandadevi Agrawal showed that in all the 36 trades executed by her, the buy orders were placed before the corresponding sell orders which contributed ₹ 95.98 (21.68% of total market positive LTP) to total positive LTP. However, for the 36 trades executed by her, there were 4 counterparties who had no connection with her.

(ii) It was observed that, Pliris Capital Private Limited had a positive LTP contribution of ₹ 73.75 (16.65% of total market positive LTP) in 10 trades with a trading volume of 208 shares. The trades executed by Pliris Capital Private Limited showed that there were 9 trades where the buy order was placed before the corresponding sell order, which contributed ₹ 66.30 to positive LTP (14.97% of total market positive LTP). In remaining 1 trade, the positive LTP contribution was ₹ 7.45 (1.68% of total market positive LTP). However, for the 10 trades executed by the said entity, there were 6 counterparties who had no connection with the said entity.

(iii) It was observed that, Vikram Sanwarmal Nangalia had a positive LTP contribution of ₹ 37.80 (8.54% of total market positive LTP) in 36 trades with a trading volume of 75 shares. The trades executed by Vikram Sanwarmal Nangalia showed that in all the 36 trades executed by him, the buy orders were placed before the corresponding sell orders which contributed ₹37.80 (8.54% of total market positive LTP) to total positive LTP. However, for the 36 trades executed, there were 6 counterparties who had no connection with him.

(iv) It was observed that, Bimla Mittal had a positive LTP contribution of ₹ 25.90 (5.85% of total market positive LTP) in 4 trades with a trading volume of 110 shares. The trades executed by Bimla Mittal showed that in all the 4 trades executed by her, the sell orders were placed before the corresponding buy orders which contributed ₹25.90 (5.85% of total market positive LTP) to total positive LTP. However, for the 4 trades executed, there were 4 counterparties who had no connection with her.

(v) No suspicious trading pattern was observed during the analysis of the order log and trade log for the 4 entities viz, Chandadevi Agrawal, Pliris Capital Private Limited, Vikram Sanwarmal Nangalia and Bimla Mittal (who had contributed LTP more than 5 %). Also, these 4 entities had put their buy orders with large quantity of shares i.e. mostly 500, 1000, 2000 and 5000 shares whereas sell orders were available with quantity of shares in single digit i.e. mostly 1, 2 and 3 shares. Further, based on the bank statement analysis no connection was observed amongst these 4 entities or with other connected entities.

(vi) It was observed that, the individual contribution to market positive LTP of the remaining 6 entities was less than 5%, which was not significant and No connection was observed amongst the top 10 entities as well as with the other connected entities or with company, its promoters and directors on the basis of the UCC details obtained from BSE, off market transfers and MCA database.

27. In view of the above observations, no adverse inference was drawn against the above mentioned entities with regard to positive LTP contribution. Further, the instant proceedings are factually distinguishable from the matter of M/s Nishith M. Shah HUF vs SEBI (Appeal No. 97 of 2019 decided on 16.01.2020) and Amaresh

Pathak & Ors. vs SEBI (Appeal No. 332 of 2020 decided on 16.02.2021) and various other cases relied upon by the Noticees in their respective replies.

28. In this connection, I would like to rely on the observations of the Hon'ble SAT in the matter of Tanuj Khandelwal Vs SEBI Appeal No. 357 of 2020 order dated January 04, 2021. "*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. 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.*"

29. In order to evaluate the case on its merits, I will now proceed to deal with the following issues arising out of the present proceedings, one by one, as under:

A. **Whether the Noticees have violated the provisions of SEBI Act and 3 (a), (b), (c), (d), regulation 4(1), 4 (2)(a) and 4 (2) (e) of the PFUTP Regulations?**
B. **If yes, whether the Noticees are liable for monetary penalty under Section 15HA of the SEBI Act?**
C. **If so, what would be the monetary penalty that can be imposed on the Noticees after taking into consideration the factors mentioned in section 15 J of the SEBI Act?**

30. Before moving forward, it is pertinent to refer to the relevant provisions of SEBI

(PFUTP Regulations), 2003 which reads as under:

3. Prohibition of certain dealings in securities

No person shall directly or indirectly—

(a) buy, sell or otherwise deal in securities in a fraudulent manner;

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

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

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

4. Prohibition of manipulative, fraudulent and unfair trade practices

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

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

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

(b) to (d) ….

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

A. Whether the Noticees have violated the provisions of SEBI Act and 3 (a), (b), (c), (d), regulation 4(1), 4 (2)(a) and 4 (2) (e) of the PFUTP Regulations?

31. In the instant proceedings, the charge against the Noticees is that they being *connected entities* had manipulated the price of the scrip of the Company and created a misleading appearance of trading in the scrip in Patch-I. The method

and the manner in which the trades were executed are the most important factors to be considered in these circumstances. The Noticees have contended that the SCN has ignored the increase in the price rise in other phases and all other parties who have contributed to the said price. As per the SCN, there was manipulative trading observed in the scrip of Exdon in Patch 1 of the investigation period and accordingly, the Noticees were called upon to show cause about their respective roles in the said manipulative trading. In the present proceedings, I have to determine whether during Patch 1 of the investigation period there was any manipulative trading by the Noticees, based on the allegations levelled in the SCN and the material available on record.

32. During the Investigation period, for the 301 trades that contributed to positive LTP Rs. 442.81 in patch I, it was observed that there were 8 connected counterparty entities who contributed Rs. 353.38 (79.80% of total market positive LTP) to positive LTP in 244 trades. The analysis of the trade log was done of the 8 *connected entities* and following were observed:

Table 8

Sl. no	**Seller Name**	**No. of trades (LTP >0)**	**Sell order qty Between 1-3 shares**		**Sell order qty Between 4- 10 shares**		**Sell order qty between 11-25 shares**		**Sell order qty were more than 25 shares**		**Total Positive LTP contribution (Rs.)**	**% of positive LTP to Total Market positive LTP**	**No. of shares held before these trades (CDSL/NSDL statements)**	**Balance no. of shares held (CDSL/NSDL statements/Broker declarations)**
			Positive LTP contribution	**No. of trades**	**Positive LTP contribution**	**No. of trades**	**Positive LTP contribution**	**No. of trades**	**Positive LTP contribution**	**No. of trades**				
1	Henal C Patel	109	125.71	69	13.77	40	-	-	-	-	139.48	31.50	750	246
2	Dantara Amish Vijaykumar	31	84.30	30	-	-	-	-	5.25	1	89.55	20.22	100	0
3	Henal Hemantbhai Shah	9	0.70	1	-	-	-	-	49.55	8	50.25	11.35	1000	498
4	Keval Chandrakant Shah	20	24.60	18	-	-	0.05	1	5.65	1	30.3	6.84	96	0
5	Devyaniben Jitendrakumar Gandhi	3			-	-	20.35	3	-	-	20.35	4.60	150	0
6	Nikunj C Patel	35	12.24	27	1.71	8	-	-	-	-	13.95	3.15	236	139
7	Dhaval Chandrakant Shah	14	0.75	1	0.52	12	-	-	5.15	1	6.42	1.45	650	570
8	Vishal Pravinbhai Soni	23			3.08	**23**	-	-	-	-	3.08	0.70	500	347
	Total	**244**	**248.30**	**146**	**19.08**	**83**	**20.40**	**4**	**65.60**	**11**	**353.38**	**79.80**		

33. From Table 1 at para 2 given above, it is noted that, there were no trades in the

scrip from February 01, 2013 to May 14, 2013.The price of the scrip rose from Rs. 1.69 to Rs. 381.45 during the period from May 15, 2013 to December 18 , 2014 out of which the rise of Rs. 353.38 (79.80% of total market positive LTP) resulted from the 244 trades done by these 8 connected entities. It was observed that in the 244 trades, all the Noticees had put their sell orders with small quantity of shares mostly in single digits whereas buy orders were available with quantity in the range of 1 to 25000 shares (mostly 500, 1000, 2000 and 5000 shares). By executing these trades, the Noticees as connected counterparties contributed to positive LTP and thus to the increased scrip price with each of their trades. It was also observed that these 244 trades were done on 243 different trading days across the period and each trade resulted in a higher LTP.

34. It was observed from the transaction statements obtained from depositories (NSDL/CDSL), that Noticees were holding shares during the period of their respective sale transactions as under:

Noticee 1 – 750 shares,

Noticee 4 -96 shares,

Noticee 6 -236 shares,

Noticee 7 – 650 shares

Noticee 8 – 500 shares.

35. Thus despite holding sufficient quantity of shares to match the buy orders being available in the market, these Noticees released limited number of shares and increased the LTP with their trades. Further, they had not performed more than one transaction a day (the only exception being of Henal C Patel, who had executed 2 sell transactions on one day viz. November 07, 2014). Thus, it was evident from the trading pattern of these Noticees that they had no bonafide intention to sell holdings and their intention was to mark the price higher and thereby manipulate the scrip price.

36. From Chart 2 given at para 10 above, it was observed that, the Dhanlaxmi Lease Finance Limited, by virtue of transfer of shares through off market to other

connected entities, who used such shares for manipulation, had facilitated such manipulation. Dhanlaxmi Lease Finance Ltd had transferred shares to *4 connected entities* viz., Henal C Patel, Keval Chandrakant Shah, Vishal Pravinbhai Soni and Dhaval Chandrakant Shah through offmarket route. Further, these *4 connected entities* also transferred shares to other *3 connected entities* viz. Nikunj C Patel, Dantara Amish Vijaykumar and Henal Hemantbhai Shah through off market route. Hence, Dhanlaxmi Lease Finance Ltd transferred shares directly or indirectly through off market route to these *7 connected entities* which includes the Noticees.

37. From this trading pattern adopted by the Noticees, it can be concluded that the Noticees had no bonafide intention to sell because when sufficient buy orders were available, the Noticee, despite having adequate holdings in the scrip of Exdon, sold only single digit quantity per transaction, which resulted in creation of positive LTP and thus created false or misleading appearance of trading in the securities market and amounted to manipulation of the price of Exdon scrip. The Noticees were aware that the scrip was thinly traded with no major announcements made and a loss making company. There was no need for the Noticees to sell the shares in installments of single digit quantity as there were sufficient buy orders in the system on most of the days. However, the Noticees appear to have knowingly sold small amount of shares to ensure that there is at least one trade in the scrip and the price of the scrip kept on increasing.

38. The Noticees have contended that, their trading activity was in response to the already available buy orders. The Noticees have also submitted that when the buy orders are already available in the market at a higher price the seller is bound to grab the opportunity and sell his shares. Therefore, if there was any illicit raise in the price of the scrip, the same due to the buy orders which were repeatedly placed at higher price than the LTP. In this regard, it is surprising to note that if the Noticees were only responding to the buyer then there is no reason for the Noticees to place sell orders of only single digit quantity on different days despite

holding adequate number of shares. Therefore, the contention raised by the Noticees in this regard is devoid of any merit.

39. The Noticees have contended that, since there is no allegation of connection/collusion with counter parties of their trades or any of the entity, the allegation of price manipulation cannot be established against them. It is necessary to examine trading patterns of parties with respect to their strategy and rationale for such dealings. As stated above the Noticees have sold only single digit quantity inspite of having sufficient buy orders as well as holding with him. This behavior of the Noticees is devoid of any logic or rational behavior.

40. I note that Noticees have failed to give any plausible reason/explanation for the charges as described in the SCN. The Noticees in their submissions contended that their contribution to positive LTP is minuscule as compared to the total market positive LTP to the total market LTP for the entire investigation period. In this regard, the role played by the entities trading in Patch-I to artificially increase the price during the Patch-I needs to be seen holistically. The role played by these *connected* Noticees in the Patch-I also needs to be seen in the backdrop of scale and size of transactions as a common unit rather than fragmenting and isolating individual trades and acts of the respective Noticees.

41. In this connection, I would like to rely on the observations of the Hon'ble SAT in the matter of *Giriraj Kumar Gupta HUF v. SEBI* (DoD: February 25, 2020), wherein the Hon'ble SAT had inter-alia, observed that *"Having heard the learned counsel for the parties, we are of the considered view that the impugned transactions, in the facts and circumstances of the matter, would fall in the realm of violations of PFUTP Regulations. Individual argument that each entity's trade is miniscule and only on a few days alone etc., is not sufficient to rebut the findings in the impugned order".*

42. The Noticees placed reliance on the Orders of Hon'ble SAT, Hon'ble WTM and Ld. Adjudicating Officer, SEBI*,* in their defense and having perused the same, I

note that the instant case is distinguishable in view of the above findings and does not help the Noticees in any manner.

43. I note that the Noticees have placed reliance on the Hon'ble SAT order in the matter of *M/s Nishith M. Shah HUF vs. Securities and Exchange Board of India.* I note from the material/documents available that SEBI has preferred an Appeal before the Hon'ble Supreme Court against the Hon'ble SAT order in the matter of *M/s Nishith M. Shah HUF vs. Securities and Exchange Board of India.* In view of the above, I am of the opinion that the Hon'ble SAT order in the aforesaid matter of *M/s Nishith M. Shah HUF vs. Securities and Exchange Board of India* is not yet settled and therefore has not attained finality. In view of the same, I am of the considered view that deciding the present matter based on the aforesaid Hon'ble SAT Order would be premature and may have repercussion.

44. Further it is worthwhile to mention here that the Hon'ble SAT, after considering all the facts and circumstances, in the matter of ***Kalpana Dharmesh Chheda & Ors. vs SEBI & Ors.*** **[Appeal no. 454 of 2019]** has consciously differed from its earlier order in the matter of ***M/s Nishith M. Shah HUF*** and made the following observations:

"7. It was further contended by the learned counsel for the appellants that appellants have no connection with the list of connected entities nor with the company or its promoters; since the scrip of Zodiac was traded in the 'T' group trades were settled compulsorily by delivery and under the tight supervision of BSE (Respondent No. 2) during the periodic call auction sessions. In order to press their contention that sellers of shares cannot be accused of impacting the LTP in the absence of any connection with other entities or fund transfers etc. the learned counsel for the appellant relied on the orders of this Tribunal in respect of M/s. Nishith M. Shah HUF vs. SEBI (Appeal No. 97 of 2019 decided on January 16, 2020) and Sapna Dilip Bombaywala vs. SEBI (Appeal No. 219 of 2019 decided on January 28, 2020.

8. We have also heard Shri Kumar Desai, the learned counsel for the respondent SEBI who contended that the appellants' trading in the scrip of Zodiac is ex facie manipulative since appellants were the only sellers during most of the days and therefore but for the sell orders placed by the appellants, mostly in single shares each, no transaction would have fructified and no LTP would have been formed. The appellants mode of trading was manipulative *because instead of selling a large part of their stock when demand was already available in the trading system the appellants were offloading only one share each most of the time and had benefited considerably from the LTP successively created over a long period of time and therefore made a windfall gain out of their transactions.*

9. We do not find much merit in the submissions made by the learned counsel for the appellants though generally it can be stated that selling at a price higher than the LTP particularly when buy orders are available in the system cannot be considered as manipulative in itself. However, looking at the pattern of trading done by the appellants and the fact that the appellants have derived considerable financial benefit through that particular scheme or nature of trading we are of the view that the trading pattern adopted by the appellants is of a manipulative and unfair nature and would squarely fall within the ambit of the PFUTP Regulations".

45. It can thus be seen from the above extracts that the Hon'ble SAT has observed that the appellants sold shares in minuscule quantity even though when large quantity buy orders were pending and that this behavior cannot be justified and that when the appellants were holding a large number of shares, their selling miniscule quantity of one share each on more occasions is nothing but a strategy of manipulation.

46. It is evident from the trading pattern of the Noticees that the intention of the Noticees was to create a misleading appearance of trading in the scrip by marking the price higher and was not merely entering into the sell transactions. The trades executed by the Noticees were not done in normal course of dealing in securities and are devoid of any bonafide intentions. In this regard, I note that the Hon'ble Supreme Court in Kanaiyalal Baldev Bhai Patel v. SEBI [supra] have explained that: *"...The definition of 'fraud', which is an inclusive definition and, therefore, has to be understood to be broad and expansive, contemplates even an action or omission, as may be committed, even without any deceit if such act or omission has the effect of inducing another person to deal in securities. Certainly, the definition expands beyond what can be normally understood to be a 'fraudulent act' or a conduct amounting to 'fraud'. The emphasis is on the act of inducement and the scrutiny must, therefore, be on the meaning that must be attributed to the word "induce"* ."

47. In view of the various judgements of Hon'ble Supreme Court and Hon'ble SAT and on the basis of the findings in the foregoing paragraphs, I find that the alleged trading behavior of the Noticees by way of selling shares in minuscule quantity at above LTP despite more number of share were available on the buy side clearly establish that his trades were executed with only a manipulative design to raise the price of the said. Therefore, for the reasons recorded above, I conclude that the alleged trades of the Noticees as abnormal, deceptive, misleading, artificial and manipulative in nature and substance, which were executed with a malicious intent to fraudulently cause rapid rise in the price of the scrip of Exdon.

48. The basis of charge is the connection/relation amongst the Noticees and on market/off- market transactions and pattern of trading of the respective Noticees in the scrip in Patch-I as part of alleged unfair, manipulative and fraudulent device or artifice or contrivance of the *connected* Noticees. None of the Noticees have disputed their inter-relationship/connection amongst them which are established on the basis of actors described in Table 3 at para 5 above, such as common Contact Number, off-market transactions amongst them, common address, common director and the information available on the Ministry of Corporate Affairs ("MCA") website etc. Thus, from the factors as relied upon in this case, I note that the Noticees are connected /related to each other. In this regard, I note that Hon'ble SAT has, in many cases such as *Classic Credit Ltd. vs. SEBI* (SAT Appeal no. 68/2003, Order dated December 8, 2006), *Classic Credit Ltd. vs. SEBI* (SAT Appeal no. 76/ 2003, Order dated January 9, 2007) and *Veronica Financial Services Ltd. vs. SEBI* (SAT Order dated August 24, 2012), held that connection/relations can be established on the basis of factors including the common addresses, common directors/ shareholders, etc. It is established in this case that there is a connection amongst the Noticees who are part of the *connected entities* and they had traded during the Patch-I through on and/or off-market.

49. It is matter of record that the scrip in question was highly illiquid and was thinly

traded during the investigation period, no major corporate announcements were made by the Company during Patch-I and it did not have any income from its operations and it was incurring losses continuously since December 2013 to March 2015. Trading in the scrip of the Company was suspended by BSE from March 03, 2015. It is very unusual in the market that in a situation the miniscule quantity is being offered by the sellers in a thinly traded scrip like the present one when the buyers place orders in large quantity as observed in this case. Such behavior would be self- detrimental as seeing so much interest on the buyer side, no seller will offer shares. In a real market situation, the buyer and sellers move step by step gauging the interest on the opposite side. Nobody displays such a huge interest which is in complete disconnect with the interest on the other side. The involvement of *connected entities* in placing such sell orders in a very thinly traded scrip in minuscule quantity repeatedly and consistently for a longer duration when the large number of buy orders were available in the market indicates the manipulative intent of the Noticees. The facts as observe during investigation show that supply side was being intentionally restrained/controlled by the sellers who were connected/related with each other. This type of trading pattern in illiquid scrip indicates that the sellers played a major role in manipulating the price of the scrip. The facts and circumstances including trading pattern of the Noticees in Patch-I show that a facade of huge demand, on account of such trading pattern of the Noticees, without which the scrip with hardly any credential regarding its trading history, fundamentals, business or financial standing etc., could not have witnessed an exponential increase in the price within a period of 244 trading days in Patch-I as found during investigation. The only way the price of such scrip could have increased is by deploying manipulative trading pattern.

50. By their trades, the Noticees were instrumental in establishing a price higher than the last traded price and thus contributed to increased scrip price with each of their trades. Such trades would lead to an artificial rise in the price of the scrip and the same would misguide the general public. The Noticees had generated the wrong impression about the liquidity of the scrip in the market. It is pertinent

to mention that every trade establishes the price of the scrip and the trading of Noticees at higher than LTP resulted in the price of the scrip going up and were done with a view to set the price or benchmark the price at a desired level and thereby influencing the innocent / gullible investors. Therefore, it can be concluded that the Noticees had manipulated the price of the scrip of the Company and created a misleading appearance of trading in the scrip in Patch-I. Here, it is important to refer to the observations made by the Hon'ble Securities Appellate Tribunal (SAT) in its order dated March 21, 2014 in Saumil Bhavnagari Vs. SEBI which are as under: *"... but by purchasing shares at the higher price in LTP in most of the trades, the noticee had given a wrong impression about the liquidity of the scrip in the market. It must not be forgotten that every trade establishes the price of the scrip and the noticee's trading at higher than LTP resulted in the price of the scrip going up and were done with a view to set the price at a desired level and thereby influencing the innocent/gullible investors."*

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

a burden which is impossible to be discharged. This, in our view, clearly flows from the plain language of Regulation 4(a) of the Regulations."

52. I further note that Dhanlaxmi Lease Finance Ltd. had provided shares to the Noticees directly or indirectly in order to enable them to manipulate the price of the scrip. The Noticees have not given any plausible explanation in support of their claims. The stock broker who according to the Noticee No. 8 had traded on his behalf without his knowledge is also part of such *connected entities.* Admittedly, the Noticee No. 8 had transferred monies to said stock broker. The Noticee No. 8 had indulged in 23 trades on-market in the scrip. From material available on record it is established that the Noticee No. 8 had received 500 shares through off-market transaction form Dhanlaxmi Lease Finance Ltd. and in turn transferred 347 shares off-market to the Noticee No. 3. Dhanlaxmi Lease Finance Ltd. had transferred the shares of the Company through off-market to Noticees No. 1, 4, 7 and 8 who all were part of a common plan as alleged in the SCN. The pattern of transactions for LTP manipulation and artificial trading as found in this case amongst connected Noticees demonstrates their active involvement in the entire plan they cannot feign ignorance as sought to be done by them.

53. Here I refer the judgement of Hon'ble Supreme Court in the matter of Kishore R. Ajmera case wherein it was held that *"In the quasi-judicial proceeding before SEBI, the standard of proof is preponderance of probability. It is a fundamental principle of law that proof of an allegation levelled against a person may be in the form of direct substantive evidence or, as in many cases, such proof may have to be inferred by a logical process of reasoning from the totality of the attending facts and circumstances surrounding the allegations/charges made and levelled. While direct evidence is a more certain basis to come to a conclusion, yet, in the absence thereof the Courts cannot be helpless. It is the judicial duty to take note of the immediate and proximate facts and circumstances surrounding the events on which the charges/allegations are founded and to reach what would appear to*

the Court to be a reasonable conclusion therefrom. The test would always be that what inferential process that are as on able/prudent man would adopt to arrive at a conclusion."

54. Taking support of the observations of Hon'ble Apex Court in Kishore R Ajmera matter, I note that in order to determine whether a trade is manipulative in nature or not, the same has to be inferred from the attending circumstances because direct evidence in such cases may not be available. The list of factors to be taken note of, 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 attending circumstances an inference will have to be drawn. In the instant matter, Noticees have repeatedly sold shares in single digit quantity over the LTP at frequent intervals. If the Noticees were genuine sellers, then they had the opportunity to sell shares in more than single digit quantity on multiple occasions but still the Noticees chose not to sell shares in single digit quantity at a time and continued to execute sell trades at successive higher prices by selling just single digit quantity share at a time multiple instances. Further, the fundamentals of the company also do not support the persistent trend shown by the Noticees in selling the scrip in single digit quantity despite buy orders of sufficient quantity being available to absorb their sell orders.

55. Further, in the matter of SEBI v/s Rakhi Trading, Hon'ble Supreme Court has held that *"Whether a transaction has been executed with the intention to manipulate the market or defeat its mechanism will depend upon the intention of the parties which could be inferred from the attending circumstances because direct evidence in such cases may not be available. The nature of the transaction executed, the frequency with which such transactions are undertaken, the value of the transactions, whether they involve circular trading and whether there is real change of beneficial ownership, the conditions then prevailing in the market are some of the factors which go to show the intention of the parties. This list of factors, in the very nature of things, cannot be exhaustive. Any one factor may or*

may not be decisive and it is from the cumulative effect of these that an inference will have to be drawn."

56. In view of the above, I find that the Noticees have contravened the provisions of regulation 3 (a), (b), (c), (d), regulation 4(1), 4 (2)(a) and 4 (2) (e) of the PFUTP Regulations.

B. If yes, whether the Noticees are liable for monetary penalty under Section 15HA of the SEBI Act?

57. Considering the aforesaid facts and circumstances, I am of the opinion that this case deserves imposition of penalty under section 15HA of the SEBI Act. The provisions of section 15HA of the SEBI Act are reproduced as follows:

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.*

C. If so, what would be the monetary penalty that can be imposed on the Noticees after taking into consideration the factors mentioned in section 15 J of the SEBI Act?

58. For the purpose of adjudication of penalty it is relevant to mention that under section 15I of the SEBI Act imposition of penalty is linked to the subjective satisfaction of the Adjudicating Officer. The words in the section that "*he may impose such penalty*" are of considerable significance, especially in view of the guidelines provided by the legislature in section 15J of the SEBI Act. Further, while adjudging the quantum of penalty the adjudicating officer has discretion and such discretion should be exercised having due regard to the factors specified in section 15J. The factors stipulated in Section 15J, which reads as follows:

15J - Factors to be taken into account by the adjudicating officer

While adjudging quantum of penalty under section 15-I, the adjudicating officer shall have due regard to the following factors, namely: -

(a) the amount of disproportionate gain or unfair advantage, wherever quantifiable, made as a result of the default;

(b) the amount of loss caused to an investor or group of investor/+s as a result of the default;

(c) the repetitive nature of the default.

Explanation-

For the removal of doubts, it is clarified that the power of an adjudicating officer to adjudge the quantum of penalty under sections 15A to 15E, clauses (b) and (c) of section 15F, 15G, 15H and 15HA shall be and shall always be deemed to have been exercised under the provisions of this section.

59. Having regard to the factors listed in section 15J, it is noted that from the material available on record, any quantifiable gain or unfair advantage accrued to the Noticees or the extent of loss suffered by the investors as a result of the default in this case cannot be computed.

60. The acts of artificially increasing the price of scrip and creating a misleading appearance of trading have potential to mislead investors and the fundamental tenets of market integrity get violated with impunity due to such fraudulent acts. I am of the considered view that the manipulation in the price of the scrip by a group of *connected entities* has the potential to induce gullible and genuine investors to trade in the scrip and harm them. The *modus operandi* adopted by the Noticees is detrimental to the smooth functioning of the securities market, and hence, deserve to be viewed seriously.

61. It is difficult, in cases of such nature, to quantify with mathematical precision the disproportionate gains or unfair advantage enjoyed by an entity and the consequent loss suffered by the investors. General public and normal prudent

investors could have been easily carried away by such unusual change in the prices in the scrip of Exdon and were bound to get induced into investing in the said scrip looking at the steep rise in its price without realizing that the price rise was been artificially introduced by manipulative trades executed by the Noticees. This kind of trading behavior seriously affects the normal price discovery mechanism in the securities market. Therefore, I am of the view that people who indulge in manipulative, fraudulent and deceptive transactions, or abet in carrying out such transactions which are fraudulent and deceptive in nature, should be suitably penalized for such acts of omissions and commissions.

ORDER

62. Having considered all the facts and circumstances of the case, the material available on record and the factors mentioned in the preceding paragraphs, I, in exercise of the powers conferred upon me under Section 15-I of the SEBI Act read with rule 5 of the Adjudication Rules, hereby impose the penalty under Section 15HA of the SEBI Act, 1992 as given in the following table:

Table 9: Details of Penalty imposed.

Name of the Noticee	Penalty (in Rs.)	Violations
1. Mr. Henal C Patel (Noticee 1' / 'Henal')	10,00,000/-	Regulation 3 (a), (b), (c), (d), regulation 4(1), 4 (2)(a) and 4 (2) (e) of the PFUTP Regulations
2. Mr. Keval Chandrakant Shah ('Noticee 4' / 'Keval')	5,00,000/-	
3. Mr. Nikunj C Patel ('Noticee 6' / 'Nikunj')	5,00,000/-	
4. Mr. Dhaval Chandrakant Shah ('Noticee 7' / 'Dhaval')	5,00,000/-	
6. Mr. Vishal Pravinbhai Soni ('Noticee 8' / 'Vishal')	5,00,000/-	

I am of the view that the said penalty is commensurate with the default committed by the Noticees.

63. The Noticees shall remit / pay the said amount of penalty within 45 days of receipt of this order either by way of Demand Draft in favour of "SEBI - Penalties Remittable to Government of India", payable at Mumbai, OR through online payment facility available on the website of SEBI, i.e. www.sebi.gov.in on the

following path, by clicking on the payment link:

ENFORCEMENT → ORDERS → ORDERS OF AO → PAY NOW

64. 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, SEBI, in the format given in table below:

Case name	
Name of payee	
Date of payment	
Amount paid	
Transaction no	
Bank details in which payment is made	
Payment is made for (like penalties/disgorgement / recovery/ settlement amount and legal charges along with order details)	

65. In the event of failure to pay the said amount of penalty within 45 days of the receipt of this Order, recovery proceedings may be initiated under section 28A of the SEBI Act, 1992 for realization of the said amount of penalty along with interest thereon, inter alia, by attachment and sale of movable and immovable properties.

66. In terms of rule 6 of the Adjudication Rules, a copy of this order is sent to the Noticees viz. **Henal C Patel, Keval Chandrakant Shah, Nikunj C Patel, Dhaval Chandrakant Shah and Vishal Pravinbhai Soni** and also to Securities and Exchange Board of India.

Place: Mumbai **ASHA SHETTY**

Date: December 27, 2022 **ADJUDICATING OFFICER**