BEFORE THE ADJUDICATING OFFICER

SECURITIES AND EXCHANGE BOARD OF INDIA

[ADJUDICATION ORDER NO. Order/GR/HK/2023-24/26996-26998]

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

In respect of:

Noticee		**Noticee**	
No	**Name (PAN No.)**	**No**	**Name (PAN No.)**
1	Faithful Cloth Merchant Pvt. Ltd., (PAN: AABCF6670P)	2	Fastner Machinery Dealers Pvt Limited., (PAN: AABCF6671N)
3	Anurodh Infrastructure Limited., (PAN: AAJCA1464E)		

- In the matter of Appu Marketing and Manufacturing Ltd.

(The aforesaid entities are hereinafter individually referred to by their respective names/ Noticee numbers and collectively as "Noticees", unless the context specifies otherwise)

BACKGROUND

1. Securities and Exchange Board of India (hereinafter referred to as **'SEBI'**) conducted investigation into the alleged irregularities in trading by suspected entities in the scrip of Appu Marketing and Manufacturing Ltd., (now known as Ejecta Marketing Ltd.)(hereinafter referred to as **'the company/ Appu Marketing / AMML'**), to ascertain

any possible violation of the provisions of SEBI Act, 1992 and SEBI [Prohibition of Fraudulent and Unfair Trade Practices Relating to Securities Market (**PFUTP**) Regulations, 2003] for the period September 19, 2014 to December 23, 2015 (hereinafter referred to as **'Investigation Period'** or **'IP'**). However, whenever deemed necessary, references have been made to the events/timeframes outside this period.

2. During the investigation it was discovered that the price of the scrip of AMML was showing abnormal price movement during the IP and on further examination it was observed that certain suspected entities, who were having connections with each other or company, were carrying out trades in the scrip in unusual patterns by trading in small quantities in regular intervals and above the Last Traded Price (LTP) in most of the instances, which appeared not being done in the regular course of trading.

3. Pursuant to the investigation, it was alleged that some of the suspected entities, namely, Faithful Cloth Merchants Pvt Ltd. (**Noticee No. 1**), Fastner Machinery Dealers Pvt Limited (**Noticee No. 2**) and Anurodh Infrastructure Limited (**Noticee No. 3**) were involved in manipulative trading by contributing significantly to the market positive/negative LTP in the scrip of Appu Marketing during the IP. SEBI had, therefore, initiated adjudication proceedings *inter alia* against the aforesaid Noticees under Section 15HA of the Securities and Exchange Board of India Act, 1992 (hereinafter referred to as "SEBI Act, 1992") for the alleged violation of the provisions Sec. 12A(a), (b), (c) of SEBI Act, 1992 r/w Reg. 3(a), (b), (c) and (d) and 4(1), 4(2)(a) and (e) of SEBI (PFUTP) Regulations, 2003.

APPOINTMENT OF ADJUDICATING OFFICER

4. The undersigned has been appointed as the Adjudicating Officer (hereinafter referred to as the “AO”) vide order dated March 10, 2023, conveyed vide communique dated March 15, 2023 under Section 15-I of the SEBI Act, 1992 read with Rule 3 of SEBI (Procedure for Holding Inquiry and Imposing Penalties) Rules, 1995 (hereinafter referred to as “SEBI Adjudication Rules”) to inquire into and adjudge under Section 15HA for the aforesaid violations alleged to have been committed by the aforesaid Noticees.

SHOW CAUSE NOTICE, REPLY AND PERSONAL HEARING

5. Based on the observations in the investigation report **(‘IR’)**, a common Show Cause Notice **(‘SCN’**) dated April 12, 2023, was served upon the Noticees, calling upon as to why an inquiry should not be held against them in terms of Rule 4 of the SEBI Adjudication Rules read with Section 15-I of the SEBI Act and penalty should not be imposed in terms of Rule 5 of the said Rules and the provisions of Section 15HA of SEBI Act for the violations as specified in the SCN.

6. In terms of Rule 7 of the SEBI Adjudication Rules, 1995, the said SCN was served upon the Noticees through digitally signed e-mail at the email ID of the Noticees available in the record which is verified from the Ministry of Corporate Affairs’ (MCA) website and the same did not bounce back. However, no reply to the SCN was received from any of the Noticees. In this regard, Rule 7 of the SEBI Adjudication Rules, 1995 states that:

   7. Service of notices and orders.

   (1) A notice or an order issued under these rules shall be served on the person through any of the following modes, namely: –
   …

(b) by sending it to the person by fax or <u>electronic mail</u> or electronic instant messaging services along with electronic mail or by courier or speed post or registered post:

…

Provided also that a notice sent through electronic mail or electronic instant messaging services along with electronic mail shall be digitally signed by the competent authority and bouncing of the electronic mail shall not constitute valid service.

7. Further, vide Hearing Notice **('HN')** dated May 09, 2023, an opportunity of personal hearing was granted on May 18, 2023 in accordance with Rule 4 (3) of the SEBI Adjudication Rules, 1995. The HN was also sent to the Noticees through email and the same did not bounce back. However, none of the Noticees appeared on the said date of personal hearing.

8. Thus, I note that the SCN and HN were both duly served on the Noticees. However, no response has been received from the Noticees, and also the Noticees have not availed the opportunity of personal hearing granted to them.

9. I further note that, the Noticees were also informed through the SCN and HN that if no appearance is made or furnish no reply to the SCN, the matter would be decided based on the evidence available on record in terms of Rule 4(7) of the SEBI Adjudication Rules, 1995. The same is reproduced below:

   4. Holding of inquiry.

   …

   (7) If any person fails, neglects or refuses to appear as required by sub-rule (3) before the Board or the adjudicating officer, the Board or the adjudicating officer may proceed with the inquiry in the absence of such person after recording the reasons for doing so.

10. As observed in pre-paras that despite service of SCN and HN, the Noticees neither submitted any reply towards the SCN nor appeared for personal hearing. In this regard it is well-settled position of law which is also stated by the Hon'ble Securities Appellate Tribunal (SAT) in the matter of *Sanjay Kumar Tayal & Ors. Vs. SEBI* (Appeal No. 68/2013) decided on February 11, 2014 viz.

"29. ……………., appellants have neither filed reply to show cause notices issued to them nor availed opportunity of personal hearing offered to them in the adjudication proceedings and, therefore, appellants are presumed to have admitted charges levelled against them in the show cause notices".

11. Similarly, The Hon'ble SAT, in the matter of *Classic Credit Ltd. vs. SEBI* (decided on December 08, 2006) also observed: *"...the appellants did not file any reply to the second show-cause notice. This being so, it has to be presumed that the charges alleged against them in the show-cause notice were admitted by them"*

12. In view of the above, I am of the view that principles of natural justice have been duly complied with, as SCN and hearing Notice were duly served upon the Noticees and sufficient opportunity was also granted to the Noticees to reply to the SCN and appear for hearing.

CONSIDERATION OF ISSUES, EVIDENCE AND FINDINGS

13. I have carefully perused the charges levelled against the Noticees in the SCN and all the documents available on record. In the instant matter, the following issues arise for consideration and determination in respect of:

I. *Whether the Noticees have violated Section 12A(a), (b) and (c) of the SEBI Act, 1992 and Regulations 3(a), (b), (c), (d), 4(1), 4(2) (a) and (e) of SEBI (PFUTP) Regulations, 2003?*

II. *Does the violation, if any, on the part of Noticees attract monetary penalty under Section 15 HA of the Act**?***

III. *If so, what would be the quantum of monetary penalty that can be imposed on Noticees taking into consideration the factors mentioned in Section 15J of the SEBI Act?*

14. Before proceeding further, I would like to refer to the relevant provisions of SEBI Act and SEBI (PFUTP) Regulations, 2003.

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 recognized stock exchange,

in contravention of the provisions of this Act or the rules or the regulations made thereunder;

SEBI (PFUTP) Regulations, 2003:

3. Prohibition of certain dealings in securities under SEBI (PFUTP) Regulations, 2003

No person shall directly or indirectly—

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

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

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

(d) *engage in any act, practice, course of business which operates or would operate as fraud or deceit upon any person*

in connection with any dealing in or issue of securities which are listed or proposed to be listed on a recognized stock exchange in contravention of the provisions of the Act or the rules and the regulations made there under.

4. Prohibition of manipulative, fraudulent and unfair trade practices

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

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

(a) *Indulging in an act which creates false or misleading appearance of trading in the securities market,*

…

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

FINDINGS

I. Whether the Noticees have violated Section 12A(a), (b) and (c) of the SEBI Act, 1992 and Regulations 3(a),(b),(c),(d), 4(1), 4(2) (a) and (e) of SEBI (PFUTP) Regulations, 2003?

Price-Volume Analysis:

15. For the purpose of trading analysis in the scrip of Appu Marketing, as per IR, IP has been sub-divided into five patches as under:

a) **Patch-1** (19-09-2014 to 17-10-2014): **Price rise period**- During this patch, price of the scrip opened at price of Rs.295.0 on 19/09/2014, reached a high of Rs.645.0 on 17/10/2014 and closed at Rs.645.0 on 17/10/2014.

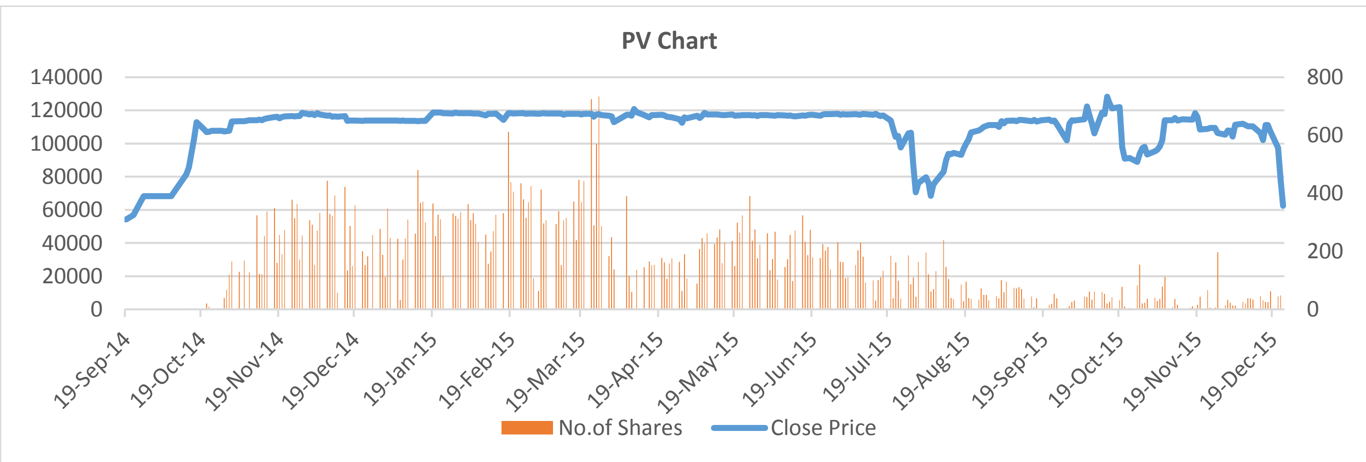
b) **Patch-2** (20-10-2014 to 17-07-2015): **Stable Price period**- During this period, price of the scrip opened at price of Rs.709.05 on 20/10/2014, reached a low of Rs.534.0 on 22/12/2014, then reached a high of Rs.790.0 on 18/03/2015 and closed at Rs.668.0 on 17/07/2015.

c) **Patch-3** (20-07-2015 to 05-08-2015): **Price fall period**- During this period, price of the scrip opened at price of Rs.670.0 on 20/07/2015, reached a high of Rs.705.0 on 22/07/2015, reached a low of Rs.362.75 on 31/07/2015 and closed at Rs.391.5 on 05/08/2015.

d) **Patch-4** (06-08-2015 to 14-10-2015): **Price rise period**- During this period, price of the scrip opened at price of Rs.353.0 on 06/08/2015, reached a high of Rs.787.0 on 14/10/2015 and closed at Rs.734.0 on 14/10/2015.

e) **Patch-5** (15-10-2015 to 23-12-2015): **Price fall period**- During this period, price of the scrip opened at price of Rs.744.0 on 15/10/2015, reached a high of Rs.750.0 on 15/10/2015, reached a low of Rs.356.75 on 23/12/2015 and closed at Rs.356.75 on 23/12/2015.

Period	**Date**		**Opening Price (volume) on first day of the period (Rs.)**	**Closing price (volume) on last day of the period (Rs.)**	**Low price (volume) during the period (Rs.)**	**High Price (volume) during the period (Rs.)**	**Avg. no. of (shares) traded daily during the period**
Pre- IP	**N.A. (Shares listed on BSE on 19-09-2014)**						
IP (Patch-1)	19/09/2014 to 17/10/2014	Price	295	645	295 (19/09/2014)	645 (17/10/2014)	84
		Vol.	200	2	1 (07/10/2014)	635 (14/10/2014)	
IP (Patch-2)	20/10/2014 to 17/07/2014	Price	709.05	668.5	534 (22/12/2014)	790 (18/03/2015)	41590
		Vol.	37	23200	25 (23/10/2014)	128313 (26/03/2015)	
IP (Patch-3)	20/07/2014 to 05/08/2015	Price	670	391.5	362.75 (31/07/2015)	705 (22/07/2015)	19980
		Vol.	32325	10720	6397 (24/07/2015)	34230 (03/08/2015)	
IP (Patch-4)	06/08/2015 to 14/10/2015	Price	353	733	353 (06/08/2015)	787 (14/10/2015)	9725
		Vol.	12205	3617	100 (18/09/2015)	41761 (10/08/2015)	
IP (Patch-5)	15/10/2015 to 23/12/2015	Price	744	356.75	356.75 (23/12/2015)	750 (15/10/2015)	6484
		Vol.	4567	333	6 (13/11/2015)	34458 (27/11/2015	
Post-IP	N.A. (as a proactive measure the scrip was suspended by BSE from trading at the exchange as a surveillance measures w.e.f. December 24, 2015.)						



Suspected Entities/Group Entities

16. From the IR, I note that, on the basis of KYC, Bank Statement analysis, data available with the exchange, MCA and from the off-market transactions, there were connected / related entities to the company which were observed to be dealing in the scrip of AMML during IP. The Name, PAN and basis of connection between the following suspected entities are as under.

Sr. No.	PAN	Entity Name	Basis of Connection
1	AAJCA1464E	Anurodh Infrastructure Limited. (Noticee No.3)	On analysing the bank statement of the entity Anurodh infrastructure Pvt. Ltd. funds transfers / receipt were observed from entities Blueland Nirman Pvt. Ltd., Goodview Auto Distributors Private & Sunbright Agrotech Pvt. Ltd who were not dealing in the scrip but are connected / related to the company as they have common director viz Sudip Laha, Tanumay Laha & Bhagwan Das Soni respectively.
2	AABCF6671N	Fastner Machinery Dealers Pvt Limited (Noticee No. 2)	On analyzing the bank statements of the entity viz Anurodh infrastructure Pvt. Ltd. It was observed that it had transferred / received funds from / to all these entities. (S. No. 2-6) Further, Anurodh Infrastructure Limited, Fastner Machinery Dealers Pvt Limited & Faithful Cloth Merchants Pvt Ltd have common address viz. 319/21 Jessore Road Khudiram Colony Kolkata West Bengal 700074 and common director Dipankar Roy.
3	AABCF6670P	Faithful Cloth Merchants Pvt Ltd (Noticee No. 1)	
4	AADCG3846Q	Glorious Vincom Pvt. Ltd.	
5	AARCS9077M	Starwise Housing Pvt. Ltd.	
6	AAGCA0999K	Anumati Stock broking Pvt. Ltd.	

Sr. No.	PAN	Entity Name	Basis of Connection
7	AACCI5171P	Ideal Plywood Traders Private Limited	As per the MCA website, the address of entity Ideal Plywood Traders Private Limited is Borar Uttar Antila, Antila Bagnan, Howrah, 711312, West Bengal, which is same as that of Dilip dey who is director in entities Anurodh Infrastructure Limited ,Fastner Machinery Dealers Pvt Limited, Faithful Cloth Merchants Pvt Ltd.
8	AATCS6649B	Smartchamp Services Private Limited	The entities have transferred shares to Ideal Plywood Traders Pvt. Ltd in off-market.
9	AAFCG6723L	Goldensight Commotrade Pvt Ltd	
10	AAMCA0178N	Angeliqua Trexim Pvt. Ltd.	On analyzing the bank statement of the entity funds transfers / receipt to / from entities viz. Dwarkapati Builders Private Limited, Smartchamp Services Private Limited, Vinahast Dealcom Private Limited, Headfirst Vintrade pvt. Ltd. & Sonali Suppliers Pvt. Ltd. (other suspected entities) were observed.
11	AADCS5722R	Sonali Suppliers Pvt. Ltd.	
12	AAGCR0169Q	Ritudhara Retailers Pvt.Ltd	The entity Ritudhara Retailers Pvt. Ltd transferred/received shares from entity Indrawati Commosales Private Limited (suspected associate of Ketan Parekh Group) in off-market.

Sr. No.	PAN	Entity Name	Basis of Connection
13	AAGCR9112D	Rudramukhi Conclave Private Limited	All the entities have transferred shares to Ritudhara Retailers Pvt.Ltd. in off-market. Further, entity Mamtamayee Developers Private Limited received shares from Quest Financial Services Ltd in off-market.
14	AAECD7992B	Dwarkapati Builders Pvt Ltd.	
15	AACCL4837D	Linkrose Commodities Private Limited	
16	AAACQ0461C	Quest Financial Services Ltd	
17	AAICM1501F	Mamtamayee Developers Private Limited	

17. In view of the above, I note from the IR that during the investigation, the trading of the aforesaid suspected/group entities were analysed in the scrip of AMML to examine whether there was any violation of the applicable rules and regulations.

<u>Suspected entities LTP contribution as Buyers:</u>

18. Details of LTP contribution by suspected entities during the IP is given below:

	All trades			Positive LTP trades			Negative LTP trades			Zero LTP trades		
Client Name	**LTP Rate**	**Traded Qty**	**No. Of Trades**	**LTP Rate**	**Traded Qty**	**No. Of Trades**	**LTP Rate**	**Traded Qty**	**No. Of Trades**	**Traded Qty**	**No. Of Trades**	**%LTP**
Faithful Cloth Merchants Pvt Ltd	975.30	15374	583	1225.55	3843	100	-250.25	3391	76	8140	407	22.01%
Fastner Machinery	679.15	81716	270	782.05	30936	84	-102.90	7392	29	43388	157	14.04%

Dealers Pvt Limited												
Anurodh Infrastructure Limited	580.15	78169	362	668.75	34310	141	-88.60	9315	46	34544	175	12.01%
Ideal Plywood Traders Private Limited	21.40	1	1	21.40	1	1	0.00	0	0	0	0	0.38%
Smartchamp Services Private Limited	9.30	60286	103	72.80	21209	44	-63.50	11107	16	27970	43	1.31%
Angeliqua Trexim Private Limited	-3.00	5641	15	0.75	2786	3	-3.75	5	3	2850	9	0.01%
Rudramukhi Conclave Private Limited	-3.60	19542	19	5.10	1501	3	-8.70	8701	6	9340	10	0.09%
Linkrose Commodities Private Limited	-5.00	2125	4	0.10	424	1	-5.10	1701	3	0	0	0.00%
Dwarkapati Builders Private Limited	-14.40	23999	46	11.20	3587	10	-25.60	8900	11	11512	25	0.20%
Goldensight commotrade Pvt Ltd	-79.50	27896	16	15.00	3000	1	-94.50	22896	13	2000	2	0.27%
Total	**2159.80**	**314749**	**1419**	**2802.70**	**101597**	**388**	**-642.90**	**73408**	**203**	**139744**	**828**	**50.33%**
Market total	**342.50**	**457076**	**2389**	**5568.60**	**151945**	**673**	**-5226.10**	**110467**	**499**	**194664**	**1217**	**100.00%**

19. From the above, I note that the suspected entities contributed Rs.2159.80 to net LTP and Rs.2802.70 to positive LTP in 388 positive LTP trades. Counterparties to their positive LTP trades were analyzed, it was observed that in their 4 positive LTP trades, the counterparties were suspected/group entities and through trades among themselves they contributed 0.28% to market positive LTP. In remaining 384 positive LTP trades with non-group entities, they contributed Rs.2787.10 to positive LTP, of which in 3 trades they placed buy order first and contributed Rs.11.00 to Positive LTP. It is observed that Noticees were involved in manipulative trading pattern by significantly contributing 48.06% (22.01%, 14.04% & 12.01%) to market positive LTP.

New High / Low Price (NHP/NLP) Analysis

20. During Patch 4, price of the scrip moved from open price of Rs.353/- to a high price of Rs.787/- and Rs.434/- NHP was created. Details of NHP contributed by suspected entities are given below:

Client name	Quantity	Number Of Trades	Contribution To Market NHP	% Of Market NHP	Contribution Among Group	Contribution To NHP In Buy Order First Trades With Non Group Entities
Anurodh Infrastructure Limited	873	20	80.50	18.55%	0	0
Faithful Cloth Merchants Pvt Ltd	35	11	51.65	11.90%	0	8.00
Fastner Machinery Dealers Pvt Limited	2601	3	40.00	9.22%	0	0
Total	**3509**	**34**	**172.15**	**39.67%**	**0.00**	**8.00**
Market total	**8002**	**71**	**434.00**	**100.00%**	**0.00**	**8.00**

21. From the above, I note that the Noticees contributed Rs.172.15 in 34 trades to market NHP. This was 39.76% of market NHP. The Noticees made a substantial contribution to the NHP through the aforesaid trades. However, in none of the trades contributing to NHP, the counterparty was a suspected / group entity.

First Trade Analysis:

22. Details of first trades as buyer by suspected entities during the IP are given below:

Client name	Total Number Of First Trades	Traded Quantity First Trades	Number Of First Trades At Positive LTP	Net LTP	Positive LTP	Number Of First Trades Among Group	Positive LTP Contribution In First Trades Among Group
Smartchamp Services Private Limited	6	3252	5	-33.75	10.25	0	0.00
Anurodh Infrastructure Limited	5	655	3	58.65	62.75	0	0.00
Fastner Machinery Dealers Pvt Limited	4	1102	2	16.65	40.75	0	0.00

Faithful Cloth Merchants Pvt Ltd	3	4	3	105.45	105.45	0	0.00
Angeliqua Trexim Private Limited	1	2	0	-2.25	0.00	0	0.00
Goldensight Commotrade Pvt Ltd	1	2000	0	-4.00	0.00	0	0.00
Total	**20**	**7015**	**13**	**140.75**	**219.20**	**0**	**0.00**
Market total	**47**	**19066**	**27**	**180.15**	**636.50**	**0**	**0.00**

23. Suspected/ group entities were buyers in 20 first trades and contributed Rs.219.20 to market positive LTP. In none of their first trades the counterparty was a group entity. However, these 20 first trades made with non-group entities and contributed to Rs.219.20 to the positive LTP. Out of which the Noticees contributed Rs.208.95 (Rs.62.75, Rs.40.75 and Rs.105.45)

24. Thus, from the above, I note that that the Noticees have together contributed 48.06% to market positive LTP and 39.67% to NHP. Hence, their trades were further analysed and detailed in the subsequent para. At this juncture it is also pertinent, as observed in preceding paragraphs, that the Noticees have a common address and common directors i.e. Mr. Dipankar Roy and for Noticee No. 1 and 3 Mr. Dilip Dey.

i) <u>Analysis of Trades of Faithful Cloth Merchants Pvt Ltd (Noticee No. 1)</u>

- From the IR, I note that, Noticee No. 1 (Faithful) was the top LTP contributor with contribution of Rs.975.30 to net LTP and Rs.1225.55 to total market positive LTP i.e. 22.01% of total market positive LTP.
- All (583) buy trades of Faithful were dispersed between 49 counterparty clients. Client Anurodh Infrastructure Limited (Noticee No. 3) was the largest counterparty to buy trades of Faithful accounting for 19.51% of its total buy quantity (of 15374 shares).

- Faithful carried out 88 small buy trades i.e. buy quantity ranged from 1 to 10 shares per trade and contributed positive LTP of Rs.1197.05 through such trades. The details are placed below:

LTP Contribution through small orders/trades

Buyer Name	No. of trades (LTP >0)	Positive LTP Contribution when buy order qty. was of 1 share only		Positive LTP Contribution when buy order qty. was between 2-10 shares		Positive LTP Contribution when buy order qty. were more than 10 shares		Total Positive LTP contribution (Rs.)	% of positive LTP to Total Market positive LTP	% contribution to total market positive LTP through small orders (1-10 shares)
		Positive LTP contribution	No. of trades	Positive LTP contribution	No. of trades	Positive LTP contribution	No. of trades			
Faithful Cloth Merchants Pvt Ltd	100	992.45	71	204.6	17	28.5	12	1225.55	22.01 %	21.49%

25. From the above table, the buy orders for these 100 trades were placed for small quantities (in the range of 1 share, 2 to 10 shares and more than 10 shares). These 100 trades contributed to substantial positive LTP creation as follows:

1) 71 trades when buy order quantity placed for 1 shares it contributed to positive LTP of Rs.992.45

2) 17 trades when buy order quantity placed for between 2 to 10 shares it contributed to positive LTP of Rs.204.60.

3) 12 trades when buy order quantity placed for more than 10 shares it contributed to Rs.28.50

26. From the above, I note that the buy orders were placed for 1 share (71 instances), 2 to 10 shares (17 instances) and more than 10 shares (12 instances). The order price for these trades were placed at more than the last traded price and these trades contributed to positive LTP of Rs.992.45, Rs.204.60 and Rs.28.50 respectively. This clearly depicts that on repeated occasions the aforesaid Noticee was placing buy orders for small quantities at the prevailing sell order price or more than sell order price which

was higher than the last traded price. Thus, I note that the positive LTP contribution by Faithful through 88 small trades (1-10 shares) is Rs.1197.05 which is 21.49% of market positive LTP.

ii) <u>Analysis of Trades of Fastner Machinery Dealers Pvt Limited (Noticee No. 2)</u>

- From the IR, I note that, Noticee No.2 (Fastner) was second largest LTP contributor with contribution of Rs.679.15 to net LTP and Rs.782.05 to total market positive LTP i.e. 14.04% of total market positive LTP.
- Fastner carried out 28 small buy trades i.e. buy quantity ranged from 1 to 10 shares per trade and contributed positive LTP of Rs.534.45 through such trades. The details are placed below:

LTP Contribution through small orders/trades

Buyer Name	No. of trades (LTP >0)	Positive LTP Contribution when buy order qty. was of 1 share only		Positive LTP Contribution when buy order qty. was between 2-10 shares		Positive LTP Contribution when buy order qty. were more than 10 shares		Total Positive LTP contribution (Rs.)	% of positive LTP to Total Market positive LTP	% contribution to total market positive LTP through small orders (1-10 shares)
		Positive LTP contribution	No. of trades	Positive LTP contribution	No. of trades	Positive LTP contribution	No. of trades			
Fastner Machinery Dealers Pvt Limited	84	512.45	22	22	6	247.6	56	782.05	14.04%	9.59%

27. From the above table, the buy orders for these 84 trades were placed for small quantities (in the range of 1 ,2 to 10 and more than 10). These 84 trades contributed to substantial positive LTP creation as follows:

1) 22 trades when buy order quantity placed for 1 shares it contributed to positive LTP of Rs.512.45

2) 6 trades when buy order quantity placed for between 2 to 10 shares it contributed to positive LTP of Rs.22.

3) 56 trades when buy order quantity placed for more than 10 shares it contributed to positive LTP of Rs.247.60

28. From the above, I note that the buy orders were placed for 1 share (22 instances), 2 to 10 shares (6 instances) and more than 10 shares (56 instances). The order price for these trades were placed at more than the last traded price and these trades contributed to positive LTP of Rs.512.45, Rs.22 and Rs.247.60 respectively. This clearly depicts that on repeated occasions the aforesaid Noticee was placing buy orders for small quantities at the prevailing sell order price or more than sell order price which was higher than the last traded price. Thus, I note that, the positive LTP contribution by Fastner through 28 small trades (1-10 shares) is Rs.534.45 which is 9.59% of market positive LTP.

iii) Analysis of Trades of Anurodh Infrastructure Limited (Noticee No. 3)

- From the IR, I note that, Noticee No. 3 (Anurodh) contributed Rs.580.15 to net LTP and Rs.668.75 to total market positive LTP i.e. 12.01% of total market positive LTP.
- Anurodh carried out 73 small buy trades i.e. buy quantity ranged from 1 to 10 shares per trade and contributed positive LTP of Rs.447.2 through such trades. The details are placed below:

LTP Contribution through small orders/trades

Buyer Name	No. of trades (LTP >0)	Positive LTP Contribution when buy order qty. was of 1 share only		Positive LTP Contribution when buy order qty. was between 2-10 shares		Positive LTP Contribution when buy order qty. were more than 10 shares		Total Positive LTP contribution (Rs.)	% of positive LTP to Total Market positive LTP	% contribution to total market positive LTP through small orders (1-10 shares)
		Positive LTP contribution	No. of trades	Positive LTP contribution	No. of trades	Positive LTP contribution	No. of trades			
Anurodh Infrastructure Limited	141	368.8	51	78.4	22	221.55	68	668.75	12.01%	8.03%

29. From the above table, the buy orders for these 141 trades were placed for small quantities (in the range of 1 ,2 to 10 and more than 10) These 141 trades contributed to substantial positive LTP creation as follows:

1) 51 trades when buy order quantity placed for 1 shares it contributed to positive LTP of Rs.368.8
2) 22 trades when buy order quantity placed for between 2 to 10 shares it contributed to positive LTP of Rs.78.4.
3) 68 trades when buy order quantity placed for more than 10 shares it contributed to positive LTP of Rs. 221.55.

30. From the above, I note that the buy orders were placed for 1 share (51 instances), 2 to 10 shares (22 instances) and more than 10 shares (68 instances). The order price for these trades were placed at more than the last traded price and these trades contributed to positive LTP of Rs.368.8, Rs.78.4 and Rs.221.55 respectively. This clearly depicts that on repeated occasions the aforesaid Noticee was placing buy orders for small quantities at the prevailing sell order price or more than sell order price which was higher than the last traded price. Thus, the positive LTP contribution by Anurodh through 73 small trades (1-10 shares) is Rs.447.2 which is 8.03% of market positive LTP.

31. In view of the aforesaid facts and based on the trading pattern of the Noticee, I am of the view that it is normal in the securities market to sell the scrip when a higher price is offered. But by purchasing shares at higher than the ongoing LTP by Noticees and that too in minuscule quantities resulted in the price of the scrip going up and as clear from the Noticees trading pattern, the trades were carried out by Noticees with a view to set the price or benchmark the price at a desired level thereby misguiding the innocent

gullible investors. Therefore, it can be concluded that the price of the scrip was manipulated by the Noticees. Further, in some instances of trading by Noticees, it is clear that the Noticees intended to buy at prices even higher than the prices offered by the respective seller i.e. the placement of buy order above prevailing sell order rate has no economic rational as any prudent investor would want to buy at a low price and sell at higher price. This further corroborates the allegation against the Noticees that the trading behaviour of Noticees amount to manipulation of price of the scrip of Appu Marketing on a continuous basis so as to induce innocent investors by creating such a misleading appearance of trades in the said scrip.

32. In this context, reliance is also placed on the observations of the Hon'ble SAT in the matter of *Amaresh Pathak vs. SEBI*, Appeal no. 332 of 2020 decided on February 16, 2021, wherein it had held that:

> *"11. ... When a person enters into a transaction in securities with the intention to artificially raise the price, he thereby automatically induces the innocent investors in the market to buy/sell the stocks. The buyer or the seller is invariably influenced by the price of the stocks and if that is manipulated the person doing so is necessarily influencing the decision of the buyer/seller thereby inducing him to buy or sell. This is what Regulation 4 of the PFUTP Regulation speaks of. Inducement to any person to buy or sell securities leads to manipulation in the price of the scrip. If the factum of inducement is established, it will necessarily follow that a fraud has been played and there has been a manipulation."*

33. Further, I note that in the present matter the Noticees' purchase in the scrip is not genuine but is manipulative in nature. In other words, I note that trades at higher than LTP, undoubtedly have a potential of raising the price of the scrip and the same gives a wrong impression about the price of the scrip in the market based on miniscule quantities traded. It must not be forgotten that every trade establishes the price of the scrip and trades executed at higher than LTP results in the price of the scrip going up which may influence the innocent/gullible investors. In cases of market manipulation, admittedly, no direct evidence would be forthcoming / available.

34. Manipulative transactions are to be tested on the conduct of parties and abnormality of practices which defy normal logic and laid down procedures. What is needed, is to prove that in a factual matrix, preponderance of probabilities indicates a fraud. In this regard, the observations of Hon'ble Supreme Court of India in *SEBI Vs. Kishore R Ajmera et.al. (2016) 6 SCC 368* wherein the Hon'ble Court while deciding the matter under SEBI Act and SEBI (PFUTP) Regulations, 2003 where there was no direct evidence forthcoming, observed as follows:

"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 Order in the matter of Shree the immediate and proximate facts and circumstances surrounding the events on which the charges/allegations are founded and to reach what would appear to the Court to be a reasonable conclusion therefrom. The test would always be that

what inferential process that a reasonable/prudent man would adopt to arrive at a conclusion...

… While the screen-based trading system keeps the identity of the parties anonymous it will be too naive to rest the final conclusions on said basis which overlooks a meeting of minds elsewhere. Direct proof of such meeting of minds elsewhere would rarely be forthcoming. The test, in our considered view, is one of preponderance of probabilities so far as adjudication of civil liability arising out of violation of the Act or the provisions of the Regulations framed thereunder is concerned..."

35. With regard to the price manipulation by way of LTP contribution, it is important to refer to the observations made by the Hon'ble 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 Noticees 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. By purchasing at a higher price in most of his trades, the Noticee had given the wrong impression about the price of the scrip in the market. It is an accepted state of affairs that in cases of manipulation of the volume and / or price of a particular scrip, it is usually an arduous task to obtain direct evidence. However, the analysis of the trade and order logs as undertaken hereinabove, establishes the malafide intention of the appellant."

36. Further, Hon'ble Securities Appellate Authority (SAT) in its order dated January 04, 2021 in the matter of *Tanuj Khandelwal vs SEBI* (Appeal No. 357 of 2020) wherein it was held as follows –

"…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."

37. Regulation 4(1) of SEBI (PFUTP) Regulations refers to unfair trade practices in securities. It would be noteworthy to quote the observations of Hon'ble Supreme Court of India in the matter *of Securities and Exchange Board of India and Ors. vs. Shri Kanaiyalal Baldevbhai Patel and Ors.* (2017 SCC Online SC 1148) wherein it was observed as follows:

"...Although unfair trade practice has not been defined under the regulation, various other legislations in India have defined the concept of unfair trade practice in different contexts. A clear cut generalized definition of the 'unfair trade practice' may not be possible to be culled out from the aforesaid definitions. Broadly trade practice is unfair if the conduct undermines the ethical standards and good faith dealings between parties engaged in business transactions. It is to be noted that unfair trade practices are not subject to a single definition; rather it requires adjudication on case to case basis. Whether an act or practice is unfair is to be determined by all the facts and circumstances surrounding the transaction. In the context of this regulation a

trade practice may be unfair, if the conduct undermines the good faith dealings involved in the transaction. Moreover, the concept of 'unfairness' appears to be broader than and includes the concept of 'deception' or 'fraud'."

38. On account of the above observations and the precedents, the following is established against the Noticees:

    a. The Noticees were involved individually/as a group in manipulative trading pattern by contributing significantly to market positive LTP in the scrip of AMML and hence were fraudulent and unfair.

    b. Thus, the Noticees have violated Section 12A(a), (b), (c) of SEBI Act, 1992 r/w Reg. 3(a), (b), (c) and (d) and 4(1), 4(2)(a) and (e) of SEBI (PFUTP) Regulations, 2003.

II. Does the violation, if any, on the part of Noticees attract monetary penalty under Section 15HA of the Act?

39. Having established that Noticees had violated the provisions of SEBI (PFUTP) Regulations, 2003 as stated above, it is important to refer to the observation of the Hon'ble Supreme Court of India in the matter of *SEBI Vs. Shri Ram Mutual Fund* [2006] 68 SCL 216(SC) wherein it was observed that

    "*In our considered opinion, penalty is attracted as soon as the contravention of the statutory obligation as contemplated by the Act and the Regulations is established and hence the intention of the parties committing such violation becomes wholly irrelevant…"*

    Hence, I find the Noticees are liable for penalty.

40. The contents of the applicable penal provisions (as it stood during IP) are stated below:

Section 15HA of the SEBI Act, 1992:

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.*

III. If so, what would be the quantum of monetary penalty that can be imposed on Noticees taking into consideration the factors mentioned in Section 15J of the Act?

41. While determining the quantum of penalty under Section 15HA of the Act, it is important to consider the factors stipulated in Section 15J of the SEBI Act, 1992 which reads as under: -

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 investors as a result of the default;

(c) the repetitive nature of the default."

Explanation: *For removal of doubts, it is clarified that the power to 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.*

42. It is noted that available records do not specify the disproportionate gains or unfair advantage made by the Noticees or the specific loss suffered by the investors due to such manipulated trading.

43. Though, as observed above, no quantifiable unfair / disproportionate gain was shown to have been acquired by the Noticees in the above mentioned activities, I cannot ignore the gravity of violations involved in the matter. Having established that Noticees had executed trades which were manipulative and in my opinion, indulging in trades with manipulative intent to create misleading appearance of trading (as analysed in preceding paragraphs of this order), certainly is in the nature of causing possible adverse impact in disturbing the equilibrium of fair market mechanism and wrongfully inducing investors. The securities markets are made up of investors and in order to ensure the growth of market it is important that the investors are not duped and misled and keep contributing in the market. The violations as established above, places dent on such efforts of the regulator and hence need to be dealt strictly and appropriate monetary penalty, that acts as a deterrent, need to be imposed. Furthermore, I observed that the Noticees have been previously found to have violated SEBI laws and regulations and were in particularly found to have manipulated the price of scrips and for that penalties were imposed in the past. Hence, they are fit to be considered habitual / repeat offenders and are liable to be penalised strictly.

ORDER

44. In view of the above, after considering all the facts and circumstances of the case and exercising the powers conferred upon me under Section 15-I (2) of the SEBI Act, 1992

read with Rule 5 of the Adjudication Rules, I hereby impose the following monetary penalties on Noticees:

Sr. No.	Name of the Noticee	Provisions of Law Violated	Penalty Provision	Penalty Amount (In Rs.)
1	Faithful Cloth Merchant Pvt. Ltd. (PAN: AABCF6670P)	Sec. 12A(a), (b), (c) of SEBI Act, 1992 r/w Reg. 3(a), (b), (c) and (d) and 4(1), 4(2)(a) and (e) of SEBI (PFUTP) Regulations, 2003.	Section 15HA of SEBI Act, 1992	**Rs.10,00,000/- (Rupees Ten Lakhs)**
2	Fastner Machinery Dealers Limited (PAN: AABCF6671N)			**Rs.10,00,000/- (Rupees Ten Lakhs)**
3	Anurodh Infrastructure Limited (PAN: AAJCA1464E)			**Rs.10,00,000/- (Rupees Ten Lakhs)**

45. The amount of penalty shall be paid by online payment through following path at SEBI website www.sebi.gov.in. the path to make said payment is:

ENFORCEMENT → Orders → Orders of AO → Click on PAY NOW

46. The said confirmation of e-payment made in the format as given in table below should be sent to "The Division Chief, EFD-I DRA -II, Securities and Exchange Board of India, SEBI Bhavan, Plot no. C-7, "G" Block, Bandra Kurla Complex, Bandra (E), Mumbai - 400 051" and also to e-mail id:- tad@sebi.gov.in

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)	

47. In the event of failure to pay the said amount of penalty within 45 days of the receipt of this Order, consequential proceedings, including but not limited to recovery proceedings may be initiated under section 28A of the SEBI Act, for realization of the said amount of penalty along with interest thereon, inter alia, by attachment and sale of movable and immovable properties.

48. In terms of Rule 6 of the Adjudication Rules, 1995, copy of this Order is sent to the Noticees and also to the Securities and Exchange Board of India.

PLACE : MUMBAI **G.RAMAR**

DATE : May 31, 2023 **ADJUDICATING OFFICER**