BEFORE THE ADJUDICATING OFFICER

SECURITIES AND EXCHANGE BOARD OF INDIA

[ADJUDICATION ORDER Ref. No. ORDER/SBM/KL/2021-22/14661-14662]

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

In respect of
1. Ms. Bhanumati Dharamraj Giri
(PAN: AEHPG1126L)
Plot no: 209, Room no.9, sector 2, Gulmohar
Sahakari Society Ltd., Charkop,
Kandivali (West) Mumbai - 400067

2. Comfort Securities Ltd
(PAN: AABCC9625R;
Stock Broker Regn no: INZ000192537)
A-301, Hetal Arch, S.V. Road, Malad (West)
Mumbai - 400064

In the matter of
Ravi Kumar Distilleries Ltd.

FACTS OF THE CASE

1. Ravi Kumar Distilleries Ltd (hereinafter referred to as **'RKDL'**) came out with an Initial Public Offer ('**IPO**') of 1,15,00,000 equity shares of face value of Rs. 10/- each in December 2010. The IPO opened for subscription on December 08, 2010 and closed on December 10, 2010. The issue price of the IPO was Rs. 64/- per equity share, aggregating to Rs. 73.60 crores. The Book Running Lead Manager/Merchant Banker to the IPO of RKDL was Comfort Securities Private Limited (now known as Comfort Securities Limited). Pursuant to the IPO, the shares of RKDL were listed on Bombay Stock Exchange ('**BSE'**) and National Stock Exchange ('**NSE'**) on December 27, 2010.
2. Subsequently, on receipt of complaints regarding irregularities in the trading in the scrip of RKDL, Securities and Exchange Board of India (hereinafter referred to as '**SEBI'**) conducted an investigation into the dealings of the client viz. Ms. Bhanumati Dharamraj Giri (hereinafter referred to as **'Ms. Bhanumati'/'Noticee no.1'**) along with her stock

broker viz. Comfort Securities Limited (hereinafter referred to as **'CSL'/'Noticee no. 2'**), which was also the Merchant Banker/BRLM associated with the said IPO of RKDL. In this regard, SEBI conducted an investigation to examine the irregularities in the trading of the scrip of RKDL committed by certain suspected entities during the period from December 27, 2010 to January 20, 2011 (hereinafter referred to as **'Investigation period'**).

3. Pursuant to the investigations, it is alleged that Ms. Bhanumati/Noticee no.1 had repeatedly executed self-trades in the scrip of RKDL i.e. 27 self-trades on 10 days for 2,75,469 shares on BSE and 79 self-trades on 10 days for 7,46,795 shares on NSE through her stock broker viz. CSL / Noticee no. 2 during the above mentioned investigation period. In view of the aforementioned execution of self-trades in the scrip of RKDl during the investigation period, it is alleged that Noticee no. 1, *prima facie,* created artificial volume to the tune of 0.25% and 0.48% of the total market volume on BSE and NSE, respectively during the investigation period. Therefore, it is alleged that Noticee no.1 has violated the provisions of Regulations 3 (a), (b), (c), (d), 4 (1) (2) (a) & (g) of the SEBI (Prohibition of Fraudulent and Unfair Trade Practices Relating to Securities Market) Regulations, 2003 (hereinafter referred to as **'PFUTP Regulations'**). Further, it is observed that Noticee no. 2 was the stock broker for all the aforesaid self-trades executed by Noticee no. 1 both on the buy and sell side at BSE and NSE during the investigation period. In this regard, it is alleged that Noticee no. 2, *prima facie,* failed to exercise due skill and care and diligence while executing trades on behalf of its client viz. Noticee no. 1 and thus violated the provisions of Clause A (2) of the Code of Conduct for Stock Brokers as specified under schedule II r/w Regulation 7 of SEBI (Stock brokers and sub-brokers) Regulations, 1992 (hereinafter referred to as **'Broker Regulations'**).
4. In view of the above observations, adjudication proceedings have been initiated against Noticee no.1 and Noticee no. 2 (hereinafter collectively referred to as **' Noticees'**) under the provisions of section 15HA and section 15HB of the Securities and Exchange Board of India Act, 1992 (hereinafter referred to as '**SEBI Act'**).

<u>APPOINTMENT OF ADJUDICATING OFFICER</u>

5. The undersigned has been appointed as the Adjudicating Officer ('**AO**') in the matter under Section 19 of the SEBI Act read with Section 15-I of the SEBI Act and Rule 3 of

SEBI (Procedure for Holding Inquiry and Imposing Penalties) Rules, 1995 (hereinafter referred to as '**Adjudication Rules'**), to inquire into and adjudge under the provisions of section 15 HA and section 15HB of the SEBI Act, the aforementioned alleged violations of the provisions of law by the Noticees.

SHOW CAUSE NOTICE, REPLY AND PERSONAL HEARING

6. A show cause notice ('**SCN**') ref no. A&E/EAD-1/SBM-ASR/13844/2021 dated June 29, 2021 was issued to the Noticees in terms of Rule 4 (1) of the Adjudication Rules read with Section 15-I of the SEBI Act to show cause as to why an inquiry should not be held against the Noticees and why penalty be not imposed on them in terms of the provisions of section 15HA and section 15HB of the SEBI Act for the violations alleged to have been committed by the Noticees. The SCN, *inter-alia,* alleged the following :-

   a. *An investigation was conducted by SEBI to ascertain whether any violation of the provisions of PFUTP Regulations by the suspected entities in trading in the scrip of RKDL have taken place during the investigation period viz. December 27, 2010 to January 20, 2011.*

   b. *It is observed that on the listing day, at BSE i.e. on December 27, 2010, price of the scrip opened at Rs. 64, touched a high of Rs 90.3 and then closed at Rs 80.05. On subsequent days, price of the scrip decreased and closed at Rs 31.05 on January 20, 2011. Accordingly, based on the price movement, the investigation period is split into two patches, viz., Patch 1 for December 27, 2010 (the scrip price increased from Rs. 64 and closed at Rs. 80.05) and Patch 2 from December 28, 2010 to January 20, 2011 (when price decreased to Rs. 31.05 from Rs. 80.05). Price-volume analysis of the scrip during these two patches at BSE and NSE is given below:*

BSE

Period	***Dates***		***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***
Patch 1	***27/12/2010***	***Price***	*64*	*80.05*	*64*	*90.3*	*4,43,33,485*
		Vol	*4,43,33,485*	*4,43,33,485*	*4,43,33,485*	*4,43,33,485*	
Patch 2	***28/12/2010 - 20/01/2011***	***Price***	*85.5*	*31.05*	*31.05*	*93.95*	*60,79,532*
		Vol	*1,41,93,579*	*76,559*	*16,462*	*2,03,96,360*	

NSE

Period	*Dates*		*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*
Patch 1	*27/12/2010*	*Price*	*72*	*80.05*	*72*	*91*	*7,29,66,002*
		Vol	*7,29,66,002*	*7,29,66,002*	*7,29,66,002*	*7,29,66,002*	
Patch 2	*28/12/2010 - 20/01/2011*	*Price*	*79.6*	*31.05*	*31.05*	*93.8*	*85,34,757*
		Vol	*1,90,53,244*	*28,414*	*16,711*	*3,02,65,401*	

c. *It is observed that during Patch 1 (on December 27, 2010), Ms. Bhanumati Giri/Noticee no. 1 had purchased and sold 19,36,015 shares of RKDL at BSE, which was 4.367 % of the total traded volume in RKDL during Patch 1. Similarly, Noticee no. 1 purchased and sold 15,35,474 shares of RKDL at NSE during Patch 1, which was 2.104% of the total traded volume in RKDL during Patch 1. Further, during Patch 2 (December 28, 2010 - January 20, 2011), Noticee no. 1 had purchased 1,42,94,057 shares and sold 1,38,71,763 shares of RKDL at BSE, which was 13.062 % and 12.676% of the total traded volume in RKDL, respectively, during Patch 2. Similarly, Noticee no. 1 purchased 2,33,62,660 shares and sold 2,33,95,310 shares of RKDL at NSE during Patch 2, which was 15.196 % and 15.217% of the total traded volume in RKDL, respectively, during Patch 2.*

d. *From the analysis of the trading done by Noticee no. 1 in the scrip of RKDL, it is, prima facie, observed that Noticee no. 1 had repeatedly entered into self-trades in the scrip of RKDL during Patch 2 period on BSE and NSE. The summary of the self-trades entered into by Noticee no. 1 in the scrip of RKDL during Patch 2 is given in table below:*

Exchange/ Patch	*Entity Name*	*Broker On Both Buy & Sell Side*	*Total Self Trade Volume*	*Total Self Trade Count*	*No of days on which self-trades done*	*% Of Self Traded Qty. To Market Vol.*	*Net LTP contribution by self-trades*
BSE / Patch 2	*Bhanumati D. Giri*	*CSL*	*2,75,469*	*27*	*10*	*0.252*	*-0.1*
NSE / Patch 2	*Bhanumati D. Giri*	*CSL*	*7,46,795*	*79*	*10*	*0.486*	*-0.65*

e. *It is alleged on the basis of the table given above that during Patch 2, Noticee no. 1 entered into 27 self-trades on 10 days for 2,75,469 shares on BSE, thereby, prima facie, creating* *artificial volume to the tune of 0.252% of the total market volume on BSE during Patch 2. It is further alleged on the basis of the table given above that during Patch 2, Noticee no. 1 entered 79 self-trades on 10 days for 7,46,795 shares on NSE, thereby, prima facie, creating artificial volume to the tune of 0.486% of the total market volume on NSE during Patch 2. The details of day wise self-trades entered by Noticee no. 1 along with the contribution to the volume in the scrip of RKDL on that day is given in table below:*

BSE

Date	*No. of self-trades executed by Noticee no. 1*	*Market volume of RKDL on the day*	*% Of Self-traded Qty. by Noticee no. 1 to Market Volume of the day.*
28/12/2010	*1,11,243*	*1,41,93,579*	*0.78*
29/12/2010	*1,831*	*94,16,622*	*0.02*
30/12/2010	*57,346*	*45,83,592*	*1.25*
31/12/2010	*1,829*	*1,87,41,261*	*0.01*
03/01/2011	*6,616*	*1,21,53,361*	*0.05*
05/01/2011	*21,864*	*60,44,050*	*0.36*
06/01/2011	*3,000*	*60,44,050*	*0.05*
07/01/2011	*63,475*	*78,24,323*	*0.81*
10/01/2011	*2,500*	*20,73,726*	*0.12*
13/01/2011	*5,765*	*6,46,694*	*0.89*

NSE

Date	*No. of self-trades executed by Noticee no. 1*	*Market volume of RKDL on the day*	*% Of Self-traded Qty. by Noticee no. 1 to Market Volume of the day.*
28-12-10	*1,28,831*	*1,41,93,579*	*0.91*
29-12-10	*43,770*	*94,16,622*	*0.46*
30-12-10	*2,17,814*	*45,83,592*	*4.75*
31-12-10	*84,950*	*1,87,41,261*	*0.45*
03-01-11	*36,763*	*1,21,53,361*	*0.30*
04-01-11	*2,17,023*	*2,03,96,360*	*1.06*
05-01-11	*5,783*	*1,15,61,947*	*0.05*
06-01-11	*2,728*	*60,44,050*	*0.05*
10-01-11	*7,684*	*20,73,726*	*0.37*
13-01-11	*1,449*	*6,46,694*	*0.22*

f. It is alleged on the basis of the tables given above that on BSE, the day wise contribution to the total market volume of a particular day by Noticee no. 1 by way of executing self-trades was in the range of 0.01% to 1.25%. Similarly, on NSE, the day wise contribution to the total market volume of a particular day by Noticee no. 1 by way of executing self-trades was, allegedly, in the range of 0.05% to 4.75%. Therefore, it is alleged on the basis of the discussions above that Ms. Bhanumati Dharamraj Giri has, prima facie, created artificial volume in the scrip of RKDL during the period December 28, 2010 to January 20, 2011, thereby violating the provisions of Regulations 3 (a), (b), (c) and (d), 4(1), 4(2)(a) and (g) of the PFUTP Regulations.

g. It is further alleged that Comfort Securities Limited/Noticee no. 2 was the broker for all the self-trades of Noticee no. 1 on both buy side and sell side at BSE and NSE. Therefore, it is alleged that Noticee no. 2, prima facie, failed to exercise due skill and care while executing *trades on behalf of its client viz. Noticee no. 1. Therefore, it is alleged that Noticee no. 2 has violated provisions of Clause A (2) of the 'Code of Conduct for Stock Brokers' as specified under Schedule II r/w Regulation 7 of Broker Regulations.*

7. Vide email dated November 03, 2021, Noticee no.1 submitted her reply to the SCN and vide letter dated September 22, 2021, Noticee no. 2 submitted its reply to the SCN. The major submissions made by the Noticees to the SCN are summarized below: -

Reply of Noticee no.1/Ms. Bhanumati vide email dated November 03, 2021

*I would like to submit that during the concerned period, I was into the business of jobbing/arbitrage in the securities market. I would like to submit that the impugned 'self-trades' in the scrip of Ravi Kumar Distilleries Ltd. (RKDL) were unintentional, non-manipulative and was as a result of bona- fide trading activity carried out by me at relevant point of time. I submit that I had no malafide intent to execute impugned self -trades' or create artificial/fictitious volume while dealing in the scrip of RKDL. The impugned trades were non-intentional, accidental and inadvertent. I had no intent' or *mens rea' to manipulate or create any misleading appearance of trading in scrip of RKDL. This is clearly evident from fact that the impugned *self-trades' constituted meagre percentage of market volume at BSE and NSE. In view thereof, I request your kind selves to withdraw the present proceedings qua me in-limine.*

a. Submissions in respect of my dealings in the scrip of RKDL

(i)I submit that impugned trades were in consonance with daily trading activity carried out by me at the relevant point of time.

(ii) I submit that I had always placed my orders/trades in compliance with extant rules and regulations applicable to me. I have always honored my obligations towards the broker and stock exchange/clearing corporation.

(iii) I submit that during relevant period when impugned 'self-trades' occurred, the volume in the scrip of RKDL was 10,94,33,283 shares on BSE and 15,37,42,169 on NSE and the percentage of impugned 'self- trades' was negligible so as to have any impact on the market equilibrium The impugned self-trades were at 0.34% and 0.75% of trades on BSE and NSE respectively based on the volume of trades on the dates of self-impugned trades of 81,721,258 shares on BSE and 99,811,192 on the NSE. If the alleged self-trades are compared to the total volume of the scrip on BSE and NSE the percentage would be even more negligible.

(iv) From the above, it can be clearly observed that the percentage of my impugned 'self-trades' is negligible and hardly capable of disturbing the market so as to create artificial price/volume or misleading appearance of trading in said scrip. Thus, the allegation that my trades disturbed the market price/volume is completely baseless and lacks credentials at threshold itself.

v) I submit that the impugned 'self-trades' were punched on the trading system of the stock exchange. It is an undisputed fact that in case of screen based trading, the automated system itself matches orders on a price-time priority and thereby it is not possible for any person to control and access the same. Thus, when trade is happening at server level of stock exchange, it is impossible for anyone to prevent inadvertent 'self- trade.

(vi) I further submit that my trading in scrip of RKDL was in normal and ordinary course of my trading activity. All the pre-trade, trade and post- trade activities were carried out on the official trading, clearing and settlement mechanism of the exchange. The transactions were accepted as normal trades and no annulment was even thought by stock exchange since they were not as a result of 'fraud' or 'fraudulent' activity.

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b. Self-Trade not possible after introduction of Self Trade Prevention Check

I submit with humility that regulatory and operational system w.r.t. self-trades in India evolved only recently.

(i) Presently, the software systems and surveillance systems have improved meaningfully and technology is available with regulator which makes it possible to track suspicious trades or mis-happenings on daily basis and appropriate and immediate measures are taken thereof.

(ii) *It was only as recently as 11.02.2015, in order to address the need of preventing impugned 'self-trades' the BSE and NSE introduced the Self Trade Prevention Check mechanism in equity segment, wherein automated system itself blocks buy/sell order from commonly owned accounts. Thereby, it effectively prevents 'self-trades' order from matching with another order from same ID.*

(iii) Thus, stock exchanges have introduced Self-trade Prevention Check (STPC) functionality with the purpose of preventing inadvertent matching between a buy and a sell order entered in the same order book by a member for the same client code originating from same or different trading terminals of the members. Therefore, I submit that systemic changes have been brought in electronic trading system and impugned unintentional 'self-trades' can no longer occur.

(iv) In View of aforesaid, I humbly submit that the systems and mechanism for preventions of self-trade evolved and progressed in the recent years (i.e. after 2015) whereas, the impugned inadvertent 'self-trades' in the scrip of RKDL have occurred way back before 10 years i.e. in the year 2011.

c. Mere occurrence of unintentional ‘se!f-trade' cannot be cannot be considered 'fraudulent'

(i) I submit with humility that the jurisprudence in respect of legality of ‘self-trades' across various jurisdictions has been settled long ago. Even the regulators of securities market in the developed nations have accepted the existence of impugned ‘self-trades' and have made distinction between intentional self-trades (i.e. 'wash trades') &unintentional self-trades and proceeded against only those market participants who have indulged in wash trades'. I submit that the impugned ‘self-trades' were not 'wash-trades' since none of fundamental ingredient for terming a transaction as 'wash-trade' was present in my case.

I further submit that mere occurrence of impugned 'self-trades' in particular scrip cannot be termed as 'fraudulent' or manipulative. I submit that ex–facie, the exceedingly insignificant quantum of trading could not impact either the price/volume of the scrip. From the data hereinabove, it can be clearly seen that my trades have not affected the price/volume of RKDL scrip. Admittedly, there is no allegation that I was acting in concert with anybody in the market, including the promoters of the company or others who have traded in RKDL scrip.

In the absence of any impact on price/volume of the scrip, consequent to accidental 'self-trades'; I cannot be alleged to have violated the provisions of SEBI (PFUTP) Regulations.

Further, there is nothing brought out on record which can even remotely demonstrate that I had acted malafide or that the impugned 'self- trades' were actuated by manipulative or fraudulent designs.

(ii) As aforesaid, I repeat and reiterate that I have not bought, sold or otherwise dealt in shares of RKDL in fraudulent manner atoll (Ref Regulation 4 (1) of PFUTP Regulations);

d. Legal Submissions

(i) Few Instances of self-trade not ipso facto illegal

I would like to draw your kind attention to the case of Krupa Sanjay Soni v/s SEBI [Appeal 32 of 2013] wherein Hon'ble Securities Appellate Tribunal vide its Order dated 24.01.2014 opined that "...a few instances of self-trades in themselves would not, ipso facto amount to an objectionable trades... " [Ref: Para 9 on Page 4 of Order]

(a) Similarly, vide SEBI's Order dated 14.02.2013 [EAD-2/A0/143/2012] in the case of IMP Securities Private Ltd.the Ld. Adjudication Officer disposed of proceedings against Noticee and opined as under: [Reference Para 17 on Page 9 of the Order]

"...17, There is no allegation against the Noticee that it had indulged in price manipulation except that the aforementioned self-trades resulted in creation of artificial volume. I am of the view that under the above circumstances some of the trades could automatically match resulting in self trades on the automated anonymous trading mechanism. The corroborative evidences available on record are insufficient to substantiate that the trades executed by the Noticee are fraudulent or manipulative

In view of the above submissions I deny that I have violated the provisions of Regulations 3(a),(b),(c) and (d),4(1),4(2)(a) and 4 (2)(g) of the SEBI(PFUTP) Regulations, 2003 as alleged and request your goof selves to drop the show cause against me and no directions may be issued against me in the above matter and no penalty be imposed on me under Sec 15 HA of the SEBI ACT.

Reply of Noticee no.2/CSL vide letter dated September 22, 2021

It is humbly submitted that the systems and mechanism for preventions of self-trade evolved and progressed in the recent years (i.e. after-2015) whereas the impugned inadvertent 'self-trades' in the scrip of RKDL have occurred way back before 10 years i.e. in the year 2011.

It can be seen that SEB/ itself has made its stand that intention is a prerequisite for violation of Regulation 3 and 4 of PFUTP Regulations and unintentional self-trades are not violative of Regulations 3 and 4 of PFUTP Regulations. Therefore, the burden of proof on us is to prove that we are not liable for the violation of Stock Brokers Regulations, is just to prove that the trades executed by BDG in the scrip of RKDL, which resulted into self-trades, were not intended to be manipulative and this claim has to be corroborated with other factors such as impact of trades on market volume, nature of the transactions, in-depth analysis of self-trades, and other such factors.

In the absence of any impact on price/ volume of the scrip, consequent to accidental 'self-trades'; it cannot be alleged that the self-trades have violated the provisions of SEBI (PFUTP) Regulations. As such, nothing can be alleged against us for violation of Code of Conduct for Brokers Rules.

It may be noted here that the intention of putting order of a dealer is the only measure to decipher his intention. The above mentioned facts clearly show that the intention of BDG was not to match the trades but to execute trades in normal course of business. Even in the opinion of Hon 'ble Securities Appellate Tribunal, if one or few of the orders result in self trade, it would not suffice for establishing the charge of manipulation unless the trades are exceptionally huge. The Hon'ble SAT in the case of N.M. Lohia vs.SEBl (Appeal no. 108 of 2009, Decided on January 13, 2010), while holding the appellant liable for manipulation stated that in case of one or few trades, the outcome would be different

Thus, it can be seen that the frequency, the time period and the state of market has to be considered before declaring a person guilty of manipulation by self- trades. The trades in the present case cannot be considered huge and further, these trades did not happen due to design but merely due to the huge volume of orders and trading occurring in the scrip on the said occasions.

Now, considering the aforesaid and taking into account the nature of selftrades and the fact that there is a high possibility of it happening as a result of bonafide mistake devoid of any fraudulent intention, it is submitted that establishing intention/fraudulent motive in commission of self-trades is absolutely imperative to allege anyone with fraudulent and unfair trade practice, which is also mentioned in the approved policy of SEBI. In the present case, there is no such document /information/evidence provided which establishes any such fraudulent intention. Further, as aforesaid, BDG' s self-trades contributed a very meagre and negligible percentage to the total volume of the trading in the scrip of SRS during the Investigation Period.

Therefore, as per the authorities cited above, we cannot be held liable for violation of the Stock Brokers Regulations as in the Notice except a blind allegation of the violation, no other evidence has been provided to corroborate the same. As in the present case no material, documents or other evidence has been provided in the Notice which can even give as light inference that we have failed to exercise due diligence, so the serious charge of not exercising due diligence cannot sustain against us. There must be some material on record from which we could get knowledge that the trades of BDG were going to result in self-trades can be inferred. Merely because we have acted as a broker of BDG and executed some alleged self-trades cannot mean that we had failed to exercise due diligence.

Further, there was no system available with the broking concern or in the market to be installed which could rule out any self-trades altogether at the pre-trade level and if it would have been there, we would have installed the same. It may be pointed out that, since there are no mechanisms available forjobbers / arbitrageurs, SEBI itself had directed the Stock Exchanges to come out with a mechanism to curb the happening of self-trades.

In the instant case •since no primary violation against us has been made out and as we have also explained the genuineness of the case, the question of imposition of any penalty does not arise. Therefore, it is duly submitted that we have not committed any wrong and no charge has been established against us even prima facie, to warrant any action. In view of the above submissions, we humbly deny that we have violated provisions of Clause AP) of the 'Code of Conduct for Stock Brokers' as specified under Schedule Il r/ w Regulation 7 of Broker Regulation.

8. In the interest of natural justice and in terms of the Adjudication Rules, the Noticees were provided with an opportunity of personal hearing in the matter on November 12, 2021 through the online webex platform. I note that Noticee no. 1 failed to appear on the stipulated date of hearing although the notice dated October 29, 2021 was served upon Noticee no.1 as per records. It is pertinent to mention that vide notice dated October 29, 2021, Noticee no. 1 was clearly informed that if she fails to avail the opportunity of hearing, the proceedings shall be continued based on the material/facts available on record. As Noticee no.1 failed to avail the opportunity of hearing, I am inclined to proceed further in the matter on the basis of her written submissions made by the Noticee vide email dated November 03, 2021. On behalf of Noticee no. 2, Mr. Jugal C Thacker appeared as the Authorized Representative (hereinafter referred to as '**AR**') on the

stipulated date of hearing. During the course of hearing, the AR reiterated the submissions made by Noticee no. 2 in its letter dated September 22, 2021. Further, Noticee no. 2 made additional submissions in the matter vide letter dated November 20, 2021 and, *inter-alia,* submitted the following:

Reply of Noticee no.2/CSL vide its letter dated November 20, 2021

No. of dealers and their dealers including terminal details .

Sr	*Terminal ID*	*User*	*Name of Person*	*Address*
1		*25318*	*Mr. Saurabh H. Panchal*	*A-301, Hetal Arch, Opp. Natraj Market, S.V. Road, Malad Mumbai 400 064*
2	*201*		*Mr. Anil Jaiswar*	*1 st floor, 112 Dr. Ambedkar Chowk, Suya Nagar, Mumbai 400 083*
3	*15*		*Mr. Nirmal Purohit*	*A-301, Hetal Arch, Opp. Natraj Market, S.V. Road, Malad (W), Mumbai 400 064*

Ms. Bhanumati Giri was doing the trades through the above persons. The above said persons are no longer with us since very long to enable us to get the information. As already explained to you in our reply as well as at the hearing, both NSE and BSE had implemented systems to avoid self-trades in the year 2015 to ensure that self-trades do not take place from the same terminal/ different terminal in same buyer ID code. Further, SEBI itself had come out with a policy on self-trades in 2017, which has already been explained in our reply

In the absence of any impact on price/ volume of the scrip, consequent to accidental 'self-trades'; it cannot be alleged that our client has violated the provisions of SEBI (PFUTP) Regulations. Further, there is nothing brought out on record which can even remotely demonstrate that there was any malafide intention or that the impugned 'self- trades' were actuated by manipulative or fraudulent designs

If we apply the reasoning of these case in the instant case then the Notice issued against us must be disposed of by your goodself as in the present case also the volume of self-trades is less than 1% and is only 0.252% on BSE and 0.486 0/0 on the NSE as per the SCN itself. The impact of self-trades on L TP is also not significant at -0.1 on BSE and -0.65 on NSE. Further, there is no evidence in the SCN or to suggest any fraudulent intention behind execution of self-trades by BDG.

Due to these reasons we cannot be held liable for violation of Stock Brokers Regulation.

Further, we wish to state as below:
a) NSE/ BSE have implemented self trade check systems in 2015 to avoid such human errors, due to large volumes which resulted in self trades.
b) SEBI in its various orders has disposed off such show cause notices on self trades without imposing any penalties on the notices, which has been quoted by us.
c) The SCN has been issued after an inordinate delay of 1 1 years and various case laws have been cited by us in reference to the same.
We hope that we have provided all the clarifications and humbly request your goodselves to dispose of the Show Cause Notice against us and no penalties may be imposed nor any action be taken against us in the above Show Cause Notice.

CONSIDERATION OF ISSUES AND FINDINGS

9. I have carefully perused the allegations leveled against the Noticees in the SCN, the reply of the Noticees and also the documents/evidence available on record.
   The issues that arise for consideration in the present case are:-
   I. Whether Noticee no. 1 has violated the provisions of Regulations 3 (a) (b) (c) (d), 4 (1), (2) (a) & (g) of the PFUTP Regulations?
   II. Whether Noticee no. 2 has violated the provisions of Clause A (2) of the Code of Conduct for Stock Brokers as specified under schedule II r/w Regulation 7 of the Broker Regulations?
   III. If yes, whether the violations would attract monetary penalty on the Noticees under the provisions of section 15HA and section 15 HB of the SEBI Act?
   IV. If yes, what should be the quantum of monetary penalty?

10. Before moving forward, the relevant provisions of the PFUTP Regulations and Broker Regulations, allegedly violated by the Noticees are reproduced as under:

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

3. Prohibition of certain dealings in securities

No person shall directly or indirectly—

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

(b) use or employ, in connection with issue, purchase or sale of any security listed or proposed to be listed in a recognized stock exchange, any manipulative or deceptive device or contrivance in contravention of the provisions *of the Act or the rules or the regulations made there under;*
(c) employ any device, scheme or artifice to defraud in connection with dealing in or issue of securities which are listed or proposed to be listed on a recognized stock exchange;
(d) engage in any act, practice, course of business which operates or would operate as fraud or deceit upon any person in connection with any dealing in or issue of securities which are listed or proposed to be listed on a recognized stock exchange in contravention of the provisions of the Act or the rules and the regulations made there under.

4. Prohibition of manipulative, fraudulent and unfair trade practices
(1) Without prejudice to the provisions of regulation 3, no person shall indulge in a 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;
…
(g) entering into a transaction in securities without intention of performing it or without intention of change of ownership of such security;

Brokers Regulations
CODE OF CONDUCT FOR STOCK BROKERS
A. General.
(2) Exercise of due skill and care: A stock-broker shall act with due skill, care and diligence in the conduct of all his business.

ISSUE I: - Whether Noticee no. 1 has violated the provisions of Regulations 3 (a) (b) (c) and (d), 4 (1) (2) (a) and (g) of the PFUTP Regulations?
ISSUE II: - Whether Noticee no. 2 has violated the provisions of Clause A (2) of the Code of Conduct for Stock Brokers as specified under schedule II r/w Regulation 7 of the Broker Regulations?

11. Self-trades are trades executed on the stock exchange in which the same entity is both the buyer and seller in the scrip and therefore, these trades have no business rationale and do not represent a real change in the beneficial ownership of the security. Self-trades are considered to be manipulative if they are executed with intentions to generate artificial volumes in the scrip of a company and/or done with intentions to create fluctuations in the scrip price of a security. Thus, it is necessary to establish the manipulative intent behind these transactions in order to sustain the charges/allegations

regarding violation of PFUTP Regulations against an entity w.r.t. execution of the self-trades.

12. In the context of investigation conducted by SEBI in the instant matter, it is observed that on the listing day of the scrip of RKDL at BSE pursuant to the IPO of RKDL, i.e. on December 27, 2010, the scrip of RKDL opened at Rs. 64 and it touched a high of Rs 90.3 and then closed at Rs 80.05 on the listing day. On subsequent days, price of the scrip decreased and closed at Rs 31.05 on January 20, 2011. Accordingly, based on the price movement, the investigation period in the instant matter is split into two patches, viz., Patch 1 on December 27, 2010 i.e the listing date (the scrip price of RKDL increased from Rs. 64 and closed at Rs. 80.05) and Patch 2 period from December 28, 2010 to January 20, 2011 (when price decreased to Rs. 31.05 from Rs. 80.05).
13. As the gross trading volume of Noticee no. 1 in the scrip of RKDL was observed to be significant during the investigation period, the trading activity of Noticee no. 1 was examined for suspected manipulative activities, including synchronized trades, reversal trades, self-trades etc. It is noted that Noticee no. 1 was among the top 10 buyers and sellers in the scrip of RKDL on gross basis during the investigation period (both Patch 1 and Patch 2) on both BSE and NSE. In this context, it is observed that during Patch 1 period i.e on December 27, 2010, Noticee no. 1 had purchased and sold 19,36,015 shares of RKDL at BSE, which was 4.367 % of the total traded volume in RKDL at BSE. Similarly, Noticee no. 1 purchased and sold 15,35,474 shares of RKDL at NSE during Patch 1 period, which was 2.104% of the total traded volume in RKDL at NSE. Further, during Patch 2 period i.e December 28, 2010 - January 20, 2011, Noticee no. 1 had purchased 1,42,94,057 shares and sold 1,38,71,763 shares of RKDL at BSE, which was 13.062 % and 12.676% of the total traded volume in RKDL, respectively. Similarly, Noticee no. 1 purchased 2,33,62,660 shares and sold 2,33,95,310 shares of RKDL at NSE during Patch 2 period, which was 15.196 % and 15.217% of the total traded volume in RKDL at NSE. During the course of investigation, it is further noted that among the suspected clients and from the trading pattern of these entities, only Noticee no. 1 among the suspected entities was shortlisted based on the repetitive nature of self-trades executed by her (after reckoning quantity of more than 10,000 shares, more than 10 count of trades and executed self-trades for two or more days) during the investigation

period. Further, it is also noted that Noticee no. 1 executed significant self-trades only during the patch-2 of the investigation period i.e. from December 28, 2010 to January 20, 2011 on both BSE and NSE.

14. It is observed from the SCN and the investigation report that the trading in RKDL by Noticee No. 1 was examined/ investigated for suspected manipulation of volume in the scrip of RKDL during the investigation period. On the basis of the findings of the investigation, it is alleged that Noticee no. 1 was instrumental in the creation of false/artificial volume in the scrip of RKDL through self-trades and no other manipulative/fraudulent trading activity was observed in respect of Noticee no. 1. Similarly, the only allegation against Noticee no. 2 is that it had allowed Noticee no. 1 to utilize its trading terminals for executing the self-trades and thereby acted as both stock broker and counter party stock broker for such self-trades and failed to exercise due-diligence in this regard.

15. From the records/material made available, I find that Noticee no.1 had executed self-trades during the Patch 2 of the investigation period i.e. from December 28, 2010 to January 20, 2011 on BSE and NSE. It is alleged that the self-trades executed by Noticee no.1 at BSE were for 2,75,469 shares in 27 trades on 10 trading days and at NSE, Noticee no. 1 had executed self-trades for 7,46,795 shares in 79 trades on 10 trading days. In all such instances of self-trades, Noticee no. 1 had dealt through Noticee no.2 as her stock broker. Therefore, as a result of self-trades executed by Noticee no.1 in the scrip of RKDL on BSE and NSE during Patch 2 of the investigation period, it is alleged that Noticee no.1 was instrumental in creating a false and misleading appearance of trading in the shares of RKDL without any change in the beneficial ownership of the shares. The details of self-trades executed by Noticee no.1 in the scrip of RKDL at BSE and NSE during Patch 2 of the investigation period are mentioned in the following table:-

Exchange/ Patch	Entity Name	Broker On Both Buy & Sell Side	Total Self Trade Volume	Total Self Trade Count	No of days on which self-trades done	% Of Self Traded Qty. To Market Vol.	Net LTP contribution by self-trades
BSE / Patch 2	Bhanumati D. Giri/Noticee no.1	CSL/Noticee no.2	2,75,469	27	10	0.252	-0.1

NSE / Patch 2	Bhanumati D. Giri/ Noticee no.1	CSL/ Noticee no.2	7,46,795	79	10	0.486	-0.65

16. From the details mentioned in the above Table, I find that self-trades executed by Noticee no.1 on BSE constituted to only 0.25% of the total volume in the scrip of RKDL during the relevant period. Similarly, self-trades executed by Noticee no.1 on NSE constituted to only 0.48% of the total volume in the scrip at NSE during the relevant period. I am of the view that the above concentration of self-trades of 0.25% and 0.48% vis-à-vis the total market volume of RKDL on BSE and NSE is miniscule and insignificant for the purpose of creation/generation of artificial volumes in the scrip. Hence, in view of the above observations, it is difficult to conclude that by the trading concentration of 0.25% and 0.48% through self-trades on BSE and NSE, Noticee no.1 could have possibly induced other retail investors to trade in the shares of RKDL.
17. I have also examined the day-wise trading concentration of Noticee no.1 in the scrip of RKDL and more specifically, on the particular days when it had executed self-trades in the scrip of RKDL during the investigation period and compared the aforementioned data along with the contribution to the total market volume that was registered in the scrip of RKDL on those days. The details of day wise self-trades executed by Noticee no. 1 along with the contribution to the volume in the scrip of RKDL on that day is given in table below:

BSE

Date	**No. of self-trades executed by Noticee no. 1**	**Market volume of RKDL on the day**	**% Of Self-traded Qty. by Noticee no. 1 to Market Volume of the day.**
28/12/2010	1,11,243	1,41,93,579	0.78
29/12/2010	1,831	94,16,622	0.02
30/12/2010	57,346	45,83,592	1.25
31/12/2010	1,829	1,87,41,261	0.01
03/01/2011	6,616	1,21,53,361	0.05
05/01/2011	21,864	60,44,050	0.36
06/01/2011	3,000	60,44,050	0.05
07/01/2011	63,475	78,24,323	0.81
10/01/2011	2,500	20,73,726	0.12
13/01/2011	5,765	6,46,694	0.89

NSE

Date	No. of self-trades executed by Noticee no. 1	Market volume of RKDL on the day	% Of Self-traded Qty. by Noticee no. 1 to Market Volume of the day.
28-12-10	1,28,831	1,41,93,579	0.91
29-12-10	43,770	94,16,622	0.46
30-12-10	2,17,814	45,83,592	4.75
31-12-10	84,950	1,87,41,261	0.45
03-01-11	36,763	1,21,53,361	0.30
04-01-11	2,17,023	2,03,96,360	1.06
05-01-11	5,783	1,15,61,947	0.05
06-01-11	2,728	60,44,050	0.05
10-01-11	7,684	20,73,726	0.37
13-01-11	1,449	6,46,694	0.22

18. I note that upon considering only such days when Noticee no.1 has executed self-trades in the scrip of RKDL, the concentration of such self-trades by Noticee no.1 vis-à-vis total market volume in the scrip on that particular day was insignificant on majority of the days as it was less than 1% on 9 out of 10 days on BSE and on 8 out of 10 days at NSE. I observe that the highest volume concentration through self-trades executed by Noticee no.1 vis-à-vis the total volume in the scrip on a particular day was 1.25% on BSE and 4.75% on NSE. In my view, such low contribution by way of execution of self-trades to the total market volume in the scrip cannot be termed as significant enough to arrive at a conclusion that Noticee no.1 was instrumental in creating/generating artificial volumes in the scrip of RKDL during the investigation period.

19. The impact of self-trades executed by Noticee No. 1 vis-à-vis the scrip price of RKDL during investigation period was also examined during investigation. In this regard, I find that the Last Traded Price (LTP) contribution due to self-trades executed by Noticee no.1 during the investigation period was insignificant, which can be seen from the details mentioned as under:

Patch 2 of Investigation Period (price fall)

Exchange	Total no. of self-trades	% of Negative LTP to Total Market Negative LTP	Net LTP contribution by self-trades
BSE	2,75,469	2.32	- 0.1
NSE	7,46,795	2.57	- 0.65

20. From the above Table and from the findings of the investigation, I note that the self-trades of Noticee no.1 in the scrip of RKDL had contributed to 2.32% and 2.57% of the total market negative LTP on BSE and NSE respectively. In this regard, I note that the net negative LTP impact of the sell trades of Noticee no.1 was Rs. 0.1 and Rs. 0.65 on BSE and NSE respectively. I am of the view that considering the price fall that was witnessed in the scrip of RKDL during the Patch 2 period, which has been discussed in the pre-paragraphs, the negative LTP contribution of Rs. 0.1 and Rs. 0.65 on BSE and NSE, by Noticee no.1 is insignificant to arrive at a conclusion that Noticee no.1 was instrumental in the price manipulation of RKDL during the investigation period through such self-trades. Moreover, I also observe that the investigation report has not drawn any adverse inference regarding LTP manipulation by Noticee no.1 in the scrip of RKDL by way of self-trades and / or through normal trades.
21. I also note that the investigation has not made any adverse observations regarding the role of Noticee no.1 acting in concert with other entities to manipulate the price or volume of RKDL during the relevant period. I find that the investigation report in this regard has clearly mentioned that no connection could be established among the group of entities that were examined, which includes Noticee no.1. Therefore, in view of lack of any contradictory evidence, I conclude that self-trades executed by Noticee no.1 in the scrip of RKDL during the relevant period were not as a result of any undue scheme to defraud the investors and/or to cause artificial increase in volume in the scrip of RKDL during the investigation period.
22. In the context of self-trades, I note that Hon'ble Securities Appellate Tribunal in the matter of Smt. Krupa Sanjay Soni vs. SEBI, vide its order dated Jan 09, 2014, had held that "*a few instances of self-trades in themselves would not, ipso facto,* amount *to an objectionable trades*".
23. In view of the above observations, I am of the considered view that a charge of market manipulation as a result of self-trades executed by an entity should be made on the basis of strong and cogent evidence, which is lacking in this case. On comparing the volume of self-trades executed by Noticee no.1 on BSE and NSE during the aforementioned investigation period, with the total market volume that was registered in the scrip of RKDL on the respective stock exchanges i.e at BSE and NSE, I observe that the contribution of such self-trades by Noticee no.1 is miniscule and insignificant. Clearly, from the

observations made above on the impact of self-trades of Noticee no.1 vis-à-vis the overall price movement and/or the volume in the scrip of RKDL, I conclude that self-trades by Noticee no.1 were not executed with any manipulative intent. Hence, the allegation that Noticee no.1 has violated the provisions of Regulations 3(a), (b), (c), (d), 4(1), 4(2)(a) & 4(2)(g) of the SEBI (Prohibition of Fraudulent and Unfair Trade Practices relating to Securities Market) Regulations, 2003 is unsustainable and therefore, I conclude that Noticee no.1 is not liable for imposition of monetary penalty under the provisions of section 15 HA of the SEBI Act.

24. As regards the role of the stock broker i.e. Noticee no.2, it is relevant to mention the judgement of Hon'ble SC in the matter of *SEBI vs Rakhi Trading* decided on February 8, 2018. It was held by the Hon'ble SC in the aforesaid judgement that there was hardly any evidence on the brokers' involvement w.r.t facilitating transactions, so as to proceed against such brokers for violation of the Code of Conduct as prescribed in the Stock Broker Regulations and under the PFUTP Regulations. In this context, the relevant observations of Hon'ble SC w.r.t the role of stock brokers in the aforesaid matter of Rakhi Trading is mentioned as under:-

"44. As far as brokers are concerned, we are of the view that there is hardly any evidence on their involvement so as to proceed against them for violation of Regulation 7A of the Brokers Regulations and PFUTP Regulations. Merely because a broker facilitated a transaction, it cannot be said that there is violation of the Regulation. SEBI has not provided any material to suggest negligence or connivance on the part of the brokers. As held by this Court in Kishore R. Ajmera (supra), there are several factors to be considered. We would especially like to refer to the case of Angel Trading wherein the broker repeatedly wrote to the National Stock Exchange informing them about trades in the options segment that were executed at unrealistic prices and requesting them to put in mechanisms in the Options segment so that these trades are not allowed to enter the system. In the absence of any material provided by SEBI to prove the charges against the brokers, particularly regarding aiding and abetting fraudulent or unfair trade practices, we are of the opinion that the orders of SEBI against the brokers should be interfered with. Accordingly, the appeals filed against the brokers are dismissed."

25. In view of the observations made above and the fact that the allegation regarding

violation of the provisions of PFUTP Regulations by Noticee no.1 through self-trades could not be established, as discussed in the previous paragraphs, the allegation levelled against Noticee no. 2 that it had failed to exercise due skill and care in carrying out its duties as a stock broker is also without any merit and unsustainable. Hence, I am of the considered view that Noticee no. 2 is not liable for imposition of monetary penalty under section 15 HB of the SEBI Act.

ORDER

26. In view of the above observations/findings and in exercise of the powers conferred upon me under section 15I of the SEBI Act read with rule 5 of the Adjudication Rules, I hereby dispose of the Adjudication Proceedings against the Noticees viz. Ms. Bhanumati Dharamraj Giri and Comfort Securities Limited vide SCN dated June 29, 2021.

27. In terms of the provisions of Rule 6 of the Adjudication Rules, copies of this order are sent to the Noticees viz. Ms. Bhanumati Dharamraj Giri and Comfort Securities Limited and also to the Securities and Exchange Board of India.

Date: December 29, 2021	**Suresh B Menon**
Place: Mumbai	**ADJUDICATING OFFICER**