BEFORE THE ADJUDICATING OFFICER

SECURITIES AND EXCHANGE BOARD OF INDIA

[ADJUDICATION ORDER/AP/AS/2020-21/ Order/AP/AS/2020-21/11046-11063]

UNDER SECTION 15-I OF THE SECURITIES AND EXCHANGE BOARD OF INDIA ACT, 1992.

In respect of:

Noticee no.	Name of the Noticee	PAN
1	Paresh Nathalal Chauhan	AAPPC4494H
2	Gagabhai Desai Amul	AHDPD3526G
3	Nimish Pankajkumar Shah	AVXPS8823M
4	Dipali Nilay Patel	AHSPP7976M
5	Sushma Rani	ADHPR4637A
6	Sanjay Jethalal Soni HUF	AAWHS0331J
7	Krishna Kumar Periwal	AFMPP1445B
8	Mahesh Somabhai Desai	AMGPD0183P
9	Soni Sanjay Jethalal	BVSPS9741N
10	Soni Krupa Sanjay	BVSPS9740P
11	Kajal Nimish Shah	AVXPS8824N
12	Anant Sureshchandra Maloo	ACSPM2958D
13	Maloo Building Materials Pvt Ltd	AABCM0619D
14	Manan Vidhyapati Patel	AFJPP0452P
15	Hettich India Pvt Limited	AAACH8849M
16	Jatin Natvarlal Parekh	ACGPP9135R
17	Nina Ajay Maloo	AJXPM3547Q
18	Mukesh Himatlal Shah	ACAPS7083B

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

In the matter of Timbor Home Limited

1. M/s Timbor Home Limited (hereinafter referred to as "Company") was a listed company whose shares were listed on Bombay Stock Exchange Limited ("BSE") and National Stock Exchange Limited ("NSE") during the relevant period. SEBI undertook an investigation in the scrip of the Company during the period April 01, 2014 to May 30, 2015 (hereinafter referred to as "investigation period"). During the investigation it was observed that:

   a. The shareholding of 4 promoters, viz. Mr. Anant Sureshchandra Maloo, M/s Maloo Building Materials Pvt Ltd, Mr. Manan Vidhyapati Patel and Late Mr. Abhijeet Dwarkadas Daga (hereinafter collectively referred to as 'the promoters') of the Company had decreased from 29.90% to 0.29% as shown in the following table:

Table 1

Sr. No	Name	As on 31.03.2014		As on 30.06.2014		As on 30.09.2014		As on 31.12.2014		As on 31.03.2015		As on 30.06.2015	
		No. of shares	% of holding	No. of shares	% of holding	No. of shares	% of holding	No. of shares	% of holding	No. of shares	% of holding	No. of shares	% of holding
1	Anant Sureshchandra Maloo	11,97,750	8.12	818,750	5.55	18,750	0.13	18,750	0.13	18,750	0.13	-	-
2	Maloo Building Materials Pvt Ltd	12,77,250	8.66	1,277,250	8.66	12,250	0.08	12,250	0.08	-	-	-	-
3	Manan Vidhyapati Patel	11,25,000	7.62	11,25,000	7.62	5,000	0.03	5,000	0.03	5,000	0.03	5,000	0.03
4	Abhijeet Dwarkadas Daga	8,12,400	5.51	8,12,400	5.51	5,90,314	4.00	3,96,733	2.69	3,03,880	2.06	38,236	0.26
Total		**44,12,400**	**29.90**	**40,33,400**	**27.33**	**6,26,314**	**4.24**	**4,32,733**	**2.93**	**3,27,630**	**2.22**	**43,236**	**0.29**

b. During the investigation period, there were off-market transfers of shares of the Company amongst various entities. On the basis of off-market transaction data, Unique Client Code details received from the exchanges and MCA data, it was observed that twenty-one entities, *viz.* Paresh Nathalal Chauhan (Noticee No. 1), Gagabhai Desai Amul (Noticee No. 2), Nimish Pankajkumar Shah (Noticee No. 3), Dipali Nilay Patel (Noticee No. 4), Sushma Rani (Noticee No. 5), Sanjay Jethalal Soni HUF (Noticee No. 6), Krishna Kumar Periwal (Noticee No. 7), Mahesh Somabhai Desai (Noticee No. 8), Soni Sanjay Jethalal (Noticee No. 9), Soni Krupa Sanjay (Noticee No. 10), Kajal Nimish Shah (Noticee No. 11), Anant Sureshchandra Maloo (Noticee No. 12), Maloo Building Materials Pvt Ltd (Noticee No. 13), Manan Vidhyapati Patel (Noticee No. 14), Hettich India Pvt Limited (Noticee No. 15), Jatin Natvarlal Parekh (Noticee No. 16), Nina Ajay Maloo (Noticee No. 17) and Mukesh Himatlal Shah (Noticee No. 18) and Late Mr. Shirish Manilal Vyas, Late Mr. Rakesh Patel and Late Mr. Abhijeet Dwarkadas Daga were found to be connected to each other. The basis of connection amongst the Noticees and 3 entities was given in tabular form was enclosed as Annexure to the SCN.

c. The off-market transfers of shares of the Company by the promoters to other connected entities during the investigation period was noted as follows:

Table 2

Date of Transaction	Name of Transferees	Volume of Shares
1. Mr. Anant Sureshchandra Maloo		
31/03/2014	Ms. Sangeeta Jain	2,50,000
12/06/2014	Late Mr. Shirish Manilal Vyas	29,000
12/06/2014	Mr. Nimish Pankajkumar Shah	25,000
21/06/2014	Late Mr. Shirish Manilal Vyas	25,000
30/06/2014	Hettich India Pvt. Ltd.	3,00,000
10/07/2014	Mr. Nimish Pankajkumar Shah	2,50,000
23/07/2014	Mr. Nimish Pankajkumar Shah	5,50,000

06/04/2015	Late Mr. Shirish Manilal Vyas	18,750
Total		**14,47,750**
2. Late Mr. Abhijeet Dwarkadas Daga		
29/08/2014	Krishna Kumar Periwal	2,00,000
3. M/s Maloo Building Materials Pvt Ltd		
15/07/2014	Ms. Dipali Nilay Patel	65,000
22/07/2014	Mr. Nimish Pankajkumar Shah	2,00,000
24/07/2014	Ms. Sushma Rani	5,00,000
09/08/2014	Mr. Nimish Pankajkumar Shah	5,00,000
Total		**12,65,000**
4. Mr. Manan Vidhyapati Patel		
03/07/2014	Mr. Nimish Pankajkumar Shah	5,00,000
07/07/2014	Mr. Nimish Pankajkumar Shah	6,20,000
Total		**11,20,000**

The aforesaid transferees in turn transferred shares received to other 11 connected entities (refer para 16).

d. Out of the above 21 entities following 19 entities had traded in the scrip of the company at BSE and NSE during the investigation period. The details of their trades including the price and volume (day-wise open high, low and close) and integrated trade log of the scrip of the Company during the investigation period at BSE and NSE was provided to the said 21 entities as annexure to the SCN. The gross buy and sell transactions of these 19 entities at BSE and NSE during investigation period was observed as described in the following table:

Table 3

Si No.	Client Name	BSE				NSE			
		Gr. Buy	**Gr. Buy % to total Mkt Vol**	**Gr. Sell**	**Gr. Sell % to total Mkt Vol**	**Gr. Buy**	**Gr. Buy % to total Mkt Vol**	**Gr. Sell**	**Gr. Sell % to total Mkt Vol**
1	Soni Sanjay Jethalal	530870	5.09	264043	2.53	509484	5.33	383511	4.01
2	Sanjay Jethalal Soni(Huf)	400085	3.83	321409	3.08	538041	5.63	467081	4.89
3	Gagabhai Desai Amul	357357	3.42	280501	2.69	302850	3.17	333705	3.49
4	Soni Krupa Sanjay	351933	3.37	119741	1.15	86213	0.90	154505	1.62
5	Mahesh Somabhai Desai	157320	1.51	154759	1.48	72139	0.76	25000	0.26
6	Nimish Pankajkumar Shah	58220	0.56	82187	0.79	56041	0.59	71338	0.75
7	Kajal Nimish Shah	22538	0.22	23672	0.23	19020	0.20	19305	0.20
8	Dipali Nilay Patel	21023	0.20	26352	0.25	9591	0.10	43336	0.45
9	Sushma Rani	20384	0.20	385633	3.70	56203	0.59	665954	6.97
10	Shirish Manilal Vyas	540	0.01	51385	0.49	700	0.01	22605	0.24
11	Abhijeet Dwarkadas Daga	200	0.00	218863	2.10	0	0.00	300045	3.14
12	Krishna Kumar Periwal	0	0.00	63619	0.61	0	0.00	146381	1.53
13	Rakesh Patel	0	0.00	48300	0.46	10000	0.11	31700	0.33
14	Maloo Building Pvt ltd	0	0.00	12250	0.12	0	0.00	0	0.00
15	Paresh Nathalal Chauhan	0	0.00	1488625	14.26	0	0.00	1244075	13.02
16	Nina Ajay Maloo	10421	0.10	30818	0.30	9448	0.10	19564	0.21
17	Hettich India Limited	0	0.00	13380	0.13	0	0.00	8333	0.07
18	Mukesh Himatlal Shah	0	0.00	8000	0.08	0	0.00	7000	0.09
19	Jatin Natvarlal Parekh	0	0.00	2989	0.03	0	0.00	7011	0.07
	Total	1930891	**18.50**	3596526	**34.46**	**1669730**	**17.47**	**3950449**	**41.34**

e. From the above table, it was observed that the aforesaid 19 entities contributed to gross sell volume more in comparison to gross buy volume during the investigation period.

f. The scrip of the Company was suspended by BSE and NSE on October 29, 2015 due to liquidation proceedings initiated against the Company. The price volume movement in the scrip in BSE for the period before, during and after the investigation period was observed as given below:

Table 4 - BSE

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.)	Average No of shares traded daily during the period	Total number of shares traded during the period
Before investigation period	01/01/2014 to 31/03/2014	Price	12.25	11.13	9.13 (25/03/14)	13.25 (23/01/14)	982	57,913
		Vol.	330	1830	1 (17/01/14)	4866 (31/01/14)		
During investigation period	01/04/2014 to 30/05/2015	Price	11.65	5.20	3.26 (23/02/15)	20.20 (11/06/14)	37,675	1,04,36,053
		Vol.	2552	1	1 (08/05/15)	11,91,696 (19/08/14)		
After investigation period	01/06/2015 to 28/08/2015	Price	5.26	4.46	4.04 (28/08/15)	6.56 (13/07/15)	28,520	134,40,417
		Vol.	4	2322	1 (25/08/15)	311275 (09/07/15)		

g. It was observed that the price of the scrip at BSE opened at Rs 11.65, touched a low of Rs 3.26, high of Rs 20.20, and closed at Rs 5.20 during the investigation period. The scrip closed at Rs 2.21 in BSE on October 28, 2015.

h. The price volume data of the scrip in NSE for the period before, during and after the IP is given below:

Table 5 - 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. number of shares traded daily during the period	Total number of shares traded during the period
Before investigation period	01/01/2014 to 31/03/2014	Price	11.15	11.30	9.25 (22/03/14)	12.65 (11/02/14)	1090	63,195
		Vol.	55	3721	1 (10/02/14)	3727(28/03/14)		
During investigation period	01/04/2014 to 30/05/2015	Price	11.70	5.10	3.20 (11/03/15)	20.20 (11/06/14)	34,627	95,57,104
		Vol.	3491	2101	1 (30/04/15)	9,64,210 (19/08/14)		
After investigation period	01/06/2015 to 28/08/2015	Price	5.2	4.45	4.2 (28/08/15)	6.3 (13/07/15)	24,451	11,73,668
		Vol.	4	605	1 (25/08/15)	2,37,000 (08/07/15)		

i. It was observed that the price of the scrip at NSE opened at Rs 11.70, touched a low of Rs 3.20, high of Rs 20.20, and closed at Rs 5.10 during the investigation period. The scrip closed at Rs 2.75 in NSE on October 28, 2015.

j. The top 10 buy and sell Clients who had traded in the scrip of the company during investigation period at BSE and NSE was noted as per the following tables:

Table 6 - BSE

Buy Client Name	Gross Buy Volume	% of Buy Traded	Sell Client Name	Gross Sell Volume	% of Sell Traded Volume
Soni Sanjay Jethalal	5,30,870	5.08	Paresh Nathalal Chauhan	14,88,625	14.26
Sanjay Jethalal Soni(Huf)	4,00,085	3.83	Real Marketing Pvt Ltd	4,36,000	4.17
Gagabhai Desai Amul	3,57,357	3.42	Buddhisagar Shares And Services Private Limited	3,90,169	3.73
Omprakash Ugamraj Bhandari	3,56,700	3.41	Sushma Rani	3,85,633	3.69
Soni Krupa Sanjay	3,51,933	3.37	Sanjay Jethalal Soni(Huf)	3,21,409	3.08
Indu Bhandari	3,27,500	3.13	Shree Mallikarjun Trad Invest Private Limited	3,16,166	3.03
Viras Manishkumar Sadiwala	2,87,048	2.75	Viras Manishkumar Sadiwala	2,87,048	2.75
Shree Mallikarjun Trad Invest Private Limited	2,71,342	2.60	Gagabhai Desai Amul	2,80,501	2.68
Real Marketing Pvt Ltd	2,59,211	2.48	Soni Sanjay Jethalal	2,64,043	2.53
Vasupujya Trades Private Limited	2,56,000	2.45	Gajanan Enterprises	2,29,103	2.19
Total of Top 10 Clients	**3,398,046**	**32.56**	**Total of Top 10 Clients**	**43,98,697**	**42.15**
Total of Remaining Clients	**70,38,007**	**67.44**	**Total of Remaining Clients**	**60,37,355**	**57.85**
Total Traded Volume	**1,04,36,053**	**100**	**Total Traded Volume**	**1,04,36,053**	**100**

It was observed that the top 10 clients accounted for 32.56% of the total gross buy side volume, out of which aforementioned 4 connected entities accounted for 15.7% of the gross traded buy volume. The top 10 clients accounted for 42.15% of the total gross sell side volume, out of which aforementioned 5 connected entities accounted for 26.24% of the gross traded sell volume.

Table 7 - NSE

Buy Client Name	**Gross Buy**	**% of Gross Buy to Mkt. Volume**	**Client Name**	**Gross Sell**	**% of Gross Sell to Mkt. Volume**
Sanjay Jethalal Soni Huf	5,38,041	5.63	Paresh Nathalal Chauhan	12,44,075	13.02
Soni Sanjay Jethalal	5,09,484	5.33	Sushma Rani	6,65,954	6.97
Real Marketing Pvt Ltd	3,96,000	4.14	Sanjay Jethalal Soni Huf	4,67,081	4.89
Gagabhai Desai Amul	3,02,850	3.17	Soni Sanjay Jethalal	3,83,511	4.01
Viras Manishkumar Sadiwala	3,00,000	3.14	Meet Sumanbhai Patel	3,63,960	3.81
Buddhisagar Shares And Services Private Limited	2,79,140	2.92	Gagabhai Desai Amul	3,33,705	3.49
Jayeshkumar N Joshi	2,42,447	2.54	Abhijeet Dwarkadas Daga	3,00,045	3.14
Ankitkumar Dineshkumar Raval	2,40,491	2.52	Viras Manishkumar Sadiwala	3,00,000	3.14
Shree Mallikarjun Trad Invest Private Limited	2,12,821	2.23	Real Marketing Pvt Ltd	2,86,211	3.00
Jigneshbhai Hiralal Shah	2,10,000	2.20	Ankitkumar Dineshkumar Raval	2,78,792	2.92

Total Of Top 10 Clients	**32,31,274**	**33.81**	**Total Of Top 10 Clients**	**46,23,334**	**48.38**
Total Of Remaining Clients	**63,25,830**	**66.19**	**Total Of Remaining Clients**	**49,33,770**	**51.63**
Total Traded Volume	**95,57,104**	**100.00**	**Total Traded Volume**	**95,57,104**	**100.00**

It was observed that the top 10 clients accounted for 33.81% of the total gross buy side volume, out of which aforementioned 3 connected entities accounted for 14.13% of the gross traded buy volume. The top 10 clients accounted for 48.38% of the total gross sell side volume, out of which aforementioned 6 connected entities accounted for 35.52% of the gross traded sell volume.

k. During the period, 01/04/2014 to 24/07/2014 (Price Rise period), it was observed that the price of the scrip at BSE opened at Rs 11.65 (previous trading day closed at Rs 11.13), touched a high of 20.20 and closed at 12.70. Out of the aforesaid 21 connected entities, 10 connected entities had traded as buyer during this period. The LTP analysis for trades of ten connected entities as buyers during the investigation period is given below:

Table 8 - BSE

Buyer Name	**All Trades**			**LTP >0**			**LTP < 0**			**LTP = 0**		**% of Positive LTP to Total Market Positive LTP**
	Net LTP	**Sum of Qty**	**No. of Trades**	**LTP impact**	**Qty Traded**	**No of Trades**	**LTP impact**	**Qty Traded**	**No of Trades**	**Qty Traded**	**No of Trades**	
Nimish Pankajkumar Shah	24.87	35753	211	31.86	8329	73	-6.99	9506	37	17918	101	14.33
Mahesh Somabhai Desai	2.10	141920	419	12.95	24828	98	-10.85	26994	93	90098	228	5.82
Soni Sanjay Jethalal	1.90	82659	765	35.25	12803	177	-33.35	3925	260	65931	328	15.85
Soni Krupa Sanjay	0.85	185141	1232	6.35	64065	53	-5.50	22561	52	98515	1127	2.86
Gagabhai Desai Amul	0.70	151918	1031	9.95	6488	74	-9.25	8313	81	137117	876	4.47
Shirish Manilal Vyas	0.00	540	3	0.05	2	1	-0.05	40	1	498	1	0.02
Sushma Rani	-0.05	4000	28	0.00	0	0	-0.05	100	1	3900	27	0.00
Sanjay Jethalal Soni(Huf)	-0.30	59005	45	0.10	2500	1	-0.40	5010	5	51495	39	0.05
Kajal Nimish Shah	-2.09	12438	41	4.00	5906	13	-6.09	3580	14	2952	14	1.80
Nina Ajay Maloo	-2.38	10421	58	2.88	466	11	-5.26	6881	16	3074	31	1.30
Group Total	25.60	683795	3833	103.39	125387	501	-77.79	86910	560	471498	2772	46.49
Market Total	**1.57**	**1619074**	**6788**	**222.39**	**243618**	**940**	**-220.82**	**223093**	**1079**	**1152363**	**4769**	**100**

l. From the above table 8 the following was observed:

i. The aforementioned ten connected entities contributed Rs 103.39 to positive LTP (46.49% of total market positive LTP) in 501 trades with a trading volume 1,25,387 shares during the price rise period.

ii. Five connected entities *viz.* Mr. Nimish Pankajkumar Shah, Mr. Mahesh Somabhai Desai, Mr. Soni Sanjay Jethalal, Ms. Soni Krupa Sanjay, Mr. Gagabhai Desai Amul contributed to positive LTP of Rs 96.36 (43.33% of total market positive LTP) in 475 trades with a trading volume of 1,16,513 shares.

iii. The trades executed by aforesaid five connected entities were further analysed and it was observed that that there were 196 trades where the buy orders were placed before the corresponding sell orders, which contributed Rs. 19.14 to positive LTP (8.60% of total market positive LTP). In remaining 279 trades, the positive LTP contribution was Rs. 77.22 (34.73% of total market positive LTP).

iv. The analysis of trades of said connected entities further revealed that out of 475 trades that contributed positive LTP of Rs 96.36, 106 trades were executed where the counter parties belonged to the group of connected entities which resulted in an LTP of Rs. 13.63 (6.13% of total market positive LTP). The LTP analysis of the order log and trade log was done of these five connected entities showed the following:

Table 9

Sl. no	**Buyer Name**	**No. of trades (LTP >0)**	**when buy order qty of 1 share only**		**Positive LTP Contribution when buy order qty 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**
			Positive LTP contribution	**No. of trades**	**Positive LTP contribution**	**No. of trades**	**Positive LTP contribution**	**No. of trades**		
1	Nimish Pankajkumar Shah	73	22.69	45	3.49	7	5.68	21	31.86	14.33
2	Mahesh Somabhai Desai	98	8.10	39	2.90	41	1.95	18	12.95	5.82
3	Soni Sanjay Jethalal	177	30.15	140	1.75	13	3.35	24	35.25	15.85
4	Soni Krupa Sanjay	53	3.15	23	0.10	1	3.10	29	6.35	2.86
5	Gagabhai Desai Amul	74	4.25	21	3.20	32	2.50	21	9.95	4.47
Total		**475**	**68.34**	**268**	**11.44**	**94**	**16.58**	**113**	**96.36**	**43.33**

v. It was observed that out of 475 buy trades of five Noticees contributing positive LTP of Rs 96.36, for 268 trades buy order quantity was 1 share, which contributed to positive LTP of Rs. 68.34 (30.73% of total market positive LTP). Further, for 94 trades, buy order quantity was in the range of 2-10 shares, which contributed positive LTP of Rs 11.44, i.e., 5.14% of total market positive LTP. Hence, it was observed that in the majority of the trades, all the five connected entities had put their buy orders with quantity of shares in single digits i.e. mostly from 1 to 10 shares whereas sell orders were available with quantity in the range of 1 to 50000 shares (Average of sell orders was 2500 shares).

vi. It was observed that these five connected entities contributed 35.47% of total market positive LTP, by putting orders for small quantity i.e. 1-10 shares. Following table summarizes the top 5 trades of abovementioned five connected entities in terms of positive LTP contribution:

Table 10

S.N.	Date of transaction	Seller name	Buy order volume	Sell order volume	LTP contribution (Rs)	LTP contribution (%)
1	11.04.2014	Nimish Pankajkumar Shah	1	500	1.15	0.52
2	16.04.2014	Nimish Pankajkumar Shah	1	1000	1.09	0.49
3	14.05.2014	Nimish Pankajkumar Shah	1	100	1.09	0.49
4	02.04.2014	Nimish Pankajkumar Shah	5	500	1.05	0.47
5	25.04.2014	Nimish Pankajkumar Shah	1	350	0.99	0.45
Total			**9**	**2450**	**5.37**	**2.41**

vii. Thus, from the trading pattern it has been alleged that these entities were not acting as genuine buyers and had no *bona fide* intention to buy because in-spite of sufficient sell order quantity being available in the market, they bought small quantity of shares in each transaction. By these trades, they were instrumental in establishing a price higher than the last traded price and, thus, contributed to such price rise in the scrip with most of their trades. In view of the repeated nature of such trades by these five connected entities, the culpability in increasing the price is established. Hence, it has been alleged that these five connected entities were acting in concert and contributed to manipulation in the scrip price and created a misleading appearance of trading in the scrip by such trades.

m. During the aforesaid price rise period i.e. 01/04/2014 to 24/07/2014, the price of the scrip at NSE opened at Rs 11.70 (previous trading day closed at 11.30), touched a high of Rs 19.55 and closed at Rs 12.70. Out of the aforesaid 21 connected entities, 10 connected entities have traded as buyer during this period. The LTP analysis for trades of ten connected entities as buyer is given below:

Table 11 - NSE

Buyer Name	All Trades			LTP >0			LTP < 0			LTP = 0		% of Positive LTP to Total Market Positive LTP
	Net LTP	Sum of Qty	No. of Trades	LTP impact	Qty Traded	No of Trades	LTP impact	Qty Traded	No of Trades	Qty Traded	No of Trades	
Nimish Pankajkumar Shah	21.35	37133	175	24.30	9389	75	-2.95	4321	18	23423	82	14.70
Soni Sanjay Jethalal	1.90	116316	3046	31.05	8270	130	-29.15	3355	395	104691	2521	18.78
Nina Ajay Maloo	0.85	9448	41	1.90	1889	9	-1.05	3761	6	3798	26	1.15
Sanjay Jethalal Soni Huf	0.75	84386	147	1.10	4953	16	-0.35	1601	7	77832	124	0.67
Mahesh Somabhai Desai	0.35	44939	62	0.40	14994	2	-0.05	839	1	29106	59	0.24
Shirish Manilal Vyas	0.05	700	6	0.05	200	1	0.00	0	0	500	5	0.03
Sushma Rani	0.05	5000	9	0.05	352	1	0.00	0	0	4648	8	0.03
Soni Krupa Sanjay	-0.55	49061	249	1.80	2692	14	-2.35	5201	27	41168	208	1.09
Kajal Nimish Shah	-1.50	12420	40	2.60	2490	11	-4.10	6092	14	3838	15	1.57
Gagabhai Desai Amul	-2.35	102036	468	9.25	36234	49	-11.60	13011	154	52791	265	5.60
Group Total	20.90	461439	4243	72.50	81463	308	-51.60	38181	622	341795	3313	43.86
Market Total	**1.45**	**1334384**	**7659**	**165.30**	**176766**	**695**	**-163.85**	**123085**	**1125**	**1034533**	**5839**	**99.99**

i. From the above table 11, it was observed that aforesaid ten connected entities contributed Rs. 72.50 to positive LTP (43.86 % of total market positive LTP) in 308 trades with a trading volume 81,463 shares during the price rise period.

ii. Two connected entities *viz,* Nimish Pankajkumar Shah (Noticee No. 3) and Soni Sanjay Jethalal (Noticee No. 9) contributed to positive LTP of Rs. 55.35 (33.48% of total market positive LTP) in 205 trades with a trading volume 17,659 shares.

iii. The trades executed by these two connected entities were further analysed and it was observed that that there were 24 trades where the buy orders were placed before the corresponding sell orders, which contributed Rs. 5.35 to positive LTP (3.24% of total market positive LTP). In remaining 181 trades, the positive LTP contribution was Rs. 50.00 (30.24% of total market positive LTP).

iv. The analysis of trades of said two connected entities further revealed that out of 205 trades that contributed positive LTP Rs 55.35, 15 trades were executed where the counter parties belonged to the group of Noticees which resulted in an LTP of Rs. 5.05 (3.05% of total market positive LTP). In remaining 190 trades the LTP contribution was Rs. 50.30 (30.43% of total market positive LTP) and the counterparties were scattered and unconnected to the entities.

v. The analysis of the order log and trade log was done of said two connected entities and following were observed:

Table 12

Sl. no	Buyer Name	No. of trades (LTP >0)	when buy order qty of 1 share only		Positive LTP Contribution when buy order qty 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
			Positive LTP contribution	No. of trades	Positive LTP contribution	No. of trades	Positive LTP contribution	No. of trades		
1	Nimish Pankajkumar Shah	75	12.95	34	1.55	4	9.80	37	24.30	14.70
2	Soni Sanjay Jethalal	130	25.85	90	2.30	13	2.90	27	31.05	18.78
Total		**205**	**38.80**	**124**	**3.85**	**17**	**12.70**	**64**	**55.35**	**33.48**

vi. It was observed that, out of 205 buy trades of said two connected entities contributing positive LTP of Rs 55.35, for 124 trades, buy order quantity was 1 share, which contributed to positive LTP of Rs. 38.80 (23.47% of total market positive LTP). Further, for 17 trades, buy order quantity was in the range of 2-10 shares, which contributed positive LTP of Rs 3.85, i.e., 2.32% of total market positive LTP. Hence, it was observed that in the majority of the trades, the two connected entities had put their buy orders with quantity of shares in single digits i.e. mostly from 1 to 10 shares whereas sell orders were available with quantity in the range of 1 to 8832 shares (Average of sell orders was 342 shares).

vii. It was observed that these two Noticees contributed 25.80% of total market positive LTP, by putting orders for small quantity i.e. 1-10 shares. Below table summarizes the top 5 trades of abovementioned two connected entities in terms of positive LTP contribution:

Table 13

S.No.	Date of transaction	Seller name	Buy order volume	Sell order volume	LTP contribution (Rs)	LTP contribution (%)
1	20.05.2014	Nimish Pankajkumar Shah	9	500	1.35	0.82
2	21.05.2014	Nimish Pankajkumar Shah	1	320	1.30	0.79
3	15.07.2014	Soni Sanjaykumar Jethalal	1	998	1.25	0.76
4	17.07.2014	Soni Sanjaykumar Jethalal	1	5	1.10	0.67
5	18.07.2014	Soni Sanjaykumar Jethalal	1	1000	1.10	0.67
Total			**13**	**2823**	**6.10**	**3.69**

viii. Thus, from the trading pattern it has been alleged that these entities were not acting as genuine buyers and had no *bona fide* intention to buy because in-spite of sufficient sell order quantity being available in the market, they bought small quantity of shares in each transaction. By these trades, they were instrumental in establishing a price higher than the last traded price and, thus, contributed to such price rise in the scrip with most of their trades. In view of the repeated nature of such trades by these two connected entities, their culpability in increasing the price is established. Hence it has been alleged that these two connected entities were acting in concert and contributed to manipulation in the scrip price and created a misleading appearance of trading in the scrip by such trades as explained above.

SMS Circulation

2. It was also observed that from July 25, 2014 bulk SMS were circulated from user (DM-70000) of Aircel with recommendation to buy the shares of the Company. The SMS so circulated contained message *"BEST BUY TIMBOR HOME AT BSE (533444) & NSE (24316) AT CMP 14 SHORTTERMTGT@17 THIS WEEKN 25 WITHIN NEXT WEEK WITH SAFESIDE SL 11.5 LONG TERM TGT 60".* Based on the timing of bulk SMS circulation period, the investigation period was divided into pre SMS circulation period i.e. from 01/04/2014 to 24/07/2014 (Patch 1) and post SMS circulation period i.e. from 25/07/2014 to 30/05/2015 (Patch 2). During the pre SMS circulation period price rise were observed with very low trading volume. Thereafter, price was observed to have fallen till the end of the investigation period. However, the trading volumes were very high during the post SMS circulation period. The following patches were identified, details of which are given as under:

Table 14

Patches	Price/Volume trend	Period		Exchange	Price Movement				Average Daily Volume
		From	To		Open	High	Low	Close	
Patch-I (Pre SMS Circulation Period)	Price rise with low trading volume	01/04/2014	24/07/2014	BSE	11.65	20.20	10.58	12.70	20757
				NSE	11.10	20.20	10.50	12.60	17107
Patch-II (Post SMS Circulation Period)	Price fall with high trading volume	25/07/2014	30/05/2015	BSE	13.20	13.80	3.26	5.20	44306
				NSE	13.25	13.85	3.20	5.10	41528

a. It was observed that the aforesaid four promoters *viz.* Anant Sureshchandra Maloo, Maloo Building Material Pvt Ltd, Manan Vidhyapati Patel and Late Abhijeet Dwarkadas Daga had transferred a total of 37,82,750 shares before and after circulation of bulk SMS shares directly or indirectly to other connected entities.

b. Vide email dated March 23, 2016, Aircel was asked to provide details of registered user of DM-070000, who had sent SMS to different entities during the relevant period. Vide email dated March 30, 2016, Aircel provided registration details of DM-70000 and confirmed that said number was registered by telemarketer named Ziply Sms (Contact Person: Aniketh Jain, MD & CEO, Solutions Infini Technologies (I) Pvt. Ltd).

c. Vide email dated April 01, 2016, Aniketh Jain was asked to explain the reason behind circulation of such SMS and whether he had any connection with the Company and its directors. Vide email dated April 02, 2016, Mr. Aniketh Jain stated that *'the company provides a platform for bulk SMS circulation and SMS was circulated by Mr. Niraj Shah, Director, Zen Enterprises'*. Thereafter, an email dated April 06, 2016 was sent to Mr. Niraj Shah and he was asked to explain the reason behind circulation of such SMS and whether he had any connection with the Company and its directors. Vide email dated April 06, 2016, Mr. Niraj Shah stated as follows:

   i. ZEN Enterprises is reseller of Solution Infini for sales of bulk SMS circulations services in Ahmedabad, Gujrat. Further, Niraj Shah stated that bulk SMS were sent from the promotional account and the said account was opened by Mr. Soni Sanjay Jethalal (Noticee No. 9).

   ii. He had provided login user id (Shreeji Securities) and password to Mr. Soni Sanjay Jethalal and he does not have any information about bulk SMS details sent by Mr. Soni Sanjay Jethalal.

d. In addition, Mr. Niraj Shah also provided ledger statement of Shreeji securities as an evidence showing payment received and sales made to Mr. Soni Sanjay Jethalal through his login account shreeji securities.

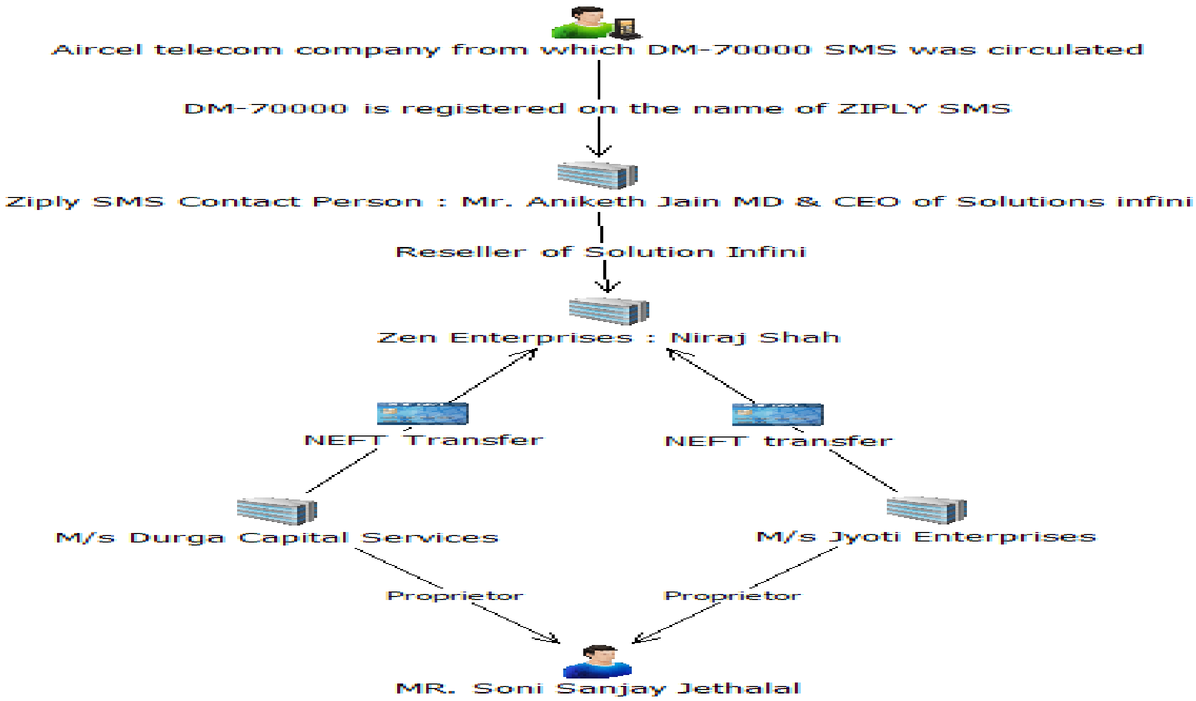
e. Vide email dated April 06, 2016, Mr. Soni Sanjay Jethalal was asked to provide reasons behind circulation of such SMS and whether he had any connection with the Company and its directors. Further, a reminder mail dated April 11, 2016 was sent to Mr. Soni Sanjay Jethalal. In reply, vide email dated April 12, 2016, Mr. Soni Sanjay Jethalal stated that, he is not connected with the Company or its directors. Further, he stated that he had bought shares based on some information received regarding Company expansion. He did not substantiate or provide any background regarding source through whom information was received by him. However, Mr. Soni Sanjay Jethalal did not provide any reply with regard to circulation of bulk SMS.

f. An email was sent to Mr. Aniketh Jain on June 28, 2016 seeking the details of number of SMS sent by Soni Sanjay Jethalal through his login ID Shreeji Securities. Vide email dated August 16, 2016, Mr. Aniketh Jain provided the list of mobile numbers to whom SMS were sent from Shereeji Securities. It was observed that a total of 7,78,719 SMS were send from login id Shreeji Securities and SMS circulation period was July 25, 2014 to July 28, 2014.

g. Vide email dated February 22, 2018, Mr. Niraj Shah was asked to provide bank statement showing amount received from Mr. Soni Sanjay Jethalal. Mr. Niraj Shah, vide email dated February 22, 2018 provided his bank statement showing money received towards bulk SMS circulation on behalf of Mr. Soni Sanjay Jethalal. It was observed that there were two entries, each of amount Rs. 67,416 received on July 25, 2014 and July 28, 2014 from M/s Durga Capital Services and M/s Jyoti Enterprise respectively. The amount reflected in bank statements matched with the amount mentioned in the ledger account of Shreeji Securities in the books of Zen Enterprises.

h. Vide email dated February 26, 2018, ICICI Bank was requested to provided bank account statement of M/s Durga Capital Services and M/s Jyoti Enterprise for the period April 01, 2014 to December 31, 2014 along with their KYC details. Vide email dated February 26, 2018, ICICI Bank provided the bank statements and vide email dated March 01, 2018, provided KYC details. On perusal of KYC details of M/s Durga Capital Services and M/s Jyoti Enterprise, it was found that Mr. Soni Sanjay Jethalal (Noticee No. 9) was proprietor of the both the aforesaid entities and operated both the bank accounts.

i. In view of above, SEBI noted that the payment for the circulation of bulk SMS was routed by Mr. Soni Sa jay Jethalal through M/s Durga Capital Services and M/s Jyoti Enterprises on behalf of account of Shreeji Securities with Zen Enterprises opened by Mr. Soni Sanjay Jethalal. Therefore, Mr. Soni Sanjay Jethalal had circulated bulk SMS containing buy recommendation in the scrip. Further, it was also observed that Mr. Soni Sanjay Jethalal (who circulated bulk SMS) is related to promoters of the company, as per basis of connection given in tabular form. Pictorial representation of bulk SMS circulation is as follows:



j. The reasons behind circulation of bulk SMS by Mr. Soni Sanjay Jethalal were sought from him through Summons dated April 28, 2016. However, the Soni Sanjay Jethalal did not provide the information. Subsequently, reminders were sent to Mr. Soni Sanjay Jethalal vide letters dated August 10, 2016 and September 16, 2016. However, Mr. Soni Sanjay Jethalal failed to provide the requisite information.

3. It was observed that there was spurt in traded volumes in the scrip soon after the day of circulation of bulk SMS i.e. July 25, 2014. The table containing comparison of volumes in the scrip, pre and post circulation of bulk SMS is given below (5 days' comparison of volume at exchange of pre and post SMS circulation period):

Table - 15

Trading volume pre SMS circulation			Trading volume post SMS circulation		
Date	**BSE Volume**	**NSE Volume**	**Date**	**BSE Volume**	**NSE Volume**
18-Jul-14	1,41,828	1,17,579	25-Jul-14	1,22,699	86,963
21-Jul-14	2,90,981	1,20,621	28-Jul-14	3,68,907	3,25,535
22-Jul-14	1,72,303	97,494	30-Jul-14	3,16,710	4,00,665
23-Jul-14	1,09,162	1,22,002	31-Jul-14	3,52,006	3,07,662
24-Jul-14	1,18,305	87,289	01-Aug-14	4,40,857	6,76,961
Total	**8,32,579**	**5,44,985**		**16,01,179**	**17,97,786**

From the above table, it was observed that there was substantial rise in volumes immediately after circulation of bulk SMS, which could be attributed to the impact of such bulk SMS.

Modus Operandi

4. In view of above observations following *modus operandi* was observed:

   a. It was observed that aforesaid four promoters of the Company had transferred shares directly or indirectly to other connected entities (Majority of shares were transferred during June and July 2014). In turn, the connected entities sold those shares in the market.

   b. Prior to sending bulk SMS, connected entities bought small quantity of shares in each transaction which contributed to increase in scrip price. Around the same time, promoters of the Company transferred shares to other connected entities through off-market route. Subsequently, one of the entities, *viz.* Mr. Soni Sanjay Jethalal (Noticee No. 9), circulated bulk SMS during July 25, 2014 to July 28, 2014 containing unsolicited advice recommending purchase of shares of the Company and lured unsuspecting gullible investors to buy the shares of the Company. Pursuant to sending bulk SMS in Patch II of the investigation period, 17 connected entities and 2 promoters *viz.* M/s Maloo building Material Pvt Ltd and Late Mr. Abhijeet Dwarkadas Daga, off-loaded 26,15,280 shares at BSE and 17 connected entities and one promoter *viz.* Late Mr. Abhijeet Dwarkadas Daga offloaded 31,99,688 shares at NSE.

   c. In Patch II, aforesaid 21 connected entities had traded among themselves for 8,49,220 shares at BSE and 8,31,895 shares at NSE, and thereby created artificial volume, which invited the attention of gullible investors towards the scrip. The average daily trading volumes during Patch I (April1, 2014 to July 24, 2014) i.e. before the bulk SMS circulation period were low *vis-a-vis* average daily trading volumes during Patch II (July 25, 2014 to May 30, 2015) i.e. after circulation of bulk SMS.

   d. In the facts and circumstances stated above, it was observed that the aforesaid 21 connected entities including Noticees No. 1 – 18, devised a scheme and artifice to dump shares on July 25, 2014 onwards, in a pre-planned manner i.e. by sending unsolicited bulk SMS to investors and inducing them to buy the scrip.

This completed the chain of events which started with the off-market share transfer by promoters to connected entities and price manipulation by connected entities. Subsequently, one of the connected entities sent SMS with buy recommendation and, thereafter, other connected entities dumped the shares of the Company on unsuspecting gullible investors.

5. In view of the above observations, following was alleged:

   a. It was alleged that the Noticees No. 1-18 along with 3 others connected entities *viz.* Late Mr. Abhijeet Dwarkadas Daga, Late Mr. Rakesh Patel and Late Mr. Shirish Manilal Vyas acted in concert and were part of scheme to plant unsolicited and misleading advice recommending purchase of shares of the company to induce unsuspecting gullible investors to purchase shares of the Company and thereafter offloaded large number of shares in the secondary market pursuant to such misleading recommendation with a view to defraud unsuspecting gullible investors. The aforesaid Noticees No. 1-18 were part of a scheme, plan, devise or artifice to defraud gullible investors.

   b. It was further alleged that the Noticees *viz.* Gagabhai Desai Amul (Noticee No. 2), Nimish Pankajkumar Shah (Noticee No. 3), Mahesh Somabhai Desai (Noticee No. 8), Soni Sanjay Jethalal (Noticee No. 9) and Soni Krupa Sanjay (Noticee No. 10) had indulged in manipulative contribution of LTP. By their trades, these Noticees manipulated the scrip price and created a misleading appearance of trading in the scrip.

   c. It was observed from the trading pattern of connected entities and the off-market transfers between them, that the promoters *viz.* Mr. Anant Sureshchandra Maloo (Noticee No. 12), Maloo Building Materials Pvt Ltd. (Noticee No. 13), Manan Vidhyapati Patel (Noticee No. 14) and Late Mr. Abhijeet Dwarkadas Daga had made a profit of Rs 3,78,23,499.92, which is alleged to be ill-gotten gains. The details of 37,82,750 shares transferred from the promoters to the connected entities provided in above table 2.

   d. The aforesaid promoters had transferred shares to the fourteen entities *viz.* Paresh Nathalal Chauhan (Noticee No. 1), Gagabhai Desai Amul (Noticee No. 2), Nimish Pankajkumar Shah (Noticee No. 3), Dipali Nilay Patel (Noticee No. 4), Sanjay Jethalal Soni (Noticee No. 5), Krishna Kumar Periwal (Noticee No. 7), Mahesh Somabhai Desai (Noticee No. 8), Mr. Soni Sanjay Jethalal (Noticee No. 9), Soni Krupa Sanjay (Noticee No. 10), Kajal Nimish Shah (Noticee No. 11), Jatin Natvarlal Parekh (Noticee No. 16), Mukesh Himatlal Shah (Noticee No. 18), Late Mr. Shirish Manilal Vyas and Late Mr. Rakesh Patel. The details of sum of trades and sum of values of sale of shares by aforesaid fourteen connected entities was enclosed with SCN and is as follows:

Table - 16

Name of the entity	NSE		BSE		Total both the exchange	
	Traded qty	traded value	traded qty	traded value	Total traded qty	traded value
Paresh Nathalal Chauhan	876403	8485401.25	898297	9746733.04	1774700	18232134.29
Sanjay Jethalal Soni Huf	408218	3582962.95	267715	2404650.42	675933	5987613.37
Shirish Manilal Vyas	4000	49760.7	4990	60660.75	8990	110421.45
Jatin Natvarlal Parekh	7011	79168	2989	26404.2	10000	105572.2
Singh Sushma Rani P	747	9176.75	1185	14689.06	1932	23865.81
Krishna Kumar Periwal	137	943	13480	93820.8	13617	94763.8
Rakesh Patel	19100	183001.75	29000	270216.28	48100	453218.03
Amul G Desai	250708	2767796.35	177872	1786630.43	428580	4554426.78
Dipali Nilay Patel	27979	301972.6	15207	180821.69	43186	482794.29
Mahesh Somabhai Desai	25000	265000	54735	485525.5	79735	750525.5
Nimish P Shah	1600	14160	2100	23185	3700	37345
Kajal Nimish Shah	2800	23750.7	2400	25650	5200	49400.7
Krupa Sanjay Soni	108690	1122331.45	80879	888248.42	189569	2010579.87
Soni Sanjay Jethalal	298775	2942478.25	200733	1988360.58	499508	4930838.83
Total	**2031168**	**19827903.75**	**1751582**	**17995596.17**	**3782750**	**37823499.92**

e. The profit made by Noticees No. 1-5, 7-11, 16 and 18 along with two connected entities *viz.* Late Mr. Rakesh Patel and Late Mr. Shirish Manilal Vyas is as follows:

Table - 17

Sale Consideration	Sale Value Rs. (A)	Cost Value Rs. (B)	Profit (A-B)
Sale Consideration is available in actual and will be same for the all option.	3,78,23,499.92	0 (37,82,750*0)	3,78,23,499.92

Note: Cost of Acquisition for Promoters shares has been assumed as NIL, since the Company has gone into liquidation proceedings and post suspension of scrip, no worth could be attributed to the value of shares.

6. In view of aforementioned observations, it was alleged that the aforesaid fraudulent acts of the Noticees resulted into violations of the provisions of the SEBI (Prohibition of Fraudulent and Unfair Trade Practices Relating to Securities Market) Regulations, 2003 (hereinafter referred to as "PFUTP Regulations") as follows:

a. Noticees No. 1 – 18 violated Regulations 3 (a), (b), (c), (d) and 4 (1), 4(2)(f) and (r) of the PFUTP Regulations for being part of the fraudulent scheme, plan, devise or artifice to defraud gullible investors.

b. Noticees No. 2, 3, 8, 9 and 10 violated Regulations 3 (a), (b), (c), (d) and 4 (1), 4(2)(a) and (e) of the PFUTP Regulations for manipulating the price of the scrip and creating misleading appearance of trading in the scrip of the Company.

7. By a *communication-order* dated January 07, 2020, this case which was pending before erstwhile Adjudicating Officers, was transferred to the undersigned with an advice that except for the change of the Adjudicating Officer, the other terms and conditions of the original orders *'shall remain unchanged and shall be in full force and effect'*.

8. On receipt of records, it was noted that on being *prima facie* satisfied that there are sufficient grounds to inquire and adjudicate certain alleged violations of the provisions of the PFUTP Regulations by the Noticees. SEBI, vide a *communication - order* dated August 21, 2018, appointed Shri Santosh Shukla, Chief General Manager ('erstwhile AO'), under section 15I of the SEBI Act as adjudicating officer under Rule 3 of the SEBI (Procedure for Holding Inquiry and Imposing Penalties by Adjudicating Officer) Rules, 1995 (hereinafter referred to as 'SEBI Adjudication Rules'), to inquire and adjudge under Section 15HA of the SEBI Act by the Noticees. The relevant provisions of the PFUTP Regulations are as follows:

<u>PFUTP Regulations</u>

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 thereunder;

(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 thereunder.

4.Prohibition of manipulative, fraudulent and unfair trade practice

(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;

(f) publishing or causing to publish or reporting or causing to report by a person dealing in securities any information which is not true or which he does not believe to be true prior to or in the course of dealing in securities;

(r) planting false or misleading news which may induce sale or purchase of securities.

9. Accordingly, in terms of Rule 4(1) of the SEBI Adjudication Rules read with section 15I of the SEBI Act, the notice to show cause no. EAD/SS/AKS/OW/P/33352/1-21/2018 dated December 05, 2018 (hereinafter referred as 'SCN') was issued to the Noticees by the erstwhile AO, calling upon them to show cause as to why an inquiry should not be held against them in terms of Rule 4 of the SEBI Adjudication Rules and penalty be not imposed under Section 15HA of the SEBI Act for the aforesaid alleged violations of the provisions the PFUTP Regulations by the Noticees.

10. The SCN was duly served upon the Noticees *via* Speed Post Acknowledgement Due/ Hand Delivery/ Affixture/ Paper Publication. The details of the service of the SCN to the Noticees and their replies are as follows:

Table 18

Noticee no.	Name of the Noticee	Mode & Date of Service/ Date	Date of Reply/ Additional Written Submissions
1	Paresh Nathalal Chauhan	Affixture (19.1.2019) & Paper Publication (13.07.2019)	No reply received till date.
2	Gagabhai Desai Amul	Speed Post (15.12.2018)	22.07.2019; 02.08.2019; 27.01.2021
3	Nimish Pankajkumar Shah	Speed Post (13.12.2018)	07.01.2019
4	Dipali Nilay Patel	Paper Publication (13.07.2019) (Hand Delivery attempted on 11/01/2019 failed due to Consignee Shifted)	No reply received till date.
5	Sushma Rani	Speed Post (14.12.2018)	22.07.2019
6	Sanjay Jethalal Soni HUF	Speed Post (13.12.2018)	25.07.2019; 27.01.2019
7	Krishna Kumar Periwal	Speed Post (13.12.2018)	21.12.2018; 25.06.2020; 09.02.2021
8	Mahesh Somabhai Desai	Speed Post (10.12.2018)	20.07.2019; 02.08.2019; 27.01.2021
9	Soni Sanjay Jethalal	Speed Post (10.12.2018)	22.07.2019; 30.07.2019; 27.01.2021
10	Soni Krupa Sanjay	Speed Post (10.12.2018)	22.07.2019; 30.07.2019; 27.01.2021
11	Kajal Nimish Shah	Speed Post (10.12.2018)	07.01.2019
12	Anant Sureshchandra Maloo	Speed Post (10.12.2018)	07.01.2019; 29.07.2019
13	Maloo Building Materials Pvt Ltd	Speed Post (10.12.2018)	07.01.2019
14	Manan Vidhyapati Patel	Hand Delivery (19.1.2019)	14.12.2018
15	Hettich India Pvt Limited	Speed Post (11.12.2018)	24.12.2018
16	Jatin Natvarlal Parekh	Hand Delivery (28.01.2019)	18.07.2019, Relied upon reply filed in parallel 11B proceedings.
17	Nina Ajay Maloo	Speed Post (13.12.2018)	07.01.2019
18	Mukesh Himatlal Shah	Speed Post (13.12.2018)	28.12.2018; 17.07.2019; 23.07.2019; 25/02/2020

11. Thereafter, an opportunity of hearing in terms of Rule 4(3) of the SEBI Adjudication Rules have been granted by the erstwhile AO to the Noticees on July 23, 2019. Subsequently, on receiving the case by the undersigned, another opportunity of hearing was granted to the Noticees on February 27, 2020, wherein few Noticees appeared for hearing and rest of the Noticees sought adjournment of hearing. However, due to Covid related restrictions imposed across the nation, hearing for the remaining Noticees was scheduled in January 14, 2021 and on February 02, 2021 (for Noticees who sought adjournment). The Noticees and/ or their authorized representatives during hearing made their submissions on the basis of their replies/ additional replies as mentioned in Table 18 above. The brief details of the hearing in the matter are as follows:

Table 19

Noticee no.	Name of the Noticee	Person Appeared for Hearing	Hearing Record/ Remarks
1	Paresh Nathalal Chauhan	No one appeared for hearing on all 3 occasions. Hearing Notice published on 13.07.2019 and 18.02.2020. For hearing on 14.01.2021 intimation forwarded through e-mail on 07.01.2021.	On 02.02.2021 an e-mail received from Ms. Jyoti Pandey, Lexkare legal informed that Noticee is under custody of GST Officials. Hearing Concluded.
2	Gagabhai Desai Amul	Ms. Rinku Valanju, Advocate and Ms. Suyashi Vijay Mishra, Adv appeared on 23.07.2019.	On 02.02.2021 an e-mail received from Ms. Jyoti Pandey, Lexkare legal informed that Noticee Waived Off opportunity of hearing on 02.02.2021.
3	Nimish Pankajkumar Shah	Mr. Anant Sureshchandra Maloo appeared on 23.07.2019 and 13.01.2021.	Sought 7 days' time for providing supporting documents.
4	Dipali Nilay Patel	No one appeared for hearing. Hearing Notice published on 13.07.2019 and 18.02.2020. For hearing on 14.01.2021 intimation forwarded through e-mail on 07.01.2021.	Hearing Concluded.
5	Sushma Rani	Mr. Pavan S. Godiawala, Advocate & Mr. Manoj Goenka appeared on 23.07.2019.	Made submissions on basis of Noticee's reply.
6	Sanjay Jethalal Soni HUF	Mr. Akshit Jain, Advocate and Ms. Sikha Anil Van appeared on 23.07.2019.	On 02.02.2021 an e-mail received from Ms. Jyoti Pandey, Lexkare legal informed that Noticee Waived Off opportunity of hearing on 02.02.2021.
7	Krishna Kumar Periwal	Mr. Pulkit Sharma, Advocate and Mr. Aditya Bhansali, Advocate appeared on 02.02.2021.	Made submissions on basis of Noticee's reply.
8	Mahesh Somabhai Desai	Ms. Rinku Valanju, Advocate and Ms. Suyashi Vijay Mishra, Adv appeared on 23.07.2019.	On 02.02.2021 an e-mail received from Ms. Jyoti Pandey, Lexkare legal informed that Noticee Waived Off opportunity of hearing on 02.02.2021.
9	Soni Sanjay Jethalal	Mr. Akshit Jain, Advocate and Ms. Sikha Anil Van appeared on 23.07.2019.	On 02.02.2021 an e-mail received from Ms. Jyoti Pandey, Lexkare legal informed that Noticee Waived Off opportunity of hearing on 02.02.2021.
10	Soni Krupa Sanjay		
11	Kajal Nimish Shah		
12	Anant Sureshchandra Maloo		

13	Maloo Building Materials Pvt Ltd	Mr. Anant Sureshchandra Maloo appeared on 23.07.2019 and 13.01.2021.	Sought 7 days' time for providing supporting documents.
14	Manan Vidhyapati Patel	Mr. Manan Vidhyapati Patel appeared on 14.01.2021.	Pleaded for leniency and relied on submission before Ld. WTM in parallel 11 B proceedings. Sought time upto 23.01.2021 for additional submissions.
15	Hettich India Pvt Limited	Mr. Harikrishan V. Chaudhary, Sr. Manager appeared on 23.07.2019 and 27.02.2020.	Made submissions on basis of Noticee's reply.
16	Jatin Natvarlal Parekh	No one appeared for hearing. Hearing Notice delivered via Hand Delivery and for hearing on 14.01.2021 intimation forwarded through e-mail on 07.01.2021.	Hearing Concluded.
17	Nina Ajay Maloo	Mr. Anant Sureshchandra Maloo appeared on 23.07.2019 and 13.01.2021.	Sought 7 days' time for providing supporting documents.
18	Mukesh Himatlal Shah	Mr. Mukesh Himatlal Shah appeared on 23.07.2019.	Made submissions on basis of Noticee's reply.

12. The submissions/ replies of the Noticees made during the instant proceedings *inter alia* are as follows:

a. Mr. Paresh Nathalal Chauhan (Noticee No. 1), Ms. Deepali Nilay Patel (Noticee No. 4) and Mr. Jatin Navarlal Parekh (Noticee No. 16) have not submitted their reply to the SCN and also not availed the hearings granted to them by erstwhile AO and by me. For hearing scheduled on February 02, 2021, Ms. Jyoti Pandey, Advocate, Lexkare legal informed on behalf of Noticee No. 1 that, he is under custody of GST Officials and she had not received any further instructions from him. In this regard, I note that, Ms. Jyoti Pandey has failed to produce any authority letter or vakalatnama before me regarding her appointment as authorized representative of Noticee No. 1. Also, Noticee No. 1 failed to avail previous hearings granted to him in this matter. The SCN and the Notice of hearings have been duly served to Noticees No. 1, 4 and 16 *via* Affixture/Paper Publication/ e-mail (for hearing notice dated January 14, 2021 and February 02, 2021), however, these Noticees failed to avail the same. Accordingly, with regard to Noticees No. 1, 4 and 16, the findings of instant proceedings have relied upon the material available on record.

b. **Mr. Amul Gagabhai Desai (Noticee No. 2):**

i. He is an investor/ trader in the stock market and he had carried out buy, sell, trade and investment in many other scrips also during the investigation period. Further, he is not related to any of the promoter group entity and same is not alleged in the SCN. His trade volume was independent, standalone and of delivery or intraday nature.

ii. Out of 14 months' investigation period, he traded only on two months i.e. July and August, at NSE and BSE. Further, his buy and sell volume in the scrip of the Company is not substantial i.e. ranging from 2.68% - 3.49%. He is gross buyer (gross buy: 6,60,207 shares and not gross seller (gross sell: 6,14,206 shares) as alleged.

iii. His trades during 01.04.2014 – 24.07.2014 has been considered objectionable towards positive LTP and not throughout the investigation period. The Net LTP at BSE during the aforesaid period was Rs 8.50 on BSE and Rs 8.55 at NSE, however, the group total net alleged LTP on BSE is Rs 103.39 and at NSE is Rs 72.50. Based on same it can't be said that his all trades lead to price rise.

iv. On 23.07.2014 he placed a buy order of 2051 shares, wherein, 3 shares resulted into +ve LTP and 2048 shares resulted into 0 or –ve LTP. On 09.07.2014 his 378 shares buy order resulted into 39 different trades, wherein 116 shares in 18 trades resulted into +ve LTP and 262 shares resulted into 0 or –ve LTP. The counterparties to these trades are not the Noticees in the instant matter and therefore, there is no basis of connection reflected in trades. He placed reliance upon the judgement in the matter of *Ashlesh Shah (Supra).*

v. Co-relating +ve LTP to price rise is not relevant, significant and is misunderstood. No actual contribution to price rise is provided or calculated. His contribution to +ve LTP is mere 0.38% on NSE and 0.06% on BSE, which is very miniscule and insignificant. Trading at +ve LTP trades were within the circuit limits and no illegality can be attributed to these trades. Further, every trade results into LTP and his 0 LTP trades and –ve LTP trades impact was higher than +ve LTP trades. Net impact on BSE is only 70 paise and on NSE is –(2.35).

vi. The common no. 26-3026200 alleged to be his, Mr. Paresh Nathalal Chauhan, Mr. Mahesh Desai and Ms. Krupa Sanjay Soni belongs to the broker through whom he was trading at the relevant time. Further, mobile number 9904852495 belongs to him and he is not aware how same is captured under Mr. Mahesh Desai name. On common number 9974914444 with Ms. Krupa Sanjay Soni, he is unable to comment in absence of KYC documents. SEBI had failed to provide KYC details based on which UCC/ telephone details are provided.

vii. Shares received from Mr. Paresh Nathalal Chauhan and Mr. Nimish Pankaj Kumar Shah in off-market transfer were for the purpose of loan/ collateral. Later on he submitted that Mr. Nimish Pankaj Kumar Shah had to pay his dues to him on account of settlement and in order to pay off that amount, Mr. Shah offered him shares of the Company and therefore, the loan account was to be set off.

viii. He admits that he once held his trading account with Mr. Sanjay Soni. He is not connected to other Noticees.

ix. He has not received any disproportionate gain or unfair advantage and has not caused any loss to an investor or group of investors. He further placed reliance on the judgement of Hon'ble Supreme Court in the matters of *CCE, Bangalore vs. Brindavan Beverages (P) Ltd: MANU/SC/2645/2007* and *Kaur & Singh vs CCE, New Delhi*.

c. **<u>Ms. Sushma Rani (Noticee no. 5):</u>** Vide her letter received on July 22, 2019, she tendered the reply filed in the parallel 11B proceedings on same subject matter, wherein *inter alia* she stated as follows:

i. Her proprietorship concern was the creditor of the Company, which is now in liquidation. She had appeared in person before the Investigating Authority of SEBI and explained her relation with the Company and that a winding up petition against the Company was filed by her and winding up order came to be passed by the Hon'ble High Court of Gujarat at Ahmedabad based on a petition filed by another creditor.

ii. In pursuance of the huge dues owed to her by the Company, the promoter gave her the equity shares as security and also gave permission to realize the dues after selling the same. She opened a demat account for this purpose, since she had never traded in securities before and if she did not accept the shares of the Company even a small portion of her claim could not have been realized. Her outstanding statement against the Company is much higher and by selling equity shares she did not earned profit.

iii. She has no connection with any of the other alleged offenders. By selling shares she had recovered Rs. 35,57,000 against outstanding of Rs.1.68 crore. She only knew Shri Anant Maloo and none of the other Noticees.

d. **<u>Mr. Sanjay Jethalal Soni HUF (Noticee No. 6), Mr. Soni Sanjay Jethalal (Noticee No. 9) and Ms. Soni Krupa Sanjay (Noticee No. 10):</u>**

i. He is an investor/ trader in the stock market and he had carried out buy, sell, trade and investment in many other scrips also during the investigation period. Further, he is not related to any of the promoter group entity and same is not alleged in the SCN. His trade volume was independent, standalone and of delivery or intraday nature.

ii. Out of 14 months' investigation period, he traded only on two months i.e. July and August, at NSE and BSE. Further, his buy and sell volume in the scrip of the Company is not substantial i.e. ranging from 2.53% - 5.33%. He is gross buyer (gross buy: 10,40,354 shares and not gross seller (gross sell: 6,47,554 shares) as alleged.

iii. His trades during 01.04.2014 – 24.07.2014 has been considered objectionable towards positive LTP and not throughout the investigation period. The Net LTP at BSE during the aforesaid period was Rs 6.45 on BSE and Rs 6.60 at NSE, however, the group total net alleged LTP on BSE is Rs 103.39 and at NSE is Rs 72.50. Based on same it can't be said that his all trades lead to price rise.

iv. On 21.07.2014 he placed a buy order of 516 shares, wherein, 5 shares resulted into +ve LTP of 5 paise and 511 shares resulted into 0 or –ve LTP. On 23.07.2014 his 33 shares buy order resulted into 4 different trades, wherein 1 trade of 10 shares resulted into +ve LTP of 15 paise and 23 shares resulted into 0 or –ve LTP. The counterparties to these trades are not the Noticees in the instant matter and therefore, there is no basis of connection reflected in trades. He placed reliance upon the judgement in the matter of *Ashlesh Shah (Supra)*.

v. Co-relating +ve LTP to price rise is not relevant, significant and is misunderstood. No actual contribution to price rise is provided or calculated. His contribution to +ve LTP is mere 0.09% on NSE and 0.12% on BSE, which is very miniscule and insignificant. Trading at +ve LTP trades were within the circuit limits and no illegality can be attributed to these trades. Further, every trade results into LTP and his 0 LTP trades and –ve LTP trades impact was higher than +ve LTP trades. Net impact on BSE as well on NSE is Rs 1.90.

vi. He had identified the scrip of the Company for short term trading on the basis of information received regarding the Company expansion. Thus, he circulated and conveyed message in goodfaith and bona fide manner to friends, family and known acquaintances without knowledge that it is in violation of law, if any. He is not connected to any promoters or directors of the Company. Therefore, he denies that he acted in concert and was part of the scheme to plant unsolicited and misleading advice to induce gullible investors.

vii. On connection – Ms. Krupa Sanjay Soni is her wife and he is Karta of Mr. Sanjay Jethalal Soni HUF. The shares were transferred to Mr. Paresh Nathalal Chauhan for the purpose of loan/ collateral. SEBI had not provided the KYC details based on which UCC/ telephone details are provided. Since, he is not shown connected to promoters and other group entity, he had been wrongly lumped, bunched and clubbed with the group.

viii. He had a friend Late Mr. Rakesh Patel with whom, he had business relationship and he introduced him to Mr. Rajesh Jain and in turn Mr. Rajesh Jain introduced him to Mr. Anant Maloo (Noticee No. 12). For settling of dues, Mr. Anant introduced him to Mr. Nimish Shah (Noticee No. 3) and he agreed to pay off the debt.

ix. The off-market shares transfer from Mr. Nimish Shah was on account of settlement of his dues payable by Mr. Shah. He had an amount recoverable from Mr. Shah and in order to pay-off the amount, Mr. Shah offered him shares of the Company and therefore, the loan account was to be set offed. However, due to lower realization of dues on account of selling of shares of the Company, the dispute arose between him and Mr. Shah, which led to filing of criminal complaint against them and other parties.

x. Mr. Sanjay Jethalal Soni HUF traded on 2 and half month during entire investigation period. His buy and sell volume in the scrip of the Company is not substantial i.e. ranging from 3.08% - 5.63%. He is gross buyer (gross buy: 9,38,126) shares and not gross seller (gross sell: 7,88,490 shares) as alleged. He hadn't traded on the SMS day and the immediate days. The next trade post SMS was made on 30.07.2014, wherein, he was net buyer. He hadn't off-loaded shares immediately after SMS circulation as alleged.

xi. Ms. Krupa Sanjay Soni is an investor/ trader in the stock market and she had carried out buy, sell, trade and investment in many other scrips also during the investigation period. Further, she is not related to any of the promoter group entity and same is not alleged in the SCN. Her trade volume was independent, standalone and of delivery or intraday nature.

xii. Out of 14 months' investigation period, she traded only on two months i.e. 8 July, 2014 and 8 September, 2014, at NSE and BSE. Further, her buy and sell volume in the scrip of the Company is not substantial i.e. ranging from 0.90% - 3.37%. She is gross buyer (gross buy: 4,38,146 shares and not gross seller (gross sell: 2,74,246 shares) as alleged.

xiii. Her trades during 01.04.2014 – 24.07.2014 has been considered objectionable towards positive LTP and not throughout the investigation period. The Net LTP at BSE during the aforesaid period was Rs 8.50 on BSE and Rs 8.55 at NSE, however, the group total net alleged LTP on BSE is Rs 103.39 and at NSE is Rs 72.50. Based on same it can't be said that her all trades lead to price rise.

xiv. On 17.07.2014 she placed a buy order of 2760 shares, wherein, 7 shares resulted into +ve LTP and 2753 shares resulted into 0 or –ve LTP. She placed reliance upon the judgement in the matter of *Ashlesh Shah (Supra)*.

xv. Shares received from Mr. Paresh Nathalal Chauhan in off-market transfer were for the purpose of loan/ collateral.

e. **Shri Krishan Kumar Periwal (Noticee No. 7)**

i. He does not know Late Mr. Abhijeet Dwarkadas Daga personally and he only came to acquire the shares on the recommendation of Late Mr. M.R. Saraf who advised him to purchase the shares of the Company, since they were available in an off-market transaction for a price lower than the prevailing market price. Other than the off-market purchase, he had no connection with any promoter of the Company.

ii. He sold 2,10,000 shares on the market platform in 266 different transactions between the period of September 01, 2014 and September 18, 2014. All the trades were fully honoured and devoid of any intention to directly or indirectly participate in any manipulative scheme altogether and hence cannot be said to have created any false or artificial volume. The decision was independent of the alleged scheme of manipulation which was at play by the other entities. His decision to sell was in lieu of the market trend of increased price which was observed by him. Reliance in this regard placed upon the judgement of Hon'ble SAT in the matter of *Ashlesh Shah v. Securities and Exchange Board of India (Appeal No. 265 of 2017) decided on April 18, 2018*.

iii. Since there was pre-existing volume in the market, his sale transactions, pin pointedly cannot be said to have induced any investor to purchase the shares and cause any artificial momentum in the shares. It is reiterated that all of the transactions done by him are legally valid and genuine trades.

iv. Regarding connection with the promoter of the Company, the Noticee has placed reliance upon the judgment of Hon'ble SAT in the matter of *Rajendra G Parikh v. Securities and Exchange Board of India (Appeal No. 44 of 2009)* decided on January 21, 2010. There is no material on record to show that there was any connection between him and the promoter of the Company. As it can be observed in the above cited case that off-market transactions are not *per se* illegal. Hence just on the ground that he was involved in an off-market transaction without proving any connection is not enough to hold him guilty of PFUTP violations.

v. The profit calculation with respect to him is patently incorrect and completely illegal. The entire alleged amount generated by the sale of shares by the noticees in the SCN cannot therefore be attributed jointly on all entities including him. the SCN takes the "cost value" of acquisition of the shares of the Company by him to be "0" on the basis that the Company is undergoing liquidation proceedings. This method of calculations is patently illegal and illogical. The actual gain by the Noticee is Rs 1,43,789.05/-.

vi. SCN neither mention establishes nor any connection of him with the entities alleged to be part of the group alleged to be concocting and/or executing the alleged manipulative scheme. SCN also does not records or mentions any fact of him receiving any SMS containing any unsolicited buy recommendation for the scrip of the Company. It is also to be noted that the SCN does not record any fact to the effect that he had forwarded or circulated any SMS recommending buying of the scrip of the Company. Moreover, it is to be noted that SCN also does not mention or establishes any connection of him to any of the persons or entities involved in the alleged circulation of the SMS in the public. Noticee No. 7 in this regard has placed reliance upon the judgment of Hon'ble Supreme Court in the matter of *Food Corporation of India v. State of Punjab and others, (2001) 1 SCC 291, Canara Bank V/s. Debasis Das, (2003) 4 SCC 552*, Hon'ble SAT judgements in the matter of *M.G. Capital Service Ltd. V/s Securities and Exchange Board of India Appeal No. 62/2012 dated July 31, 2012 and Smitaben N. Shah v. Securities and Exchange Board of India (Appeal No. 37 of 2010) decided on July 30, 2010.*

vii. He had sought copy of complete investigation report, complete order and trade log of trading in the scrip of the Company during investigation period, proof of off-market transactions and any other material, information or documents relied upon in the matter, however, access to the aforementioned documents was denied. Not providing the essential documents that him might need so as to set his case in motion is against the principle of natural justice and denies him a right to fair trial. Reliance has been placed upon the judgment in the matter of *SEBI vs Price Waterhouse (Civil Appeal No. 6003-6004/12)* of the Hon'ble Supreme Court.

viii. The fact of the SCN containing erroneous facts essentially points out towards the lack of thoroughness, in exhaustive and vitiated nature of the inquiry done by the SEBI in the present matter. Here it is important to once again point out that the fact of him selling the shares back to Late Mr. Abhijeet Dwarkadas Daga through an off-market transaction has been wrongly recorded in *Annexure A*. Since the basic premise of the SCN is wrong, therefore the entire SCN is liable to be and should be quashed.

ix. On BSE, out of 69 counterparties to his sell trades, only 3 counterparties *viz.* Noticee No. 4 (1 trade, 1000 shares), Noticee No. 5 (9 trades, 6200 shares) and Noticee No. 9 (1 trade for 1 share) are part of the SCN. On NSE, out of 95 counterparties to his sell trades, only 3 counterparties *viz.* Noticee No. 4 (3 trade, 1990 shares), Noticee No. 5 (19 trades, 14406 shares) and Noticee No. 9 (1 trade for 1 share). He is not connected to any of the buyers. Reliance has been placed upon the judgment of the Hon'ble SAT in the matters of *M/s Nishith M. Shah HUF vs. SEBI (Appeal No. 97 of 2019 dated January 16, 2020)*, *Sapna Dilip Bombaywala vs. Whole Time Member, SEBI (Appeal No.219 of 2019 dated January 28, 2020), Bhagwat Singh Kitawat vs SEBI (Appeal No. 419 of 2018 dated January 28, 2020).*

x. The allegations of fraud as levied against him are merely imposed on the basis of suspicion, surmises and conjunctures and the same is done in the light of a single transaction of purchase of share in off-market which is entered into by him in the ordinary course of business. Reliance has been placed upon the judgments of the Hon'ble SAT in the matters of *Vision Technologies India Ltd. Vs. SEBI in Appeal No. 270 of 2004* decided on February 20, 2006, *R.K. Global v. SEBI (Appeal no. 158/2008 Date of Order: September 16, 2010), Sterlite Industries (India) Ltd. Vs. Securities and Exchange Board of India in Appeal No. 270 of 2004* decided on February 20, 2006; of the Hon'ble Hight Court of Andhra Pradesh in the matter of *K. Sitaram Vs. Vice-Chancellor, S.V. University, Tirupati and another* and of the Hon'ble Supreme Court in the matters of *Kirti Pal and Ors. Vs. State of West Bengal &Ors. 2015(11) SCC 178, Mohan Sigh v Bhanwarlal (AIR 1964 SC 1366), Ramanbhai Nagribhai Patel v. Jasvant Singh Udersingh Dabhi (AIR 1978 SC 1162), Varanasaya Sanskrit Vishwa Vidyalaya &Anr. vs. Dr. Rajkishore Tripathi and Anr, (AIR 1977 SC 615) and M. Chinnasamy vs. K.C. Palanisamy and Ors. (21.11.2003 - SC).*

xi. All of his trades were legally valid and were done in normal course of business and under good faith and the SCN does not mentions any allegations on him in respect of his trades on the market platform and hence the trades done by him are to be presumed as *bona fide*.

xii. It is further submitted that while taking a decision under the aforesaid provisions for imposition of penalty, the Learned Adjudicating Officer has to take in to account Section 15J of the SEBI Act. The profit as made by him is only Rs. 1,74,896/- (Rupees One Lakh Seventy-Four Thousand Eight Hundred and Ninety-Six Only) and the gain so made by him is not disproportionate and not made due to any unfair advantage available to him. Your goodself was unable to prove any loss caused to other investors or group of investors as result of by dealing and trading in shares of the Company by him. The unproved allegations levelled in the notice are isolated instance and hence, there is no question of repetitive nature of default. He has placed reliance upon the judgments of Hon'ble Supreme Court in the matters of *Superintendent and Remembrancer Legal Affairs to Government of West Bengal vs. Abani Maity (1979) 4 SCC 85, SEBI vs Bhavesh Pabari (dated 28th February, 2019), Hindustan Steel vs.State of Orissa(AIR 1970 SC 253) and Ex-Naik Sardar Singh vs. Union of India (1991) 3 SCC 212),* *Ranjit Thakur vs. Union of India;* and Hon'ble High Court of Bombay in the matter of *SEBI vs. Cobot International Capital Corporation Limited [2004 51 SCL 307 (BOM)].*

f. **Mr. Mahesh Somabhai Desai (Noticee No. 8)**

i. He is an investor/ trader in the stock market and he had carried out buy, sell, trade and investment in many other scrips also during the investigation period. Further, he is not related to any of the promoter group entity and same is not alleged in the SCN. His trade volume was independent, standalone and of delivery or intraday nature.

ii. Out of 14 months' investigation period, he traded only on few days in months i.e. July and August, at NSE and BSE. Further, his buy and sell volume in the scrip of the Company is not substantial i.e. ranging from 0.26% - 1.50%. He is gross buyer (gross buy: 2,29,459 shares and not gross seller (gross sell: 1,79,759 shares) as alleged.

iii. His trades during 01.04.2014 – 24.07.2014 has been considered objectionable towards positive LTP and not throughout the investigation period. The Net LTP at BSE during the aforesaid period was Rs 6.45 on BSE and Rs 6.60 at NSE, however, the group total net alleged LTP on BSE is Rs 103.39 and at NSE is Rs 72.50. Based on same it can't be said that his all trades lead to price rise.

iv. On 22.07.2014 he placed a buy order of 20,839 shares resulted in 12 different trades, wherein, 2 trades for 14,994 shares resulted into +ve LTP of 40 paise and 5845 shares resulted into 0 or –ve LTP. On 17.07.2014 his 64,054 shares buy order resulted into 58 different trades, wherein 1061 shares in 6 trades resulted into +ve LTP and 62,993 shares resulted into 0 or –ve LTP. The counterparties to these trades are not the Noticees in the instant matter and therefore, there is no basis of connection reflected in trades. He placed reliance upon the judgement in the matter of *Ashlesh Shah (Supra).*

v. Co-relating +ve LTP to price rise is not relevant, significant and is misunderstood. No actual contribution to price rise is provided or calculated. His contribution to +ve LTP is mere 0.24% on NSE and 5.82% on BSE, which is very miniscule and insignificant. Trading at +ve LTP trades were within the circuit limits and no illegality can be attributed to these trades. Further, every trade results into LTP and his 0 LTP trades and –ve LTP trades impact was higher than +ve LTP trades. Net impact on BSE is only Rs 2.10 and on NSE is Rs 0.35.

vi. The common no. 26-3026200 alleged to be his, Mr. Paresh Nathalal Chauhan, Mr. Mahesh Desai and Ms. Krupa Sanjay Soni belongs to the broker through whom he was trading at the relevant time. Further, mobile number 9904852495 belongs to him and he is not aware how same is captured under Mr. Mahesh Desai name. On common number 9727548290, 9879430033, 9978544400 with Mr. Sanjay Jethalal Soni HUF, Mr.

Sanjay Soni and Ms. Krupa Sanjay Soni, respectively, he is unable to comment in absence of KYC documents. SEBI had failed to provide KYC details based on which UCC/ telephone details are provided.

vii. Shares received from Mr. Paresh Nathalal Chauhan in off-market transfer were for the purpose of loan/ collateral.

viii. He has not received any disproportionate gain or unfair advantage and has not caused any loss to an investor or group of investors. He further placed reliance on the judgement of Hon'ble Supreme Court in the matters of *CCE, Bangalore vs. Brindavan Beverages (P) Ltd: MANU/SC/2645/2007* and *Kaur & Singh vs CCE, New Delhi*.

g. **<u>Mr. Anant Sureschandra Maloo (Noticee No. 12):</u>** He filed common replies on behalf of himself and **Noticees No. 3, 11, 13 and 17**.

i. They deny all the allegations and finding made against them in the SCN, as they have not indulged in any fraudulent and unfair practices relating to the securities market so as to warrant any kind of penalty.

ii. They have not sold any shares fraudulently nor have circulated or have any knowledge of circulation of any SMS by Mr. Sanjay Soni, Noticee No. 9.

iii. They have not made a single rupee as profit from transfer of shares, as they have not received any consideration against transfer of shares which were given as security to creditors of the Company and to Noticee No. 9 to arrange loan against their shares to be paid to the Bank to restructure the account of the Company. They deny making any of the profit as alleged in the SCN.

iv. Noticee No. 12 have filed criminal complaint against Mr. Sanjay Soni and his associates for cheating and fraud with the local Police Station, crime branch and also with the Office of the State Home Minister in Gujarat.

v. He had not received any consideration in lieu of off-market transfers of shares to Noticees No. 3, 4, 5 and 18 and Late Mr. Shirish Vyas. The shares were transferred to Mrs. Sushma Rani- Proprietor of Yuvatex Packing (Noticee No. 5), the creditor who had filed winding-up petition against the Company as a collateral. The shares were sold by her to adjust her outstanding amount. The shares to Noticee No. 18 were transferred as collateral against outstanding payment of the Company, which was due to it, towards material supplied by them. The Company having failed to pay the outstanding amount, Noticee No. 18 sold the shares and adjusted the amount towards their outstanding.

vi. With regard to his transfer to Ms. Dipali Patel (Noticee No. 4), he received consideration of Rs 2,30,000/- on 17.07.2014, Rs 1,50,000/- on 21.07.2014, Rs 1,20,015/- on 26.07.2014 and Rs 1,50,000/- on 30.07.2014.

vii. After the fire in the factory of the Company, the Company was in need of funds to run the operations and during that time, their dealer from Indore, Mr. Rajesh Jain introduced them to one Mr. Hemant Jhala, who is a publisher of a magazine for investors and he also introduced us a Board member of the Ahmedabad Stock Exchange. Mr Hemant Jhala suggested that he could help them in arranging funds against their Promoter Sharholding and introduced us in his office with Mr. Sanjay Soni, who assured them funds against their shares held by him in his account as Security. On this assurance the promoters transferred the above shares in name of Mr. Nimish Shah (Noticee No. 3), who further transferred the shares in demat account and names suggested by Mr. Sanjay Soni. The shares were transferred in the demat accounts of Mr. Soni Sanjay Jethalal (Noticee No. 9), Mr. Paresh Nathalal Chauhan (Noticee No. 1) and Mr. Gagabhai Desai Amul (Noticee No. 2).

viii. From the date of transfer of these shares till today, they have not received even a single rupee from Mr. Sanjay Soni and associates and they have been avoiding them and are not traceable at time and they have threatened us not to ask for any money against these shares.

ix. They have not received a single rupee against these shares and we state Mr. Sanjay Soni and his associates have cheated and defrauded us.

x. He as the Managing Director of the Company, made all possible efforts including financial to restart the operations of the Company after the massive damage and loss caused by the fire at the factory. He paid the creditors of the Company through his personal holding of shares. He gave his shares to the Mr. Sanjay Soni and associates to arrange funds for the company against his personal holding of shares.

xi. His house at 902 Bagashree Tower, Opp Fun Republic, Satellite, Ahmedabad, along with his office, which was in the name of his brother Mr. Ajay Maloo and his father, has been auctioned by their banker Union Bank of India, Dr. S.R. Marg Branch, Navrangpura, Ahmedabad, to recover the dues of the Company, as these properties were given as collateral security against the loan facility to the Company.

xii. Mr. Nimish Shah acted on his instructions to transfer his shares to the creditors of the Company and to Mr. Sanjay Soni and associates and he has not received any payment against those shares. Mr. Kajal Shah is a housewife and no way related or part of these transactions.

xiii. The Company was the only business he had and the Company had been liquidated. They humbly request to kindly take a sympathetic view against them and request to not to impose any monetary penalty on them.

h. **<u>Mr. Manan Vidhyapati Patel (Noticee No. 14)</u>**

i. He had joined the Company as a promoter with other promoter directors as a Technical Person. He was never involved in day to day management of the Company. As a Technical Director, he was being paid monthly remuneration by the Company and 11,25,000 shares of the Company were allotted to him and he had not paid any consideration for the same. He had resigned from the post of executive director of the Company on May 07, 2013.

ii. The aforesaid shares were transferred to him by other Promoter Directors without his consent and knowledge for which he had already intimated the Company on August 08, 2014. He had not received any amount in lieu of transferring 11,20,000 shares.

iii. He is not aware of the bulk SMS circulated by anyone and SMS were circulated post his resignation as the director.

iv. In above circumstances the allegations made against him that he was "person acting in concert" are not true and are not admitted by him. He had no knowledge neither given his consent or acted upon actively regarding acquiring or transferring the shares of the Company.

i. **Hettich India Pvt Limited (Noticee No. 15)**

i. The Company was its customer, who purchased furniture fittings and from whom it is having significant outstanding dues of Rs. 43,41,823/- in respect of sales made in the year 2012-2014 and Form C under Central Sales Tax for sales amounting to Rs. 77,61,453/- (non-receipt of C Form from customer leads to interest and tax liability to be paid by Hettich).

ii. On account of non-receipt of dues form the Company, Shri Anant Maloo (Noticee No. 12), promoter of the Company has entered into an agreement with it to transfer 3,00,000 equity shares held by him as security deposit against dues of the Company (agreement dated June 10, 2014). As per the said agreement he was required to transfer equity shares to Hettich by June 30, 2014 along with a condition that Hettich had right to sell those equity shares after December 31, 2014, if the Company does not clear the dues by December 31, 2014. On June 27, 2014, the Company had transferred 3,00,000 shares in the name of Hettich as security deposit based on delivery instruction slip given by the promoter by way of off-market transaction.

iii. It only received the shares as collateral and on the date of transfer the price of Rs. 16.4 was prevailing. But considering the ethics of the agreement, the sale was made after agreement period. If any nexus was there, sale would have been made at a higher price not at rock bottom price.

iv. It initiated selling of shares for recovery of its dues only and it made first recovery by selling 1587 shares at the rate of Rs.6.02 per share amounting to Rs. 9560 on May 21, 2015 and thereafter selling 21,713 shares amounting to Rs.1,07,351 shares at average rate of Rs.4.94 per share during the Patch 2. The only recourse before it to recover dues from the Company was by way of sale of shares held as collateral. Accordingly, during Patch 2, it sold insignificant 21,713 shares amounting to Rs.1,06,593 (i.e. 0.20% of total trade volume of any NSE and BSE) against dues of Rs. 43,41,823/-.

v. It has sold all shares of Timbor to realise the dues from the Company with no intent to make profit and shares were sold at lowest price range during the investigation period. It has never done trade in equity except for recovery of its dues, which was first and last one to trade till date. It was not aware of such a scheme or beneficiary of scheme launched by alleged parties mentioned in the SCN to plant unsolicited and misleading advice recommending purchase of shares of the Company or to induce unsuspecting gullible investors to purchase the shares of the Company.

j. **<u>Mr. Mukesh Himatlal Shah (Noticee No. 18)</u>**

i. He is a Company Secretary and he is not aware of any other person, except Shri Manoj Goenka and his wife Mrs. Sushma Rani (Noticee No. 5), who are his clients since long and he had rendered professional service to the group companies of Shri Manoj Goenka, where the family members of Shri Manoj Goenka are directors and shareholder and he had also assisted in case of litigation for recovery legally.

ii. Shri Manoj Goenka and his wife faced severe financial crisis as their money was stuck in the Company, as their proprietorship concern M/s Yuvtex Ltd. ("Yuvtex") had supplied goods to the Company. It had been informed to him that, since dues owed to Yuvtex could not be paid off, they were given the equity shares by the promoters of the Company, before it had gone into liquidation. Since, Shri Manoj Goenka and his wife were unable pay for the professional services rendered by him, they suggested that he may take shares of the Company in lieu of his fees and he agreed to the same and accepted certain shares of the Company in his demat account and in fact sold them at a later date and realized certain dues from selling the equity shares of the Company.

iii. There was no information to him regarding fluctuation or any increase in price of the shares and he only sold it to realise his dues and there is not privity of contract between him and any other Noticee except Noticee No. 5 who was his client.

k. **<u>Common Submissions:</u>**

i. The SCN suffers from delay and latches. The impugned transactions pertained to 01.04.2014 to May 30, 2015 and SCN has been issued on December 15, 2018 i.e. delay of 3 years in issuance of SCN has not been explained. Reliance has been placed on the judgement of Hon'ble SAT in the matter of *HB Stockholding vs SEBI (Appeal No. 114 of 2012), Mr. Rakesh Kathotia & Ors. vs. SEBI (Appeal No. 7 of 2016).*

ii. Shares of the Company were frequently traded and hence the chances of fraudulent activity were negligible. Further, shares were trading below its book value, hence it cannot be said that, there was any fraudulent act of trading in shares.

iii. Trading system does not make available the particulars – such as quantity of shares, prices and time – of counterparty's keyed-in orders against which the Noticee's orders got matched. In absence of same the Noticee's could not know or ascertain any pattern, if any, at the relevant time.

13. I have considered the allegation levelled in the terms of reference, the relevant material brought on record, reply/ submissions of the Noticees, documents produced by the Noticees and oral submissions made during the personal hearing before undersigned. Before dealing the case on merit basis, I would first deal with several preliminary technical/legal contentions raised by the Noticees as under: -

a. **Delay in issuance of SCN (3 years' delay)**

i. In this matter, I note that after the receipt of the complaint in August 2014, an extensive investigation was carried out by SEBI. The said investigation included several entities, who had traded in the scrip during the investigation period and detailed analysis carried out of their trade data and finding connection amongst them. I also note that a large number of these entities were unresponsive and non-cooperative, which made the process of investigation difficult and time consuming. Further, investigation revealed a *prima facie* scheme, where the entities connected/associated with the promoters dealt in shares of the Company in fraudulent manner. The scheme of issue of SMS and trading by different category of entities in different patches of the investigation period and these dots were required to be connected. Investigation was concluded on May 23, 2018 and the action was approved by the Competent Authority on May 24, 2018. Thereafter, the SCN was issued on December 05, 2018. All Noticees except Noticees No. 1, 4, 14 and 16 were served with the SCN *via* SPAD. The service of SCN was effected on Noticees Nos. 14 and 16 *via* Hand Delivery and on Noticees No. 1 and 4 *via* affixture and paper publication in newspaper on July 13, 2019. Service of SCN on all Noticees was completed on July 13, 2019. Additional document i.e. order log of the relevant period sought by the Noticees No. 2 and 9, was forwarded *via* e-mail on July 18, 2019.

ii. I also note that the Noticee No. 9, who had claimed delay in the proceedings, himself was held liable for violating the provisions of section 11C(2) read with 11C(3) of the SEBI Act i.e. not responding/ replying to the summons and reminders issued to him by the Investigating Authority. Such non-cooperation by the Noticee and other entities hampered the fact finding process during the investigation. Further, initiating a proceeding under the appropriate provisions of SEBI Act is a regulatory prerogative of SEBI depending upon the outcome of the fact finding exercise, which is the investigation done in this case, and just because the alleged violation was committed in a distant past cannot be a ground to vitiate initiation of these proceedings. Moreover, in this case the SCN makes a serious allegation of fraud under the PFUTP Regulations. I, therefore, reject such contentions of the Noticees.

iii. The Noticees have placed reliance upon various judgements of Hon'ble SAT on the question of delay. In this regard, I note that there is no provision in the SEBI Act which lays down any limitation period for initiating any proceedings/ action under the SEBI Act. Therefore, citing such arguments are flawed in itself.

For establishing the delay, if any, in the matter, the date when the violation came to the notice of the SEBI would be the relevant point and not the date of violation. Whether a delay in a particular case is justified or not depends on the facts and circumstances of each case. In the case *State of AP Vs. N. Radhakrishnan (1998) 4 SCC 154*, regarding delay, Hon'ble Supreme Court has held that *it is not possible to lay down any pre-determined principles applicable to all cases and in all situations where there is delay in concluding the disciplinary proceedings. Whether on that ground the disciplinary proceedings are to be terminated each case has to be examined on the facts and circumstances in that case.* I have perused the judgements pronounced by the Hon'ble SAT in *HB Stockholding vs SEBI (Appeal No. 114 of 2012)* and *Mr. Rakesh Kathotia & Ors. vs. SEBI (Appeal No. 7 of 2016)*, cited by the Noticees, the Hon'ble SAT decided the case in the context of the peculiar facts and circumstances in that particular case and therefore, these cases render no assistance to the Noticees. I also note that the decisions in these judgements, also endorses to the legal position regarding the delay, as stated in aforesaid paras. In fact, in *HB Stock Holding's case* (*supra*), the Hon'ble SAT held that "*delay is not fatal in each and every case*".

iv. I also note that, the Supreme Court recently in the case of Adjudicating Officer, *SEBI vs. Bhavesh Pabari (2019) SCC Online SC 294* held:

"There are judgments which hold that when the period of limitation is not prescribed, such power must be exercised within a reasonable time. What would be reasonable time, would depend upon the facts and circumstances of the case, nature of the default/statute, prejudice caused, whether the third-party rights had been created etc."

v. In this regard I note that Hon'ble SAT has qualified the aforesaid ruling by saying that the reasonable period would depend on the facts and circumstances of each case and that no hard and fast rule can be laid down in this regard. I am of the view that present proceedings do not suffer from any infirmity on the ground of delay. I, therefore, hold that there is no protracted delay as contended and hence, the contention of the Noticees in this regard is rejected.

b. <u>All the documents including the Investigation Report not provided</u>

i. The Noticees have contended that SEBI has not provided it with all the relevant documents, complete order log and trade log including investigation report. In this regard, I note that all the relied upon copies of the documents in the matter were provided to the Noticees along with the SCN. Therefore, the contention of the Noticees are not acceptable and hence rejected. Moreover, in this context, it is a settled position of law that only the relied upon documents has to be provided to the Noticee and the same position has been upheld by the Hon'ble Supreme Court in the matter of *Kanwar Natwar Singh v. Directorate of Enforcement [(2010) 2 SCC 497], Chandrama Tewari Vs. Union of India, Through General Manager, Eastern Railways, (1988) 1 SCR 1102 and M/s Haryana Financial Corporation vs. Kailashchand Ahuja [2008(9) SCC31]* and also by the Hon'ble SAT in number of its rulings. In the recent ruling of Hon'ble SAT in the case of *Shruti Vora Vs. SEBI, in Appeal Number 28 of 2020* decided on February 12, 2020 held that *"…The contention that the appellant is entitled for copies of all the documents in possession of the AO which has not been relied upon at the preliminary stage when the AO has not* *formed any opinion as to whether any inquiry at all is required to he held cannot be accepted. A bare reading of the provisions of the Act and the Rules as referred to above do not provide supply of documents upon which no reliance has been placed by the AO, nor even the principles of natural justice require supply of such documents which has not been relied upon by the AO. We are of the opinion that we cannot compel the AO to deviate from the prescribed procedure and supply of such documents which is not warranted in law. In our view, on a reading of the Act and the Rules we find that there is no duty cast upon the AO to disclose or provide all the documents in his possession especially when such documents are not being relied upon…*"

ii. Further, with regard to the Noticees contention of not providing Investigation Report to them during the instant proceedings, I note that the basis of the allegations as made in the investigation report has been mentioned in the SCN and it is the findings of the investigation that are basis of charge against the Noticees and are relied upon in these proceedings. Also, Hon'ble SAT in its aforesaid order dated February 12, 2020 held that "*….In the instant case, the show cause notice relies upon certain documents which have been made available. Thus the investigation report is not required to be supplied."* Further, the Noticee's reliance in rulings in the matter of *Price Waterhouse v. SEBI [Civil Appeal No. 6003-6004/12],* is out of place and is not tenable, as the direction given by the Hon'ble Apex Court in PWC matter (*supra*) was specific to that case only and has no application in the present proceedings as laying down law for general application. I am, therefore, of the view that since the copies of the relevant and relied upon material were given to them along with the SCN, no prejudice is caused to them on this account. I, therefore, do not find any merit in the contentions of the Noticees

c. **<u>Vague SCN:</u>** I note that, the SCN in the instant proceedings is issued for violations of PFUTP Regulations and provisions has been clearly spelt out in the SCN. The modus operandi of the whole scheme and artifice, impugned off-market transactions by the Noticees, connection among them, SMS circulation, Pre-Post SMS circulation analysis, trade analysis during patch of the SCN etc. has been clearly brought out in the SCN. I also note that the charging and penal provisions for aforementioned violations of the PFUTP Regulations under the SEBI Act, respectively, has been mentioned in SCN and I note that there is no ambiguity regarding the same. I therefore do not agree with the contention of the Noticees that the SCN is vague or not clear.

14. I now proceed to deal with the merits of the case. I note that the Company's financials were deteriorating around the period of examination and there were no significant corporate announcements by the Company during the period, to explain the price movement in the scrip. A preliminary examination revealed that simultaneously with the sending of the SMS containing unsolicited advice recommending the buying of shares of the Company, the promoter shareholding reduced from 29.90% in March 2014 to 2.93% in December 2014. Further the promoter holding reduced to 0.29% in June 2015. The analysis revealed that the promoters of the Company transferred their holding in the Company to some non-promoter entities (*who were connected to the promoters*) through off-market route that too without accompanying disclosures at the same time. SMS was sent containing unsolicited advice recommending the buying of shares of the Company and thereafter, the non-promoter entities along with two other promoters of the Company sold the shares of the Company in the secondary market to the gullible investors. It was also noted that winding up proceedings were initiated against the Company on a winding up petition filed

by one of the creditor of the Company, which was admitted by the Hon'ble High Court of Gujarat on June 29, 2015 and trading in the shares of the Company was suspended by both of the exchanges from October 29, 2015. It is also noted that, subsequently the Company was ordered to be wound up by an order of the Hon'ble High Court of Gujarat on June 16, 2016. In this background the investigation was initiated into the trading in the scrip of the Company.

15. On the basis of investigation by SEBI of the trading activity in the scrip of the Company, information collected from UCC details, off market data and MCA data, 21 entities including the Noticees No. 1 - 18 in the present matter were identified as suspected entities. Name and basis connection of the Noticees as stated in Annexure A to the SCN is given hereunder:

Table 20

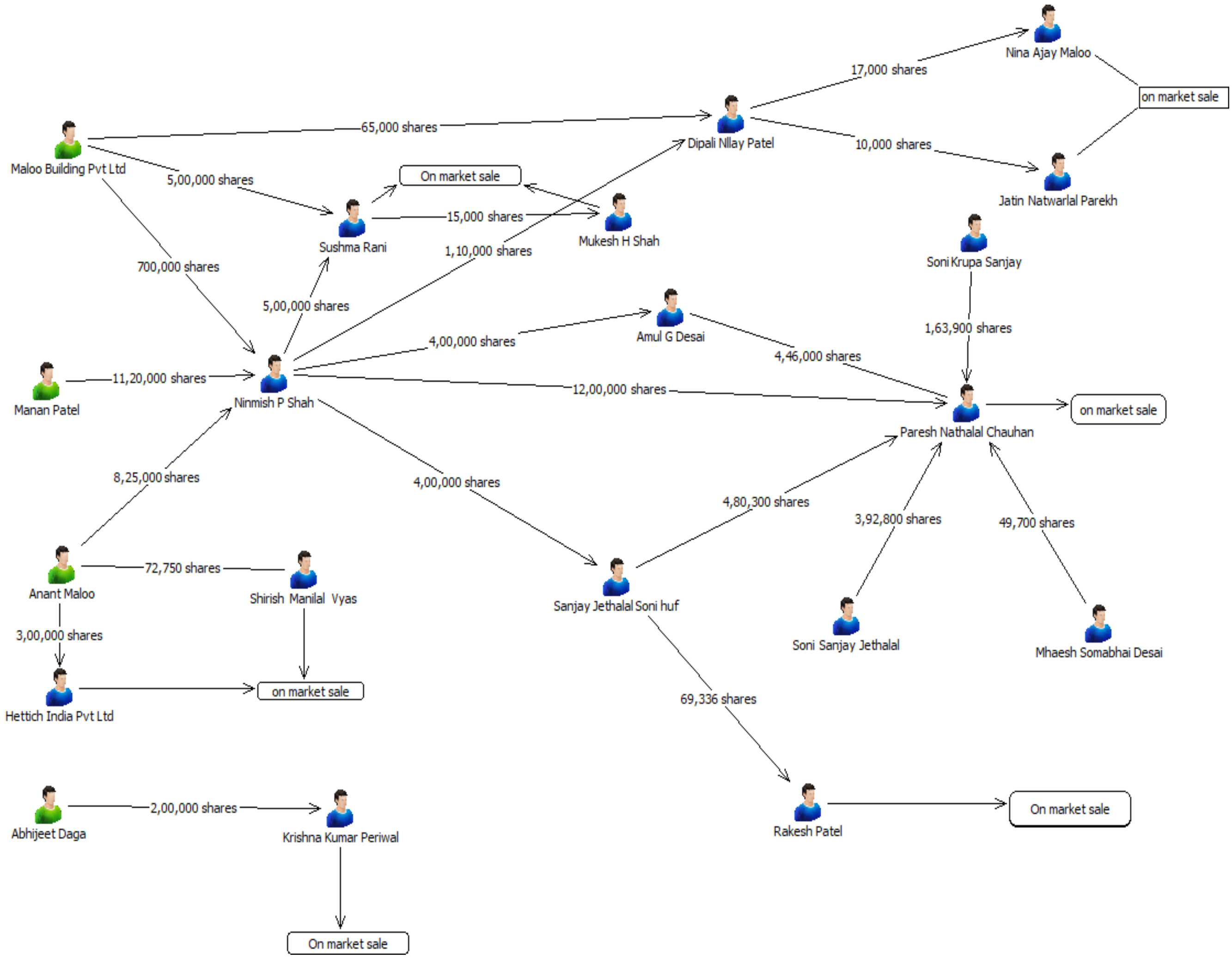
Sl No.	Client Name	Details of connection	Basis of connection
1	Paresh Nathalal Chauhan	• Entities number 1, 2, 13 and 16 are related based on common Phone number (263026200) • Entity number 1 has received shares from entities number 2,3,10, 15, 16 and 13 through off market.	a) UCC details b)Off market data
2	Gagabhai Desai Amul	• Entities number 1, 2, 13 and 16 are related based on common Phone number. (263026200) • Entities number 2 and 13 are related based on common Mobile Number (9904852495) • Entities number 2 and 16 are related based on common Mobile Number (9974914444) • Entity number 2 has transferred shares to entity number 1 through off market. • Entity number 2 has received shares from entity number 3 through off market.	a) UCC details b)Off market data
3	Nimish Pankajkumar Shah	• Entities number 3, 4 and 5 are related based on common Mobile number (9558152663) • Entities number 3, 5 and 17 are related based on common Mobile Number (9998900098) • Entities number 3, 5 and 17 are related based on common Email id (nimish09@hotmail.com) • Entities number 3, 4, 5 and 17 are related based on common Email id (nimishshah09@gmaill.com) • Entities number 3 and 17 are related based on common Address (B12 Panchratna Appt Opp Sun View Tower Nr Bhuyangdev Memnaga Chak Rast Ahmedabad) • Entities number 3 has received shares from entity number 5,6,7 and 9 through off market. • Entity number 3 has transferred shares to entity number 1, 2, 8, 9 and 10 through off market.	a) UCC details b)Off market data
4	Abhijeet Dwarkadas Daga	• Entities number 4, 3 and 5 are related based on common Mobile Number (9558152663) • Entities number 3, 4, 5 and 17 are related based on common Email id (nimishshah09@gmaill.com) • Entity number 4 has transferred shares to entity number 11 through off market.	a) UCC details b) Off market data
5	Anant Sureshchandra Maloo	• Entities number 3, 4, and 5 are related based on common Mobile Number (9558152663) • Entities number 5 and 6 are related based on common Mobile Number (9998504141)	a) UCC details b)Off market data

Sl No.	Client Name	Details of connection	Basis of connection
		• Entities number 3, 5 and 17 are related based on common Mobile Number (9998900098) • Entities number 6 and 5 are related based on common Email id (anant@timborhome.com) • Entities number 3, 5 and 17 are related based on common Email id (nimish09@hotmail.com) • Entities number 3, 4, 5 and 17 are related based on common Email id (nimishshah09@gmaill.com) • Entities number 5 and 6 are related based on common Address (B1 Harikrupa Apt Nr Naranpua Rly Crossing, Ahmedabad) • Entity number 5 has transferred shares to entity number 3, 12 and 18 through off market.	
6	Maloo Building Materials Pvt Ltd	• Entities number 5 and 6 are related based on common Mobile Number (9998504141). • Entities number 5 and 6 are related based on common Email id (anant@timborhome.com) • Entities number 5 and 6 are related based on common Address (B1 Harikrupa Apt NR Naranpua RLY Crossing Ahmedabad) • Entity number 6 has transferred shares to entity number 3, 8 and 9 through off market.	a) UCC details b)Off market data
7	Manan Vidhyapati Patel	• Entity number 7 has transferred shares to entity number 3 through off market.	a)Off market data
8	Dipali Nilay Patel	• Entity number 8 has received shares from entity number 3 and 6 through off market. • Entity number 8 has transferred shares to entity number 19 and 20 through off market.	a)Off market data
9	Sushma Rani	• Entity number 9 has received shares from entity number 3 and 6 through off market. • Entity number 9 has transferred shares to entity number 21 through off market.	a)Off market data
10	Sanjay Jethalal Soni HUF	• Entities number 10, 13, 15 and 16 are related based on common Mobile number (9727548290) • Entities number 10 and 15 are related based on common Mobile number (9924796272) • Entities number 10, 15 and 16 are related based on common Email id (shreejisecurities14@yahoo.co.in) • Entities number 10 and 16 are related based on common Address (FF 27 sakti Arcade science city RD sola Ahmedabad) • Entities number 10, 15 and 16 are related based on common Address (36 Malay Bunglows NR Anurag Bunglow Science City R Ahmedabad) • Entity number 10 has received shares from entity number 3 through off market. • Entity number 10 has transferred shares to entity number 1 and 14 through off market.	a) UCC details b)Off market data
11	Krishna Kumar Periwal	• Entity number 11 has received shares from entity number 4 through off market.	a)Off market data
12	Shirish Manilal Vyas	• Entity number 12 has received shares from entity number 5 through off market.	a)Off market data
13	Mahesh Somabhai Desai	• Entities number 1,2, 13 and 16 are related based on common Phone number (263026200) • Entities number 10, 13, 16 and 15 are related based on common Mobile Number (9727548290) • Entities number 15 and 13 are related based on common Mobile Number (9879430033)	a) UCC details b)Off market data

Sl No.	Client Name	Details of connection	Basis of connection
		• Entities number 2 and 13 are related based on common Mobile Number (9904852495) • Entities number 13 and 16 are related based on common Mobile Number (9978544400) • Entity number 13 has transferred shares to entity number 1 through off market.	
14	Rakesh Patel	• Entity number 14 has received shares from entity number 10 through off market.	
15	Soni Sanjay Jethalal	• Entities number 15 and 16 are related based on common Mobile Number (9879013141) • Entities number 10, 13, 15 and 16 are related based on common Mobile Number (9727548290) • Entities number 13 and 15 are related based on common Mobile Number (9879430033) • Entities number 10 and 15 are related based on common Mobile Number (9924796272) • Entities number 10, 15 and 16 are related based on common Email id (shreejisecurities14@yahoo.co.in) • Entities number 15 and 16 are related based on common Email id (shreejisecurities @yahoo.co.in) • Entities number 16 and 15 are related based on common Address(D19 Karnavati apartments Atithi restaurant Bodakdev Ahmedabad) • Entities number 16, 15 and 10 are related based on common Address (36 Malay Bunglows NR Anurag Bunglow Science city Road Ahmedabad) • Entity number 15 has transferred shares to entity number 1 through off market.	a) UCC details b)Off market data
16	Soni Krupa Sanjay	• Entities number 1, 2, 13 and 16 are related based on common mobile number. (263026200) • Entities number 15 and 16 are related based on common Mobile Number (9879013141) • Entities number 10, 13, 16 and 15 are related based on common Mobile Number (9727548290) • Entities number 13 and 16 are related based on common Mobile Number (9978544400) • Entities number 2 and 16 are related based on common Mobile Number 9974914444) • Entities number 16 , 10 and 15 are related based on common Email id (shreejisecurities14@yahoo.co.in) • Entities number 16 and 15 are related based on common Email id (shreejisecurities @yahoo.co.in) • Entities number 15 and 16 are related based on common Address (D19 Karnavati apartments Atithi restaurant Bodakdev Ahmedabad) • Entities number 10 and 16 are related based on common Address (FF 27 sakti Arcade science city RD sola Ahmedabad) • Entities number 10, 15 and 16 are related based on common Address (36 Malay Bunglows NR Anurag Bunglow Science city Road Ahmedabad) • Entity number 16 has transferred shares to entity number 1 through off market	a)UCC details b)Off market data

Sl No.	Client Name	Details of connection	Basis of connection
17	Kajal Nimish Shah	• Entities number 3, 5 and 17 are related based on common Mobile Number (9998900098) • Entities number 3, 5 and 17 are related based on common Email id (nimish09@hotmail.com) • Entities number 3, 4, 5 and 17 are related based on common Email id (nimishshah09@gmaill.com) • Entities number 3 and 17 are related based on common Address (B12 Panchratna Appt Opp Sun View Tower NR Bhuyangdev Memnaga Chak Rast Ahmedabad)	a)UCC details
18	Hettich India Private Limited	• Entity number 18 has received shares from entity number 5 through off market.	a)Off market data
19	Jatin Natvarlal Parekh	• Entity number 19 has received shares from entity number 8 through off market.	a)Off market data
20	Nina Ajay Maloo	• Entity number 20 has received shares from entity number 8 through off market.	a)Off market data
21	Mukesh Himatlal Shah	• Entity number 21 has received shares from entity number 9 through off market.	a)Off market data

16. The pictorial representation of off-market transactions amongst the connected entities including Noticees No. 1-10 and 12–18 during the investigation period is as follows:



17. In view of above, it was observed that the promoters of the Company *viz.* Noticees No. 12, 13 and 14 and Late Mr. Abhijeet Dwarkadas Daga had transferred a total of 37,82,750 shares before and after circulation of bulk SMS shares directly or indirectly to other Noticees viz. Noticees No. 3, 4, 5, 7 and 15, who thereafter dumped it in the secondary market on gullible investors. The SCN states that, the Noticees were part of a scheme which involved planting unsolicited and misleading advice recommending purchase of shares of the Company to induce unsuspecting gullible investors to purchase shares of the company through bulk SMS and thereafter offloading large number of shares in the secondary market pursuant to such misleading recommendation with a view to deceive such unsuspecting gullible investors. As per SCN, *modus operandi* adopted by the Noticees was as under:

a. Prior to sending bulk SMS, Noticees No. 2, 3, 8, 9 and 10 bought small quantity of shares in each transaction which contributed to increase in scrip price. (Refer Table 8 – 13 of Para 1)

b. Around the same time, promoters of the Company *viz.* Noticee No. 12, 13 and 14 and Late Mr. Abhijeet Dwarkadas Daga transferred shares to certain Noticees through off market route. (Refer Table 2 of Para 1 and Para 16 – pictorial representation)

c. Subsequently, one of the entities, *viz.* Soni Sanjay Jethalal (Noticee no. 9), circulated bulk SMS during July 25, 2014 to July 28, 2014, containing unsolicited advice recommending purchase of shares of the Company and lured unsuspecting gullible investors to buy the shares of the Company. (Refer Para 2)

d. Pursuant to sending bulk SMS in Patch II of the investigation period, 17 non- promoter entities including Noticees No. 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 15, 16, 17 and 18, who are connected to the promoters of the Company or each other, as detailed in para 15 and 16, and two promoters *viz.*, Maloo building Material Pvt Ltd. (Noticee no. 13) and Late Shri Abhijeet Dwarkadas Daga traded for 26,15,280 shares at BSE. (refer Table 21)

e. Similarly, the aforesaid 17 entities including Noticees No. 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 15, 16, 17 and 18 and one promoter *viz.*, Late Shri Abhijeet Dwarkadas Daga traded for 31,99,688 shares at NSE. (refer Table 22)

f. It was also observed that in Patch II, the Noticees had traded among themselves for 8,49,220 shares at BSE and 8,31,895 shares at NSE, and thereby created an impression of artificial volume generation, which invited the attention of gullible investors towards the scrip.

g. It was observed that the average daily trading volumes during Patch I (April 1, 2014 to July 24, 2014) i.e before the bulk SMS circulation period were low *vis-à-vis* average daily trading volumes during patch II (July 25, 2014 to May 30, 2015) i.e. after circulation of bulk SMS. (Refer Table 14 and 15 of Para 1)

18. In view of the above connections and *modus operandi*, the submissions and the role of the Noticees, their contribution to LTP, the allegations of sending bulk SMS by Noticee No. 9 and disposal of holdings of promoters in the Company have been discussed under the following heads.

A. **<u>Patch I: Allegation of contribution of LTP by Noticees no. 2, 3, 8, 9 and 10 on NSE and BSE during April 01, 2014 to July 24, 2014 (As mentioned in point *modus operandi* mentioned in para 17)</u>**

a. I note that Noticees No. 2, 8, 9 and 10 have submitted in their replies to the SCN, wherein, they have contended that they have traded in 2 months or 2 and half months of the total investigation period of 14 months. In this regard, I note that the aforementioned Noticees have traded in the month of July, August and September of year 2014 of the investigation period and SMS was in circulation from July 25, 2014 to July 28, 2014. It is further noted that these Noticees have traded in the days and month, immediately prior to SMS circulation dates and days / months, immediately post to SMS circulation dates. Trading in such a manner that to around the same time when SMS were circulated, is a crucial evidence to show that their trading pattern was fraudulent and therefore, I reject such contentions of the Noticees.

b. The Noticees No. 2, 8, 9 and 10 contended that their trades in Patch I has been only considered objectionable towards LTP contribution. These Noticees also have selected few of their trades on selected days and tried to prove their trading as genuine on the basis of miniscule number trades/ shares contributing to the +ve LTP, while maximum trades/ shares contributing towards Nil or –ve LTP. They further contended that counterparties to these sample trades are not the Noticees charged in the SCN. In this regard, I note that, the aforesaid Noticees have misconstrued the price difference during the Patch I at NSE and BSE in the scrip of the Company as +ve LTP. I also note that, these Noticees have specifically chosen one or two of their trades and tried to imply the analysis on rest of their trades. I have noted from aforesaid Noticees trades (**Refer Table 8-13 of Para 1**) during Patch I, that Noticees 475 trades contributed +ve LTP of Rs 96.36. Out of 475 trades, in 268 trades buy quantity was 1 share which resulted in +ve LTP of Rs 68.34 i.e. 30.73% of total market +ve LTP. For other 94 trades, buy order quantity was in range of 2-10 shares, which contributed +ve LTP of Rs 11.44 i.e. 5.44% of total market +ve LTP. I note that these Noticees have failed to explain the reasoning for placing buy orders for single shares or shares in range of 2-10, whereas sell orders were available with quantity in the range of 1 to 50000 shares (Average of sell orders was 2500 shares). It was observed that these 5 Noticees contributed 35.47% of total market positive LTP, by putting orders for small quantity i.e. 1-10 shares.

c. I have noted similar pattern in trading of Noticees No. 3 and 9 at NSE, wherein, their 205 buy trades contributed to Rs 55.35 +ve LTP (**Refer Table 11-13 of Para 1**). Over here also out of their 205 buy trades, 124 trades buy order quantity was 1 share, which contributed Rs. 38.80 (23.47% of total market positive LTP). Further, for 17 trades, buy order quantity was in the range of 2-10 shares, which contributed positive LTP of Rs 3.85, i.e., 2.32% of total market positive LTP. I note that, in the majority of the trades, Noticees No. 3 and 9 had put their buy orders with quantity of shares in single digits i.e. mostly from 1 to 10 shares, whereas sell orders were available with quantity in the range of 1 to 8832 shares (Average of sell orders was 342 shares). I noted that, these 2 Noticees contributed 25.80% of total market positive LTP, by putting orders for small quantity i.e. 1-10 shares.

d. I also note from table 8-13 of Para 1, that out of 475 trades that contributed positive LTP Rs 96.36 at BSE, 106 trades were executed, where the counter parties belonged to the group of connected entities, which resulted in an +ve LTP of Rs. 13.63 (6.13% of total market positive LTP). Similarly, out of 205 trades by Noticees No. 3 and 9 at NSE, 15 trades were executed where the counter parties belonged to the group of connected entities, which resulted in +ve LTP of Rs. 5.05 (3.05% of total market positive LTP).

e. With regard to these Noticees contention on counterparties, I note that, in above paras and in para 1 of the order, it is clearly shown that, these Noticees executed trades with the counterparties, who are Noticees in this case. Also, the modus operandi clearly states that in Patch 1, these Noticees purposefully inflated the price of the scrip of the trades and thereafter, other connected Noticees in Patch 2 have off-loaded their shares in market. The Noticees have placed reliance upon the Hon'ble SAT judgement in the matter of *Ashlesh Shah (Supra)*. I have perused said Hon'ble SAT order and I am of a view that, facts of both cases are different. Further, the connected Noticees trades are not isolated trades, as alleged in *Ashlesh Shah (Supra),* instead 475 trades at BSE and 205 trades at NSE during the relevant period have been found, which has resulted in substantial positive LTP. Accordingly, I found that the reliance upon aforesaid judgement is out of place and of no help to the Noticees.

f. The Noticees No. 2, 6, 8, 9 and 10 had denied their connection among themselves and with other Noticees, except Noticee No. 9, who had admitted that he is connected to Noticees No. 6 and 10 being Karta of HUF and being husband, respectively. These Noticees also contended that since they were not provided with KYC documents of UCC details, they are unable comment based on the common telephone number. In one case Noticee No. 2 submitted that common no. 26-3026200 shown with Noticees No. 1, 8 and 10 belongs to his broker. With regard to Noticees No. 2, 6, 8, 9 and 10 off-market transactions with Paresh Nathalal Chauhan (Noticee No. 1) and Mr. Nimish Pankaj Kumar Shah (Noticee No. 3), they submitted that, these transactions were for the purpose of loan/ collateral. Later on it was submitted that Noticee No. 2 had to pay his dues to them, respectively, on account of settlement and in order to pay off that amount, Noticee No. 2 offered them shares of the Company and therefore, the loan account was to be set off.

g. With respect to the Noticees contentions of not providing supporting KYC documents to UCC details provided as Annexure B to the SCN, I note that UCC details provided to the Noticees were sourced from the data of the NSE and BSE. UCC related KYC details for each client/ investor is obtained by a trading member, while opening the trading account and there upon, these KYC details and UCC are mapped in with client/ investor PAN number. These details of client/ investor, which contains their address, phone number, e-mail id and PAN number are shared by trading member with their respective exchanges. In view of the same, doubting the authenticity of details provided by NSE and BSE is not correct, until and unless specific instances are brought ahead by an individual along with the supporting documents. I note that, neither such instance / discrepancy has been brought before me by these Noticees, nor such document has been produced before me in these proceedings. Therefore, I reject such contentions of the Noticees.

h. With regard to submissions of the Noticees No. 2, 6, 8, 9 and 10 for off-market transactions with Noticees No. 1 and 3, I note that the Noticees No. 2, 6, 8, 9 and 10 failed to submit any supporting documents regarding their claim of loan transactions or collateral with Noticees No. 3. I also note from Table 2 and pictorial representation at Para 16, that the Noticee No. 3 had received 26,45,000 shares from promoter entities *viz.* Noticees No. 12, 13 and 14 and thereof, transferred 4 lakh shares each to Noticees No. 2 and 6 and 12 lakh shares to Noticee No. 1. Subsequently, Noticees No. 2 and 6 transferred 4,80,300 shares and 4,46,000 shares, respectively, to Noticee No. 1. Further, Noticees No. 8, 9 and 10 transferred 49,700 shares, 3,92,800 shares and 1,63,900 shares, respectively, to Noticee No. 1. Such enormous off-market transfer of shares of the Company, from the promoters of the Company to Noticee No. 3 and thereof to other Noticees, in absence of any supporting documents regarding loan transactions and without any consideration, suggest that these Noticees were connected to each other. I also note that Noticee No. 2 has admitted that, he is having trading account with Noticee No. 9. Further, these Noticees trading pattern in the scrip of the Company endorses that these Noticees are closely connected entities. In view of aforementioned facts and circumstances, I am of a view that the Noticees No. 1, 2, 3, 6, 8, 9 and 10 are connected entities, who are further connected to promoters of the Company i.e. 12, 13 and 14, and thus, I reject their submissions with respect to no connections with other Noticee or promoter of the Company.

i. The Noticees No. 2, 6, 8, 9 and 10 have also contended that the shares of the Company were trading below its book value, hence those shares cannot be a part of fraudulent scheme. Further, the anonymous system of exchange does not reveal information of the counterparties placing the order and therefore, they could not know or ascertain any pattern, if any, at the relevant time. In this regard, I note that the volume in the scrip prior to the SMS circulation was low and scrip was thinly traded. Noticees explanation for trading in the scrip of the Company in Patch 1 regarding announcement of expansion by the Company has no supporting basis. Instead, it has been found that the financials of the Company were not good and same fact get corroborated with the fact that the Company was liquidated in year 2015. The Noticees have been found connected to each other and their trades get matched among themselves proves that they were placing the order in the scrip with a motive to increase the price of the scrip. In view of aforesaid facts and circumstances, the aforesaid Noticees trading pattern in the scrip of the Company was devoid of bona fide intention and thus, I reject such contentions of the Noticees.

j. In view of above trading patterns of Noticees No. 2, 3, 8, 9 and 10, it is evident that they were not acting as a genuine trader, especially when large number of sell orders are available, placing buy order of single shares raised enough doubts on intention of the Noticees, which in no way can be said to be *bona fide* in nature. Further, the Noticees No. 2, 8, 9 and 10 have chosen specific 1-2 instances regarding their trade analysis to prove their point, however, such selective pick and choose is of no help to the Noticees, as they have failed to explain their trading pattern in their reply. I also note that the Noticees had not provided any explanation regarding placing buy orders in single digit when large number of sell orders were available in market for large number of shares.

k. The notable fact is that these five Noticees on BSE and two Noticees on NSE chose to place buy orders above LTP in small quantities despite the presence of large sell orders in the system, as shown in above para and these Noticees continued this pattern of buying shares of the Company during Patch I of the investigation period. I note that, had these Noticees not executed the buy trade on each day, the sell orders existing in the system would not have been matched and consequently, the higher LTP would not have been set and the price of the scrip would not have risen. Moreover, since the scrip was thinly traded, these Noticees were able to create a higher LTP by their buy trades at a price higher than previous LTP. It is unlikely that a buy trader will put in buy orders at a rate higher than LTP for small quantity of shares to be purchased. I note that the impugned buy trades had a price impact of 25.80% of the total market positive LTP on NSE, as shown in and 35.47% of total market positive LTP on BSE. Buy orders were placed by these Noticees for very small quantities, in some cases only one share buy order placed at price above LTP, repeatedly in Patch I at both BSE and NSE. From such trading pattern, I find that Noticees No. 2, 3, 8, 9 and 10 contributed to positive LTP of Rs 96.36 on BSE and Noticees nos. 3 and 11 contributed to positive LTP of Rs 55.35 during Patch I on NSE. I find that that in the background of the *modus operandi* and the connection of these Noticees with the promoters of the Company and each other and trading by these Noticees, such buy orders as discussed above were placed by these Noticees to influence the price of the scrip of the Company.

l. In view of the above, I find that Noticees No. 2, 3, 8, 9 and 10 were not acting as genuine buyers while trading in the shares of the Company on BSE and NSE during Patch I. I also find that the intent of these Noticees was to mark the price higher and not merely to enter into the buy transactions carried out by them and that the Noticees had placed buy orders of small quantities in order to execute trades which had a positive LTP impact. Noticees No. 2, 3, 8, 9 and 10 contributed to positive LTP of Rs 96.36 on BSE and the individual price impact of Noticees No. 2, 3, 8, 9 and 10 were Rs. 9.95, Rs. 31.86, Rs. 12.95, Rs. 35.25 and Rs. 6.35, respectively, during Patch I. On NSE Noticees No. 3 and 11 contributed to positive LTP of Rs 55.35 and the individual contribution of Noticees No. 3 and 11 were Rs. 24.30 and Rs. 31.05 respectively during Patch I. Therefore, I find that the Noticees No. 2, 3, 8, 9 and 10 have artificially inflated the price of the shares of the Company through their trading and dealing in fraudulent manner and thus, violated provisions of Regulations 3(a), 4(1), 4(2)(a) and (e) of the PFUTP Regulations, 2003, while trading in the scrip of the Company.

B. **<u>Patch II of Investigation Period:</u>**

B.1 **<u>Allegation of sending bulk SMS against Noticee no. 9</u>**

a. I note that one Mr. Aniketh Jain, MD & CEO, Solutions Infini Technologies (I) Pvt. Ltd is a company which provides a platform for bulk SMS circulation. In this case SMS were circulated by Mr. Niraj Shah and a total of 7,78,719 SMS were sent during July 25, 2014 to July 28, 2014 by using the said SMS platform. I further, note from the reply of Mr. Niraj Shah, Director ZEN enterprises that, his firm is a reseller of Solutions Infini Technologies (I) Pvt. Ltd for sales of bulk SMS circulation services in Ahmedabad and these bulk SMS were sent from the account opened by Noticee No. 9 under login user id "*Shreeji Securities*". I note from the ledger statement and bank statement provided by Mr. Niraj Shah, that his firm had received two payments of Rs. 67,416/- each from M/s Durga Capital Services and M/s Jyoti Enterprises, respectively. I also perused the KYC details provided by the ICICI bank of aforementioned proprietorship firms and note that Noticee No. 9 is proprietor of both the firms.

b. The Noticee No. 9 in his reply to the SCN had admitted that he had circulated the impugned SMS in good faith and *bona fide* manner to his friends, family and known acquaintances without knowledge that it is in violation of law, if any. He had submitted that he had identified the scrip of the Company for short term trading on the basis of information received regarding the Company expansion and he is not connected to any promoters or directors of the Company, therefore, he denies that he acted in concert and was part of the scheme to plant unsolicited and misleading advice to induce gullible investors. In view of the Mr. Aniketh Jain submission that 7,78,719 SMS were sent during July 25, 2014 to July 28, 2014, I found the submission of the Noticee No. 9 regarding circulation of message to only few of its known acquaintances to be false; instead the Noticee No. 9 forwarded the bulk messages to a large number of investors recommending the purchase of shares of the Company during relevant period and thus, induce gullible investors to buy the shares of the Company.

c. In terms of above sub-paras, the Noticee No. 9 has been found connected to the promoters/ directors of the Company, on the basis of off-market transfer with one of the director of the Company *viz.* Noticee No. 3 and his trading pattern in the scrip of the Company. I also note that during the personal hearing Shri Anant S. Maloo (Noticee No. 12 and a promoter of the Company) has submitted that, he knew Noticee No. 9, who has told the promoter of the Company that he would assist him in selling the shares of the Company.

d. In view of above facts and circumstances, I am of a view that Noticee No. 9, who was connected with the Company and its promoters/ directors was responsible for circulation of the bulk SMS and inducing the gullible investors to buy shares of the Company during relevant period. I observe that Noticee no. 9 has employed a device and was a part of scheme to create an interest in the scrip to induce gullible investors to buy shares of the Company and to defraud the investors by circulating SMS. Therefore, I find that Noticee no. 9 has violated Regulations 3 (b), 4(1), 4(2)(f) and (r) of the PFUTP Regulations, 2003.

B.2 **Patch II: Disposal of shareholdings by promoters of Timbor (Noticee nos. 12, 13 and 14 and Late Mr. Abhijeet Dwarkadas Daga) and trading by other Noticees:**

The Patch II is divided into two parts as under:

I. The Noticees No. 1 – 11 and 15 – 18 along with two promoter entities *viz.* Noticee No. 13 and Late Mr. Abhijeet Dwarkadas Daga and two connected entities viz. Late Mr. Shirish Manilal Vyas and Late Mr. Rakesh Patel traded 26,15,280 number of shares at BSE as under:

Table – 21 - BSE

Noticee/ Seller Name	All Trades			% of Negative LTP to Total Market Negative LTP
	Net LTP	Sum of Qty	No. of Trades	
Soni Sanjay Jethalal	-4.37	214188	342	3.46
Daga Abhijeet Dwarkadas	-4.20	218863	209	3.31
Sushma Rani	-1.55	359700	208	1.50
Dipali Nilay Patel	-1.49	24451	752	3.02
Shirish Manilal Vyas	-1.40	23740	40	1.08
Sanjay Jethalal Soni(Huf)	-1.34	267892	139	0.84
Paresh Nathalal Chauhan	-1.05	986297	645	0.83
Gagabhai Desai Amul	-0.79	194208	975	1.43
Soni Krupa Sanjay	-0.45	85441	96	0.44
Jatin Natvarlal Parekh	-0.30	2989	11	0.15
Pankajkumar Shah Nimish	-0.25	26655	67	1.68
Mukesh Himatlal Shah	-0.20	8000	7	0.13
Mahesh Somabhai Desai	-0.17	54735	39	0.19
Nina Ajay Maloo	-0.09	15000	9	0.05
Maloo Building Pvt Ltd	0.00	12250	3	0.00
Hettich India Limited	0.04	13380	15	0.44
Kajal Nimish Shah	0.20	10872	10	0.18
Krishna Kumar Periwal	0.57	63619	103	0.53
Rakesh Patel	0.58	33000	223	0.26
Group Total	**-16.26**	**2615280**	**3893**	**19.52**
Market Total	**-7.5**	**8816979**	**14247**	**100**

i. Amongst the promoters of the Company *viz.* Noticees No. 12, 13 and 14, Noticee No. 12 submitted replies on behalf of himself and Noticees No. 3, 11, 13 and 17. Noticee no. 12 has submitted that, he himself was a victim of fraud wherein the promoters of the Company had transferred their shares to Noticee No. 9 and entities known or connected to Noticee No. 9, to sell them in the market, since the Company had suffered huge losses due to a fire in its godown and he took help of Noticee no. 9 to sell his shares of the Company in the secondary market and the promoters of the Company were unaware of the fraudulent scheme related to the dumping of shares of the Company through bulk SMS on the gullible public investors in the market.

ii. Noticee No. 14 had submitted that, he had joined the Company as a technical person and he was never involved in day to day management of the Company. As a Technical Director, he was being paid monthly remuneration by the Company and 11,25,000 shares of the Company were allotted to him and he had not paid any consideration for the same. He had resigned from the post of executive director of the Company on May 07, 2013. The aforesaid shares were transferred to him by other Promoter Directors without his consent and knowledge for which he had already intimated the Company on August 08, 2014. He was unaware of SMS circulation and he has not given his consent regarding acquiring or transferring the shares of the Company.

iii. I note that, the shareholding pattern of the Company shows that the promoters of the Company had sold their shares during the investigation period and the promoter shareholding had come down from 29.90% in

March 2014 to 2.93% in December 2014 at the time when bulk SMS was circulating recommendation for the purchase of shares of the Company. Further the promoter holding reduced to 0.29% in June 2015. I find from the SCN has shown that the promoters of the Company were holding 44,12,400 shares (29.90%) in the Company at the end of quarter ending March 2014 and at the end of quarter ending June 2015 they were only holding 43,236 (0.29%) shares. I also note from the finding of investigation that the requisite disclosures as required under the SEBI (Substantial Acquisition of Shares and Takeovers) Regulations, 2011 and SEBI (Prohibition of Insider Trading) Regulations, 1992 were not made by the promoters while disposing of their holding in the Company. Therefore, gullible investors were kept in dark regarding the exit of the promoters from the Company. I have taken the note of fact that the Company's godown had caught fire and there was no insurance and the Company was in financial crisis and that winding up petition had been filed by two creditors of the Company, i.e. Yuvatex Packaging and Sundek India Ltd. and the petition of Yuvatex Packaging as admitted on June 29, 2015.

iv. From the above, it can be reasonably inferred that the Company did not timely disclose material information to public and the promoters dumped their holding in the Company in the secondary market through the non-promoter Noticees as shown in above paras. Moreover, I note that the promoters themselves transferred their shares in off-market route to various other Noticees for no consideration and from the background of the case and the scheme as discussed in para 4 and 17, I note that the promoters did not disclose selling of their holding in the Company as required under the SEBI (SAST) Regulations, 2011 and SEBI (PIT) Regulations, 1992. Therefore, there is no merit in the submission of Noticee no. 12 that he was a mere victim. Further, Noticee No. 14 had failed to produce any supporting documents in support of his submission regarding non-involvement or being not a part of whole scheme, if any. The facts and circumstances of the case indicate that the promoters were party to the fraudulent scheme and cannot take the plea that, they were unaware of the manipulative scheme by which gullible investors were duped. I also note that the objective of the fraudulent scheme as detailed in the SCN was to artificially inflate the price of shares of the Company by using connected entities, circulate bulk SMS through Noticee no. 9, who was connected to the promoters of the Company and thereafter, dump the shares of the promoters through a large set of connected entities post circulation of bulk SMS to get rid of their shares of the Company, before the Company went into liquidation and the value of their shares become meagre or NIL. In view of above observations and based on the material available on record, I find that the Noticees No. 12, 13 and 14 employed a device and was a part of scheme to create an interest in the scrip to induce gullible investors to buy shares of the Company and to defraud the investors and thus, these Noticees have violated Regulations 3 (b), 4(1), 4(2)(f) and (r) of the PFUTP Regulations, 2003.

II. The Noticees No. 1 – 11 and 15 – 18 along with one promote entity *viz.* Late Mr. Abhijeet Dwarkadas Daga and two connected entities viz. Late Mr. Shirish Manilal Vyas and Late Mr. Rakesh Patel traded 31,99,688 number of shares at NSE and the analysis of same is as follows:

i. The aforementioned Noticees have traded amongst themselves for 8,49,220 shares at BSE and 8,31,895 shares at NSE, respectively, and thereby created an impression of artificial volume generation, which invited the attention of gullible investors towards the scrip. I also note that the daily trading volumes during Patch I i.e. before the bulk SMS circulation period were low *vis-à-vis* average daily trading volumes during patch II i.e. after circulation of bulk SMS. The details of their trades on NSE in Patch II is as follows:

Table 22 - NSE

Seller Name	All Trades			% of Negative LTP to Total Market Negative LTP
	Net LTP	Sum of Qty	No. of Trades	
Soni Sanjaykumar Jethalal	-8.40	321564	1085	5.31
Dipali Nilay Patel	-4.55	37231	735	3.02
Daga Abhijeet Dwarkadas	-4.40	300045	407	3.09
Sushma Rani	-4.15	643213	354	3.17
Sanjay Jethalal Soni Huf	-1.70	410098	375	1.26
Shirish Manilal Vyas	-0.80	4000	53	0.40
Amul G Desai	-0.70	250708	606	0.95
Soni Krupa Sanjay	-0.55	117503	182	0.76
Jatin Natvarlal Parekh	-0.50	7011	29	0.24
Paresh Nathalal Chauhan	-0.45	876403	458	0.40
Kajal Nimish Shah	-0.15	7328	31	0.36
Hettich India Limited	-0.10	8333	14	0.12
Krishna Kumar Periwal	0.05	146381	172	0.69
Nina Ajay Maloo	0.05	2000	3	0.00
Mahesh Somabhai Desai	0.20	25000	3	0.00
Mukesh Himatlal Shah	0.20	7000	8	0.00
Rakesh Patel	0.30	19100	317	0.19
Nimish Pankajkumar Shah	0.50	16770	48	0.62
Group Total	**-25.15**	**3199688**	**4880**	**20.58**
Market Total	**-7.55**	**8222720**	**19790**	**100**

ii. Amongst the non-promoter Noticees, who had traded in Patch II, I note that they can be divided into two groups (as mentioned in point d. and e. in *modus operandi* mentioned in para 17) as under:

A. Analysis of the Noticees, who received shares directly from the promoter of the Company and thereafter, sold them in the secondary market to other Noticees and to the public i.e. Noticees No. 3, 4, 5, 7 and 15 and Late Mr. Shirish Manilal Vyas) is as follows:

a. I note that Noticees No. 3, 4, 5, 7 and 15 constituted the first group of Noticees, who received shares in off-market from the promoters of the Company without paying any consideration. Noticee No. 4 had not submitted any reply to the SCN nor appeared before me or before erstwhile AO for the hearing. Noticee No. 3 hadn't made any specific submissions; instead, Noticee No. 12 made submissions on his behalf and submitted that Noticee No. 3 has acted on his instructions to transfer his shares to the creditors of the Company and to Mr. Sanjay Soni, Noticee No. 9 and his associates and he has not received any payment against those shares.

b. Noticee No. 5 has submitted that her firm M/s Yuvtex Packaging was a creditor of the Company and the Company had been unable to pay its dues. A winding up petition against the Company was filed by her and winding up order came to be passed by the Hon'ble High Court of Gujarat based on a petition filed by another creditor. In pursuance of the huge dues owed to her by the Company, the promoter of the Company gave her the equity shares as security and also gave permission to realize the dues of Rs.1,68,57,663/-. The Noticee No. 18 stated that, since Noticee No. 5, who was the proprietor of Yuvtex Packaging, was unable to pay for the professional services rendered by him being a Company Secretary; she offered him shares of the Company, which were in her possession. Noticee No. 18 agreed to the same and accepted certain shares of the Company in his demat account and in fact sold them at a later date and realized certain dues from selling the equity shares of the Company.

c. I have perused the copy of the order of the Hon'ble High Court of Gujarat dated June 29, 2015 admitting the winding up petition filed by Noticee no. 5 against the Noticee and the order dated June 16, 2016 issued by the Hon'ble High Court of Gujarat. I note that the dues of the Company towards Noticee no. 5 amounted to Rs. 1,68,57,663/-. I also note that Noticee No. 13 had transferred a total of 12,65,000 shares of the Company in off-market transfers out of which 5,00,000 shares were transferred to Noticee no. 5, on June 30, 2014. I also note that apart from the receipt of shares from Noticee no. 13 and which were received by Noticee no. 5 in lieu of pre-existing debt, there is no other connection alleged between Noticee no. 5 and the promoters of the Company. In view of the above facts and circumstances, I am of a view that apart from the off-market transfer of shares by the promoter no other adverse inference is drawn against Noticee no. 5 and therefore, I am inclined to accept the submissions made by the Noticee no. 5. I further note that the Noticee No. 18 is a company secretary rendering professional services to Noticee No. 5 firm and as professional dues, he received 15,000 shares from her and same were sold on on-market to recover his dues. In view of same, I find that charge of violation of PFUTP Regulations w.r.t. Noticees No. 5 and 18 is not established.

d. I note that Noticee no. 15 was a seller of furniture fittings and the Company was a retailer, thereof and thus Noticee no. 18 was a supplier to the Company. Noticee no. 15 has submitted that the shares sold by it were with a view to recover dues owed by the Company to its firm. It has submitted that the Company had significant outstanding dues of Rs. 43,41,823/ owed to Noticee no. 15 in respect of sales made in the year 2012-2014 and Form C under Central Sales Tax for sales amounting to Rs. 77,61,453/-. Noticee No. 12, promoter of the Company has entered into agreement with it to transfer 3,00,000 equity shares of the Company held by him, as security deposit, against dues of the Company vide agreement dated June 10, 2014. As per the said agreement Noticee No. 12 was required to transfer equity shares of the Company to it by June 10, 2014, along with a condition that it had right to sell those equity shares after December 31, 2014, if the Company fails to clear the dues by December 31, 2014. On June 27, 2014, Noticee No.

12 had transferred 3,00,000 shares of the Company in the name of Noticee No. 12, as security deposit based on delivery instruction slip given by the promoter by way of off market transaction.

e. I have perused the MoU dated June 10, 2014, copy of which has been tendered by Noticee No. 15, executed between Noticee No. 15, Noticee No. 12 and the Company and other documents like customer ledger of the Company, as on June 10, 2014 showing outstanding amount of Rs. 43,41,823/- in favour of Noticee no. 15. I note that the Clauses (1) to (6) of MoU are in line with the submissions of the Noticee no. 15. I also note that the Delivery Instruction Slip for the transfer of shares to Noticee no. 15 mentions the reason as "*Security Deposit*". I note that Noticee no. 12 had transferred a total of 11,97,750 shares of Timbor in off-market transfers, out of which 3,00,000 shares were transferred to Noticee no. 15. Therefore, in view of these supporting documents and the fact that no other adverse inference has been drawn against Noticee No. 15 except the off market receipt of shares and subsequent sale, I hold that the charge against Noticee No. 15 that it had violated provisions of PFUTP Regulations is not established.

f. I note that, the Noticee No. 7 has mainly contended that the shares which he received through an off-market route from Late Mr. Abhijeet Dwarkadas Daga, promoter of the Company, was a genuine transaction mediated by a common acquaintance of Late Shri M.R. Saraf. He has contended that he was not part of or aware of any manipulative scheme regarding the trading in the shares of the Company and the trades undertaken by him were in the normal course of business. He has also contended that his volumes were very low and that off-market transactions are not barred by law. Moreover, the Noticee No. 7 has also challenged the calculation of his ill-gotten gains as mentioned in the SCN. He has also contended that the details of the off-market transaction provided to him erroneously records that, he returned the shares through off-market route to Late Mr. Abhijeet Daga on the same day. In these regards, I note that the SCN alleges that Late Mr. Abhijeet Daga transferred 2,00,000 shares of the Company to Noticee no. 7 in off-market transfer on August 29, 2014 and that Noticee No. 7 sold 63,619 shares of the Company on BSE and 1,46,381 shares of of the Company on NSE, during the time when bulk SMS was being circulated. I note that no allegation of reverse transaction has been made in the SCN and in view of the same, I find that this particular detail regarding the return of 2,00,000 shares of the Company through off-market route from him to Late Mr. Abhijeet Dwarkadas Daga on August 29, 2014 has been erroneously recorded in the respective Annexure of SCN.

g. The Noticee no. 7 has also submitted that the number of transaction that he entered on BSE in relation to the shares of the Company summed up around 1549 different transactions, but the data provided with the SCN related to 833 transactions and that the total number of shares traded matched as provided in the BSE data with the SCN, but number of transactions were different as mentioned above. Also, he has pointed out that the data provided with SCN records 103 transactions pertaining to him in the month of September 2014, whereas he had carried out 266 transactions. The Noticee no. 7 has submitted his demat holding statement for September 2014, in support of this submission. I note that, the trade log provided to the Noticee no. 7 records that trades involving 63,619 shares of the Company were undertaken by him on BSE, during the Patch II of the investigation period, which is in line with the allegation against him in the SCN. The Noticee no. 7 has not denied the sale of 63,619 shares of the Company by hime on BSE and 1,46,381 shares of the Company on NSE. He had referred to the same quantities in his reply, while calculating his ill-gotten gains. Therefore, the data pertaining to the number of shares traded by him, as presented by himself matches with the allegations in the SCN. With respect to Noticee No. 7 submission on the merits of the matter I note the following:

i. I note that the Noticee no. 7 in spite of submitting several replies has not submitted any supporting document or proof of payment made towards purchase of 2,00,000 shares of the Company, which he received from Late Mr. Abhijeet Daga, promoter of the Company during relevant time. I further note that, the Delivery Instruction Slip issued by Late Mr. Abhijeet Daga for the off market transaction for 2,00,000 shares of the Company on August 29, 2014 between Late Mr. Abhijeet Dwarkadas Daga and Noticee no. 7 states the purpose as "GIFT" and the value column has been left blank. Though it is written in DIS that it was a gift, the Noticee No. 7 has submitted that it was genuine sale transaction but without substantiating the same. This implies that the shares were transferred without any consideration. As per Section 25 of the Indian Contract Act, 1872 a contract without consideration is void except *inter ali*a, if it is a contract in writing and registered and is made on account of natural love and affection between parties standing in a near relation to each other. The Noticee no. 7 has not made any submission or given any documentary proof that he was related to Late Mr. Abhijeet Daga on account of natural love and affection and that the transfer was on account of natural love and affection and thus, Section 25 of the Indian Contract Act, 1872 is not attracted.

ii. The off market transfers between Late Mr. Abhijeet Daga and Noticee no. 7 also points to the fact that Noticee no. 7 was connected to Late Mr. Abhijeet Daga. I note that off-market transactions are possible only amongst known parties, who are aware of holdings and willing to buy/ sell the particular securities outside the exchange and also knows about worthiness of parties, as it involves counter party risk and these trades are not settled through clearing corporation of a stock exchange, nor there is any benefit of settlement guarantee fund of stock exchange in case of default by the counter party. Since off-market transfers do not take place on the anonymous platform of the exchange, it is understood that the parties know each other and also know that the seller is holding shares of particular scrip say the Company and willing to sell and the buyer is willing to buy and are required to negotiate the quantity and price to come to an understanding among themselves to carry out off-market trades. Therefore, it further implies that the parties were known to/ connected with each other. For arguments sake if it is accepted that Noticee No. 7 did not personally know Late Mr. Abhijeet Daga, it does not show that Noticee no. 7 was unaware of the manipulative scheme with respect to the trading in shares of the Company during the investigation period, since connection as well as communication can take place through middle men and the Noticee No. 7 has himself submitted that late Shri M.R. Saraf was purportedly acting as a middle man between them and it is a fact that Noticee No. 7 got a huge number of shares of the Company without any consideration on August 29, 2014.

iii. After receipt of 2,00,000 shares of the Company without any consideration from Late Mr. Abhijeet Daga on August 29, 2014, Noticee no. 7 then proceeded to dispose of the shares of the Company in the secondary market on unsuspecting investors after circulation of bulk SMS during July 25, 2014 to July 28, 2014. The timing of the trades of Noticee No. 7 also shows that it was during a period when the Company was in financial crisis and finally liquidation proceedings were initiated in October 2015. Therefore, it can be reasonably inferred that Noticee no. 7 was part of the fraudulent scheme devise in this case.

iv. I also note that the Noticee no. 7 has sold more shares of the Company, than which were in his possession during Patch II and he had to acquire more shares of the Company in auction to make good the delivery. The Noticee No.7 held 2,00,000 shares of the Company but had sold a total of 2,10,000 shares in the market, the additional 10,000 shares being short sold. It is understood that one short sells stocks, when one expects a drop in price of the said shares. This further corroborate that Noticee no. 7 was aware that the price of the scrip will fall further which together with above facts points towards his participation in the fraudulent scheme. As regard the connection, Noticee No. 7 had placed reliance upon the judgment of Hon'ble SAT in the matter of *Rajendra G Parikh* (*Supra*). I have perused the said order of Hon'vble SAT and note that apart from receiving shares in off-market from the promoter of the Company without any consideration, he has also traded in the scrip of the Company and his trading pattern as discussed in above paras depicts his involvement in aforementioned scheme. In view of the same, the findings of the aforesaid judgement do not apply in the instant matter.

v. Regarding Noticee No. 7's connection with other entities, the Noticee has placed reliance upon the recent judgement of Hon'ble SAT in the matter of *M/s Nishith M. Shah HUF vs. SEBI (Appeal No. 97 of 2019 dated January 16, 2020)*, *Sapna Dilip Bombaywala vs. Whole Time Member, SEBI (Appeal No.219 of 2019 dated January 28, 2020), Bhagwat Singh Kitawat vs SEBI (Appeal No. 419 of 2018 dated January 28, 2020), where Hon'ble SAT has laid down the ratio that a seller alone cannot be charged for manipulating the price of shares of a company, unless connection of such seller with buyer is shown in order to prove manipulation in the share prices.*. In this regard, I note that, on the face of it, the aforesaid arguments of the Noticee may sound reasonable and practical. Individually each Noticee can claim that he has acted in a prudent manner and has tried to maximize his profits by selling his shares in small quantities at the prices offered by buyers. However, given the fact that Noticees were connected to each other, one has to look beneath those defenses taken the Noticees, since the facts of the case defy and contradict the simplicity with which the Noticee have advanced the above stated argument in their favour. The background of the Noticee and its connection that existed with promoter/ director of the Company, acknowledged and established in the earlier parts of this order, does not permit me to accept such claims of the Noticee, that he has acted individually as a prudent seller.

vi. I note that, as discussed in above paras, the Noticee No. 7 has been found connected to the other Noticees. Further, his off-market trades without any consideration and his trading behavior of short selling the shares of the Company, sufficiently implies that the allegations of fraud as levied against him are not merely imposed on the basis of suspicion, surmises and conjunctures, instead the allegation of fraud against him is based on his connection through off-market trades and his trading pattern during the investigation period. Considering the same, I found that reliance upon various judgments of the Hon'ble SAT, Hon'ble Supreme Court and Hon'ble Hight Court of Andhra Pradesh in several matters by the Noticee is misplaced.

vii. Noticee No. 7 has also relied on the judgment of the Hon'ble Supreme Court in *Food Corporation of India vs. State of Punjab and Others* (2001) 1 SCC 291, *Canara Bank Vs. Debasis Das* (2003) 4 SCC 552; Hon'ble SAT judgements in the matter of *M.G. Capital Service Ltd. V/s SEBI Appeal No. 62/2012 dated July 31, 2012 and Smitaben N. Shah v. Securities and Exchange Board of India (Appeal No. 37 of 2010) decided on July 30, 2010* etc. to strengthen his submissions. Based on the discussions herein, I find that the charge against Noticee no. 7 as well as the basis of the said charges has been clearly laid out in the SCN and Noticee no. 7 has made detailed submissions in response to the SCN. In view of the same, I note that these cases may not apply to the present proceedings.

h. With respect to Noticee No. 3, I note that he had not submitted specific reply on the basis of merit and relied upon the submissions of Noticee No. 12, who had made submissions on his behalf and admitted that Noticee No. 3 had acted on his instructions only. Noticee No. 4 had not filed any reply in the instant proceedings. However, it is noted from the reply of the Noticee No. 12, that Noticee No. 4 has paid him consideration of Rs 2,30,000/- on 17.07.2014, Rs 1,50,000/- on 21.07.2014, Rs 1,20,015/- on 26.07.2014 and Rs 1,50,000/- on 30.07.2014 w.r.t. shares received by her from promoters of the Company. I also note that the DIS for the off-market transfer of shares by the promoters of the Company to Noticees No. 3 and 4 mention the reasons of transfer as 'GIFT' or "FRIEND LOAN" or "LOAN". The column for value has been deliberately left blank. In view of the same, I agree with the allegation, that the transfer of the shares of the Company in off market route to Noticees No. 3 and 4 took place without any consideration for the same. Thereafter, Noticees No. 3 and 4 forwarded shares received from the Promoters to the other non-promoter entities and also sold shares in the market. Therefore, Noticees No. 3 and 4 were part of the fraudulent scheme and artifice to off-load large number of shares of the Company in the secondary market by planting unsolicited and misleading advice recommending purchase of shares of the Company to induce unsuspecting gullible investors to purchase shares. I note that the material available on record and the surrounding circumstances, as discussed in the preceding paragraphs, indicate towards the involvement of these Noticees in the fraudulent scheme. Therefore, I find that Noticees No. 3 and 4 have violated Regulation 3 (b), 4(1), 4(2)(f) and (r) of the PFUTP Regulations, 2003.

B. The Noticees namely, Noticees No. 1, 2, 4, 6, 8, 9, 10, 11, 16, 17 and 18 and Late Mr. Rakesh Patel, who received the shares from non-promoter Noticees and thereafter, sold those shares in the secondary market to the public were also found connected with the promoters of the Company as detailed in the para 15, 16 and 18 above. As regards the Noticee No. 18 the charge has been dropped in above sub-paras. I further note that, these Noticees, barring Noticee No. 18, facilitated the offloading of the shares of Company i.e. 26,15,280 shares at BSE and 31,99,688 shares at NSE during Patch II. Further, 8,49,220 shares at BSE and 8,31,895 shares at NSE were traded among these connected Noticees. I note that, while an interest had been created in the scrip of the Company by sending bulk SMS, which originally were held by the promoters of the Company. The connection of these Noticees with each other and with the promoters of the Company and the timing of their trades i.e. post circulation of SMS, which lead to the creation of artificial volumes in the share of the Company (refer Table 14), reveals that all these Noticees were acting in concert and were integral part of the fraudulent scheme. I also note that they sold the shares received from Noticees No. 3, 4 and Late Mr. Shirish Manilal Vyas, which had been received by them from the promoters of the Company without paying any consideration. Therefore, I find that Noticees No. 1, 2, 4, 6, 8, 9, 10, 11, 16 and 17 were part of the manipulative and fraudulent scheme in the trading of shares of the Company during investigation period and have violated Regulation 3 (b), 4(1), 4(2)(f) and (r) of the PFUTP Regulations.

19. In view of aforesaid facts and circumstances, submissions made by the Noticees in their replies and during hearings, I am of the view that the Noticees No. 1, 2, 3, 4, 6, 7, 8, 9, 10, 11, 12, 13, 14, 16 and 17 are connected entities and integral part of the whole scheme and artifice. Further, The Noticees No. 2, 3, 8, 9 and 10 artificially inflated the price of the scrip through their trades in shares of the Company. The chain of events started with off market transfer by promoters (Noticees No. 12, 13 and 14) to connected entities and price manipulations by Noticees No. 2, 3, 8, 9 and 10. Subsequently Noticee No. 9 circulated SMS with buy recommendation and thereafter, Noticees No. 1, 2, 3, 4, 6, 8, 9, 10, 11, 16 and 17 dumped the shares of the Company on unsuspecting gullible investors. Thus, I am of a view that, such an arrangement and scheme deployed by all the Noticees except Noticees No. 5, 15 and 18 was fraudulent in nature and was in violation of Regulations 3(b) and 4(1), 4(2)(f) and (r) of the PFUTP Regulations. Further, the act of the price manipulation by the Noticees No. 2, 3, 8, 9 and 10 was in violation of Regulations 3(a) and 4(2)(a) and (e) of the PFUTP Regulations. As such the said Noticees are liable for penalty under section 15 HA of the SEBI Act. The aforesaid penalty provisions are mentioned as under:

SEBI Act

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.*

20. For the purpose of adjudication of quantum of penalty, it is relevant to mention that under section 15I of the SEBI Act imposition of penalty is linked to the subjective satisfaction of the Adjudicating Officer. The words in the

section that "*he may impose such penalty*" are of considerable significance, especially in view of the guidelines provided by the legislature in section 15J of the SEBI Act. The factors stipulated in Section 15J of the SEBI Act reads as follows: -

> ***15J - Factors to be taken into account by the adjudicating officer***
>
> *While adjudging quantum of penalty under section 15-I, the adjudicating officer shall have due regard to the following factors, namely: -*
>
> *(a) the amount of disproportionate gain or unfair advantage, wherever quantifiable, made as a result of the default;*
>
> *(b) the amount of loss caused to an investor or group of investor/+s as a result of the default;*
>
> *(c) the repetitive nature of the default.*

21. It is noted from the material available on record (refer Table 16 of para 5(d)), that the Noticees No. 1, 2, 3, 4, 6, 8, 9, 10, 11 and 16 have made ill-gotten gain of Rs 3,08,91,228.14/- through their trading in the scrip of the Company during the investigation period and thus, cause loss to the investors as a result of their fraudulent act. In this regard, I have taken note of the SEBI order dated November 20, 2020 in the parallel proceedings under section 11B of the SEBI Act against the same set of the Noticees on same subject matter, wherein, Ld. WTM directed Noticees No. 1, 2, 3, 4, 6, 8, 9, 10, 11 and 16 to disgorge the illegal gains made by them and barred Noticees No. 1-4, 6-14, 16 and 17 from the securities market for a period of two years from the date of aforementioned order. Therefore, I am of a view that the act of these Noticees as discussed in detail in above paras, have clearly induced the gullible investors to trade in the scrip of the Company and cause loss to the investors, which have been calculated in the form of ill-gotten gains. Therefore, I note that placing reliance on the judgement of Hon'ble Supreme Court in the matters of *CCE, Bangalore vs. Brindavan Beverages (P) Ltd: MANU/SC/2645/2007* and *Kaur & Singh vs CCE, New Delhi* is not correct and thus, I reject such contentions of the Noticees.

22. The fraudulent act as found in this case has a potential to defraud the investors cannot and same cannot be in the interest of securities market. The law does not permit any allowance to be made for such fraudulent act as found in this case. The fraudulent act as found in this case, had clearly defeated the purposes of the Regulations i.e. investor protection and orderly development of the securities markets. Considering the role and responsibility of the Noticees in these regards, in my view, the default by the Noticees is grave and the gravity of this matter cannot be ignored. While noting so, I am aware of the fact that the default in question in this case belongs to a period 2014-2015 and same can be a mitigating factor in this case. I have also taken into consideration the fact that disgorgement order is in place and these Noticees are restrained from accessing the securities market. I have also taken note of the judgement relied upon by the Noticees in this case related to imposition of the penalty and I found that default in this case is not technical or venial in the nature. Considering the aforesaid facts, I am of a view that the case deserves imposition of monetary penalty for the fraudulent act of the Noticees, except Noticees No. 5, 15 and 18.

23. Considering all the facts and circumstances of the case and exercising the powers conferred upon me under section 15I of the SEBI Act read with rule 5 of the SEBI Adjudication Rules, I hereby impose a penalty of Rs 5,00,000/- Rupees Five Lakh Only) each upon the Noticees namely, Mr. Paresh Nathalal Chauhan (Noticee No. 1), Mr. Gagabhai Desai Amul (Noticee No. 2), Mr. Nimish Pankajkumar Shah (Noticee No. 3), Ms. Dipali Nilay Patel (Noticee No. 4), Mr. Sanjay Jethalal Soni HUF (Noticee No. 6), Mr. Krishna Kumar Periwal (Noticee No. 7), Mr.

Mahesh Somabhai Desai (Noticee No. 8), Mr. Soni Sanjay Jethalal (Noticee No. 9), Mr. Soni Krupa Sanjay (Noticee No. 10), Ms. Kajal Nimish Shah (Noticee No. 11), Mr. Anant Sureshchandra Maloo (Noticee No. 12), M/s Maloo Building Materials Pvt Ltd (Noticee No. 13), Mr. Manan Vidhyapati Patel (Noticee No. 14), Mr. Jatin Natvarlal Parekh (Noticee No. 16) and Ms. Nina Ajay Maloo (Noticee No. 17) under section 15 HA of the SEBI Act. In my view, the said penalty commensurate with the violations committed by these Noticees in this case.

24. The Noticees shall remit / pay the said total amount of penalty within 45 days of receipt of this order by way online payment on SEBI website at following tabs on SEBI website www.sebi.gov.in – ENFORCEMENT -> Orders ->Orders of AO -> Pay Online or by way of using the web link https://siportal.sebi.gov.in/intermediary/AOPaymentGateway.html.In case you face any difficulties in payment of penalties, you may contact the support at portalhelp@sebi.gov.in .

25. The said confirmation of e-payment made in the format as given in table below should be sent to "*The Division Chief, EFD-DRA-II, Securities and Exchange Board of India, SEBI Bhavan, Plot no. C- 4 A, "G" Block, Bandra Kurla Complex, Bandra (E), Mumbai - 400 051*" and also to e-mail id:- tad@sebi.gov.in

1	Case Name	
2	Name of the 'Payer/Noticee'	
3	Date of Payment	
4	Amount Paid	
5	Transaction No.	
6	Bank Details in which payment is made	
7	Payment is made for(like penalties/disgorgement / recovery/ settlement amount and legal charges along with order details)	

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

27. In terms of Rule 6 of the SEBI Adjudication Rules, copies of this order are sent to the Noticees and also to SEBI.

Date: March 23, 2021 **Amit Pradhan**

Place: Mumbai **Adjudicating Officer**