BEFORE THE ADJUDICATING OFFICER

SECURITIES AND EXCHANGE BOARD OF INDIA

[ADJUDICATION ORDER NO. Order/SM/AE/2022-23/17228]

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

In respect of:

Mr. Akshay Jitendrakumar Brahambhatt

(PAN: CDXPB7730C)

In the matter of Bronze Trading Limited

FACTS OF THE CASE IN BRIEF

1. Securities and Exchange Board of India (hereinafter referred to as '**SEBI**') received a report from the BSE Ltd (hereinafter referred to as '**BSE**') regarding circulation of SMS/Call recommending the purchase of the scrip of Bronze Trading Limited (hereinafter referred to as '**BTL/Company**') providing a target price to be reached by the scrip in a time bound manner. Thereafter, SEBI conducted investigation in the matter of BTL for the period July 05, 2016 to December 06, 2016 (hereinafter referred to as '**Investigation Period/IP**'). Pursuant to investigation, SEBI observed certain violations of provisions of SEBI Prohibition of Fraudulent and Unfair Trade Practices) Regulations, 2003 (hereinafter referred to as '**PFUTP Regulations**') by Akshay Jitendrakumar Brahambhatt (hereinafter referred to as '**Noticee/ by name**').

2. BTL was incorporated on April 16, 1984 in New Delhi and the company's registered office is situated at SCO- 2 Madhya Marg Sector 26 Chandigarh – 160019. The company is engaged in the trading of stock, shares and other related securities and

is also engaged in trading and supplying of all products related to agricultural land and farming. The shares of the company were originally listed in Delhi Stock Exchange. The securities of the company were listed on BSE w.e.f. May 11, 2016 through direct listing. The trading in the shares of the company were subsequently suspended.

3. SEBI initiated adjudication proceedings against Noticee to inquire into and adjudge under the provisions of Section 15HA of Securities and Exchange Board of India Act, 1992 (hereinafter referred to as '**SEBI Act'**) the alleged violations of provisions of Regulations Sections 12A (a), (b) and (c) of SEBI Act read with Regulations 3 (a), (b), (c), (d), 4 (1), 4 (2) (a) & (e) of PFUTP Regulations by Noticee in respect of his trading in the scrip of BTL.

APPOINTMENT OF ADJUDICATING OFFICER

4. Vide Order dated December 29, 2020, SEBI appointed the undersigned as the Adjudicating Officer under Section 15-I of SEBI Act and Rule 3 of SEBI (Procedure for Holding Inquiry and Imposing Penalties) Rules, 1995 (hereinafter referred to as '**Adjudication Rules'**) to inquire into and adjudge under the provisions of Section 15HA of the SEBI Act, the aforesaid violations alleged to have been committed by the Noticee in respect of his trading in the scrip of BTL.

SHOW CAUSE NOTICE, REPLY AND PERSONAL HEARING

5. A show-cause notice dated November 30, 2021 (hereinafter referred to as '**SCN**') was issued to Noticee under Rule 4 of Adjudication Rules to show-cause as to why an inquiry should not be initiated against Noticee and penalty, if any, not be imposed upon them under the provisions of Section 15HA of the SEBI Act for the aforesaid violations alleged to have been committed by him.

6. The allegations levelled against Noticee in the SCN are as under:
   a) *During the course of investigation, it was observed that during Patch-3, the price of the scrip opened at 35.80 on November 10, 2016, touched a high of Rs. 51.70*

*on December 06, 2016 and closed at Rs. 50.20 on December 06, 2016 with a net Last Traded Price (**LTP**) of Rs. 14.80 and a market positive LTP of Rs. 266.25. The LTP analysis of the top ten net LTP contributors was carried out on the buy side and details are as follows:*

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	
Akshay Jitendrakumar Brahambhatt	31.60	172264	618	34.85	38861	334	-3.25	13671	46	119732	238	13.09
Ambalal Jhaverbhai Patel	25.65	364855	1432	27.90	140117	557	-2.25	24190	37	200548	838	10.48
Hardasbhai B Patel	11.10	182280	690	12.55	57297	220	-1.45	23558	16	101425	454	4.71
Jitendra Bhogilal Parikh	7.80	325338	1103	12.70	61590	247	-4.90	46709	86	217039	770	4.77
Neeta Ganpatbhai Dabhi	5.25	73708	191	7.25	13182	80	-2.00	12620	18	47906	93	2.72
Rohini Popatlal Parikh	5.25	191500	672	7.55	37150	117	-2.30	16149	39	138201	516	2.84
Dixit Nareshbhai Borisa	4.70	164213	256	9.40	38293	48	-4.70	26510	71	99410	137	3.53
Vinitkumar Popatlal Parikh	4.60	75000	215	4.90	31905	98	-0.30	13997	5	29098	112	1.84
Mahendra Vadilal Shah	2.45	188043	688	7.85	26872	64	-5.40	19799	108	141372	516	2.95
Syed Basheer Ahmed	2.35	702	2	2.35	702	2	0.00	0	0	0	0	0.88
Top 10 Entities Total	**100.75**	**1737903**	**5867**	**127.30**	**445969**	**1767**	**-26.55**	**197203**	**426**	**1094731**	**3674**	**47.81**
Remaining Entities Total	**-85.95**	**7103117**	**17015**	**138.95**	**750844**	**1757**	**-224.90**	**1218334**	**3189**	**5133939**	**12069**	**52.19**
Market Total	**14.80**	**8841020**	**22882**	**266.25**	**1196813**	**3524**	**-251.45**	**1415537**	**3615**	**6228670**	**15743**	**100.00**

b) *From the aforesaid table, it was observed that the top 10 entities contributed Rs. 100.75 to net LTP in 5867 trades and Rs. 127.30 to positive LTP (47.81% to market positive LTP) in 1767 trades. It was also noted that Akshay Jitendrakumar Brahambhatt, i.e., Noticee, had contributed to more than 5% of total market positive LTP. The trading details as obtained from BSE are at **Annexure 2**.*

c) *During the course of investigation, further analysis of the trades contributing to positive contribution by Noticee was carried out. It was observed that Noticee contributed Rs. 34.85 to positive LTP in 334 trades i.e. 13.08% to market positive LTP with a trading volume of 38861 shares. It was further observed that 334 trades executed by Noticee contributing to positive LTP had 104 counter parties which were scattered and contributed 0.04% to 1.24% total market positive LTP. The* *trading pattern of Noticee for Patch 3 was analyzed and the following was observed:*

No. of shares traded	*No. of trades*	*No. of shares bought*	*Buy order qty range*	*Available Sell order qty range*	*+ve LTP Contribution*	*% to Market +ve LTP*
1	*276*	*276*	*1*	*25 to 20000*	*28.1*	*10.55*
1	*7*	*7*	*51 to 2000*	*1 to 20000*	*0.35*	*0.13*
2 to 5	*22*	*90*	*2 to 50*	*5 to 20000*	*2.75*	*1.03*
6 and above	*29*	*38488*	*50 to 25000*	*100 to 20000*	*3.65*	*1.37*

d) *Based on the above trading analysis, it was observed that Noticee had contributed Rs. 28.10 to positive LTP i.e.,10.55% of total market positive LTP during patch- 3 by placing orders of 1 share each on 276 instances, despite sell orders being available for a larger quantity. On the basis of analysis of trading pattern of Noticee, it is alleged that Noticee did not have intention to buy shares but only intended to increase the price by contributing to positive LTP by repeatedly placing the buy orders of 1 share each. Thus, it is alleged that Noticee indulged in an act which created false or misleading appearance of trading in the securities market and amounted to manipulation of the price of BTL.*

e) *In view of the forgoing, it is alleged that by manipulating the price of the scrip of BTL, Noticee violated the provisions of Sections 12A (a), (b) and (c) of SEBI Act read with Regulations 3 (a), (b), (c), (d), 4 (1), 4 (2) (a) & (e) of PFUTP Regulations.*

7. The SCN was served on the Noticee through Speed post Acknowledgement Due (SPAD). Vide letter as well as email dated December 21, 2021, Noticee furnished his reply to the SCN which is elaborated in the subsequent paragraph. Thereafter, vide notice dated May 18, 2022, the Noticee was granted an opportunity for personal hearing on May 30, 2022. The said hearing notice was served upon Noticee digitally signed email as well as through SPAD. However, Noticee failed to avail of the opportunity of personal hearing granted to him. Thereafter, in the interest of natural justice, Noticee was granted another opportunity of personal hearing before the undersigned on June 10, 2022. Vide email dated June 07, 2022, the authorized representative of Noticee sought an adjournment for the personal hearing.

Considering the same, Noticee was granted another opportunity of personal hearing in the matter on June 20, 2022. The said hearing was attended on June 20, 2022 by Mr. Jatin H Kapadia, authorized representative (**AR**) of the Noticee wherein the AR reiterated the submissions made earlier by the Noticee vide his reply dated December 21, 2021. Accordingly, the hearing in the matter was concluded.

8. The submissions of Noticee is summarized hereunder:

   a) *He was not connected with any of the promoters of BTL.*
   b) *He had no knowledge that selling of shares would constitute larger percent of total trade volume in the scrip during the IP. He did not have any control as to how many shares would be sold in the market.*
   c) *The trades were part of his normal routine trading activity in a fair and transparent manner and had no intention of creating artificial volume and price manipulation in the scrip.*
   d) *He was regularly putting small amounts of money every now and then in the hope of regaining what was lost and it was one of the instances when I invested small sum of money in the scrip of BTL.*
   e) *In a screen based trading, the automated system itself matches orders on a price-time priority basis and it was not possible for anybody to have access over identity of counter party and one cannot have a choice with whom it wants to deal or not to deal.*
   f) *He bought the shares of BTL at prevailing market price as investment and paid the consideration thinking it to be small investment.*

CONSIDERATION OF ISSUES AND FINDINGS

9. I have carefully examined the allegations made in the SCN, material available on record, and the submissions made by the Noticee. The issues that arise for consideration in the present case are :

I. Whether the Noticee has violated the provisions of Sections 12A(a), (b) and (c) of SEBI Act read with Regulations 3 (a), (b), (c) and (d), 4 (1), 4 (2) (a) and (e) of PFUTP Regulations?

II. Do the violations, if established, attract monetary penalty under Section 15HA of SEBI Act?

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

10. Before I proceed with the matter, it is pertinent to mention the relevant legal provisions alleged to have been violated by the Noticees and the same is reproduced below:

SEBI Act

"Prohibition of manipulative and deceptive devices, insider trading and substantial acquisition of securities or control.

12A. No person shall directly or indirectly –

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

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

(c) engage in any act, practice, course of business which operates or would operate as fraud or deceit upon any person, in connection with the issue, dealing in securities which are listed or proposed to be listed on a recognised stock exchange, in contravention of the provisions of this Act or the rules or the regulations made thereunder;"

PFUTP Regulations

“Regulation 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

“Regulation 4: Prohibition of manipulative, fraudulent and unfair trade practices

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

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

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

…..

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

<u>Issue I : Whether the Noticee has violated the provisions of Sections 12A(a), (b) and (c) of SEBI Act read with Regulations 3 (a), (b), (c) and (d), 4 (1), 4 (2) (a) and (e) of PFUTP Regulations?</u>

11. The main allegation against Noticee is that Noticee did not have intention to buy shares but only intended to increase the price by contributing to positive LTP by repeatedly placing the buy orders of 1 share each thereby indulging in an act which

created false or misleading appearance of trading in the securities market and amounted to manipulation of the price of BTL.

12. On the basis of price movement in the scrip during the IP, the price of the scrip is analyzed in three patches as under:

Patch-1 of IP: (July 05, 2016 to August 23, 2016) – Price rise patch
Patch-2 of IP: (August 24, 2016 to November 09, 2016) – Price rise patch with increase in volume
Patch-3 of IP: (November 10, 2016 to December 06, 2016) – Price rise patch with significant volume.

13. The Price Volume data of the scrip at BSE during the IP is as under:

Particulars	Period		Opening Price (volume) on first day of the period (Rs)	Closing price (volume) on last day of the period (Rs.)	Low price(volume) during the period (Rs.)	High Price(volume) during the period (Rs.)	Avg. no. of (shares) traded daily during the period
Before Investigation period	01/04/2016 to 04/07/2016	Price	-	-	-	-	-
		Vol.	-	-	-	-	
During Investigation Period	05/07/2016 to 23/08/2016 (Patch 1)	Price	12.50	23.5	12.50 (05/07/2016)	23.7 (17/08/2016)	2273.46
		Vol.	1100	201	25 (14/07/2016)	45000 (27/07/2016)	
	24/08/2016 to 09/11/2016 (Patch 2)	Price	23.6	35.4	22.0 (15/09/2016)	36.15 (07/11/2016)	92703.97
		Vol.	1994	97077	1994 (24/08/2016)	257112 (17/10/2016)	
	10/11/2016 to 06/12/2016 (Patch 3)	Price	35.8	50.2	35 (10/11/2016)	51.7 (06/12/2016)	491167.77
		Vol.	120258	675054	120258 (10/11/2016)	744546 (05/12/2016)	
After investigation period	07/12/2016 to 07/03/2017	Price	50.25	8.81	8.81 (07/03/2017)	50.6 (07/12/2016)	22411.33
		Vol.	384929	2500	1 (28/12/2016)	384929 (07/12/2016)	

14. I observe that during Patch-3, the price of the scrip opened at Rs. 35.80 on November 10, 2016, touched a high of Rs. 51.70 on December 06, 2016 and closed at Rs. 50.20 on December 06, 2016 with a net Last Traded Price (**LTP**) of Rs. 14.80 and a market

positive LTP of Rs. 266.25. The LTP analysis of the top ten (10) net LTP contributors on the buy side are as follows:

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	
Akshay Jitendrakumar Brahambhatt	31.60	172264	618	34.85	38861	334	-3.25	13671	46	119732	238	13.09
Ambalal Jhaverbhai Patel	25.65	364855	1432	27.90	140117	557	-2.25	24190	37	200548	838	10.48
Hardasbhai B Patel	11.10	182280	690	12.55	57297	220	-1.45	23558	16	101425	454	4.71
Jitendra Bhogilal Parikh	7.80	325338	1103	12.70	61590	247	-4.90	46709	86	217039	770	4.77
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Rohini Popatlal Parikh	5.25	191500	672	7.55	37150	117	-2.30	16149	39	138201	516	2.84
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Vinitkumar Popatlal Parikh	4.60	75000	215	4.90	31905	98	-0.30	13997	5	29098	112	1.84
Mahendra Vadilal Shah	2.45	188043	688	7.85	26872	64	-5.40	19799	108	141372	516	2.95
Syed Basheer Ahmed	2.35	702	2	2.35	702	2	0.00	0	0	0	0	0.88
Top 10 Entities Total	**100.75**	**1737903**	**5867**	**127.30**	**445969**	**1767**	**-26.55**	**197203**	**426**	**1094731**	**3674**	**47.81**
Remaining Entities Total	**-85.95**	**7103117**	**17015**	**138.95**	**750844**	**1757**	**-224.90**	**1218334**	**3189**	**5133939**	**12069**	**52.19**
Market Total	**14.80**	**8841020**	**22882**	**266.25**	**1196813**	**3524**	**-251.45**	**1415537**	**3615**	**6228670**	**15743**	**100.00**

15. I note from the aforesaid table that the top 10 entities contributed Rs. 100.75 to net LTP in 5867 trades and Rs. 127.30 to positive LTP (47.81% to market positive LTP) in 1767 trades. I also note that Noticee had contributed to more than 5% of total market positive LTP during the period.

16. On further analysis of the trades of Noticee, I observe that Noticee contributed Rs. 34.85 to positive LTP in 334 trades i.e. 13.08% to market positive LTP with a trading

volume of 38861 shares. I note that the counterparties to the trades of the Noticee were scattered. The trading pattern of Noticee in Patch 3 is analyzed as under:

No. of shares traded	No. of trades	No. of shares bought	Buy order qty range	Available Sell order qty range	+ve LTP Contribution	% to Market +ve LTP
1	276	276	1	25 to 20000	28.1	10.55
1	7	7	51 to 2000	1 to 20000	0.35	0.13
2 to 5	22	90	2 to 50	5 to 20000	2.75	1.03
6 and above	29	38488	50 to 25000	100 to 20000	3.65	1.37

17. From the above trading analysis, I find that Noticee placed 276 buy orders with quantity as 1 share when much larger sell orders, in the range of 25 to 20000 quantity of shares, were available. I further observe that through such buy trades of 1 share in 276 trades, Noticee had contributed Rs. 28.10 to positive LTP i.e.,10.55% of total market positive LTP during Patch- 3. This trading pattern of Noticee clearly shows that Noticee had no intention of buying the shares but was only intending to manipulate the price of the scrip upwards.

18. Here, it is also important to refer to the judgement by the Hon'ble SAT in its order dated March 21, 2014 in *Saumil Bhavnagari Vs. SEBI* wherein it was held as under:

"11. …This lends support to the finding of the adjudicating officer in paragraph 20 of the impugned order. "... but by purchasing shares at the higher price in LTP in most of the trades, the noticee had given a wrong impression about the liquidity of the scrip in the market. It must not be forgotten that every trade establishes the price of the scrip and the noticee's trading at higher than LTP resulted in the price of the scrip going up and were done with a view to set the price at a desired level and thereby influencing the innocent/gullible investors. By purchasing at a higher price in most of his trades, the noticee had given the wrong impression about the price of the scrip in the market."

12. It is an accepted state of affairs that in cases of manipulation of the volume and / or price of a particular scrip, it is usually an arduous task to obtain direct evidence. However, the analysis of the trade and order logs as undertaken hereinabove, establishes the malafide intention of the appellant."

19. In this regard, Noticee has in his submissions denied the allegation and has contended that he had no knowledge that selling of shares would constitute larger percent of total trade volume in the scrip during the IP nor did he have any control as to how many shares would be sold in the market. Noticee has also stated that in a screen based trading, the automated system itself matches orders on a price-time priority basis and it was not possible for anybody to have access over identity of counter party and one cannot have a choice with whom it wants to deal or not to deal. In this regard, I note that the charge against the Noticee is not that he was trading with known counterparties rather the charge is that he was placing orders of miniscule quantities (1 share) at prices higher than the LTP even though sell orders were available for higher quantities. He has further stated that he bought the shares of BTL at prevailing market price as investment and paid the consideration thinking it to be small investment. I find that although Noticee has denied the allegation and tried to explain that he couldn't have manipulated the price of the scrip in a screen based automated trading system, however, his own trading pattern shows a clear strategy which is aimed at manipulating the price of the scrip which is evident from the high positive LTP contribution from such trades. Further, while on hand, Noticee has claimed that he invested small sums of money in the scrip of BTL, his aforesaid trading pattern of buying only 1 share each in 276 trades does not bear any resemblance to any prudent and well thought out investment strategy and therefore, is clearly contradictory to such claims. I note that even though sell orders for large quantities were existing, the buyer, i.e, Noticee, himself was buying shares in miniscule quantities. Thus, I find no merit in the above contention of the Noticee.

20. In the present case, I note that the Noticee has indulged in an abnormal and unusual pattern of trading wherein he has was consistently placing buy orders for miniscule quantities (i.e. 1 share) at prices higher than the Last Traded Price (LTP) even though sell orders were available for higher quantities (25 to 20000 shares) and in the process he was driving up the price of the scrip. As already noted above, the Noticee contributed to 10.55% of total market positive LTP through such deliberate pattern of trading involving 276 instances. In this regard, I would like to rely on the order of

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

“7. Having heard the learned counsel for the appellant and upon perusal of the impugned order we are of the opinion that the case of the appellant is distinguishable and consequently the decision in M/s. Nishith M. Shah HUF (supra), Rajesh Marchya (supra) and Mr. Jayant Indulal Sethna (supra) cases are not applicable and are distinguishable on facts. We find that except on three occasions the appellant only sold one share at a time on a daily basis. This trading pattern created misleading appearance with intention to manipulate the market if not the price. Thus, even if there is no connection with the buyer the trading pattern shows a concerted effort to manipulate the market and therefore we are of the opinion that the appellant was not acting as a genuine seller. We also find that the appellant had no bonafide intention to sell because inspite of sufficient buy orders being placed with abundant quantity being available in the market the appellant was only placing sell orders of one share at a time. This clearly shows his intention of manipulating the market for vested reasons.”

21. On the basis of the aforesaid observation on the trading pattern of Noticee and placing reliance on the principles laid down in the aforementioned order of Hon’ble SAT, I find that Noticee did not have any intention of buying the shares but only intended to increase the price by contributing to positive LTP by repeatedly placing the buy orders of 1 share each. This trading pattern created misleading appearance of trading in the scrip with intention to manipulate the market. Thus, the trading pattern of Noticee shows he was not acting as a genuine buyer but was indulging in an act which created false or misleading appearance of trading of the scrip of BTL and thus, manipulated the price of BTL.

22. In view of the foregoing, I find that the allegation that Noticee has violated the provisions of Sections 12A (a), (b) and (c) of SEBI Act read with Regulations 3 (a), (b), (c), (d), 4 (1), 4 (2) (a) & (e) of PFUTP Regulations stands established.

23. In this regard, I find it relevant to note that the Hon'ble Supreme Court in its Order dated April 26, 2013 in the matter of *N. Narayanan vs Adjudicating Officer, SEBI*, has laid down that *"……….Prevention of market abuse and preservation of market integrity is the hallmark of Securities Law. Section 12A read with Regulations 3 and 4 of the Regulations 2003 essentially intended to preserve 'market integrity' and to prevent 'Market abuse'. The object of the SEBI Act is to protect the interest of investors in securities and to promote the development and to regulate the securities market, so as to promote orderly, healthy growth of securities market and to promote investors protection. Securities market is based on free and open access to information, the integrity of the market is predicated on the quality and the manner on which it is made available to market. 'Market abuse' impairs economic growth and erodes investor's confidence. Market abuse refers to the use of manipulative and deceptive devices, giving out incorrect or misleading information, so as to encourage investors to jump into conclusions, on wrong premises, which is known to be wrong to the abusers. The statutory provisions mentioned earlier deal with the situations where a person, who deals in securities, takes advantage of the impact of an action, may be manipulative, on the anticipated impact on the market resulting in the "creation of artificiality".*

Issue II : Do the violations, if established, attract monetary penalty under Section 15HA of SEBI Act?

24. In this regard, I note that the Hon'ble Supreme Court of India in the matter of *SEBI vs. Shri Ram Mutual Fund* held that "*once the violation of statutory regulations is established, imposition of penalty becomes sine qua non of violation and the intention of parties committing such violation becomes totally irrelevant. Once the contravention is established, then the penalty is to follow."*

25. In view of the foregoing and placing reliance on the aforesaid judgement, I note that the violation of Sections 12A(a),(b),(c) of the SEBI Act read with Regulations 3(a),(b),(c),(d), 4(1), 4(2)(a) and (e) of PFUTP Regulations, by Noticee makes him

liable for penalty under Section 15HA of SEBI Act, which at the relevant time of commission of violations, read 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.*

Issue III) If so, what would be the quantum of monetary penalty that can be imposed on the Noticees after taking into consideration the factors mentioned in section 15J of the SEBI Act, 1992?

26. In this regard, the provisions of Section 15J of the SEBI Act and Rule 5 of the Adjudication Rules, require that while adjudging the quantum of penalty, the adjudicating officer shall have due regard to the following factors namely; -

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

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

    (c) the repetitive nature of the default.

27. From the material available on record, it is difficult to quantify the exact disproportionate gains or unfair advantage enjoyed by the Noticee and the consequent losses suffered to the investors. With respect to the repetitive nature of the default, I find that no prior default by the Noticee is available on record. However, the fact remains that Noticee has been instrumental in manipulating the price and volume of the scrip of BTL during the IP. I am of the view that acts of price and volume manipulation in scrips have the potential to mislead and induce genuine investors to trade in the scrip and harm them and, thus, violate the fundamental tenets of market integrity. Such acts of Noticee, if dealt with lightly, could seriously undermine investors'

confidence in the securities market and therefore, deserve suitable penalty commensurate with such serious violations.

ORDER

28. Having considered all the facts and circumstances of the case, the material available on record, and also the factors mentioned in Section 15J of the SEBI Act, as enumerated above, I, in exercise of the powers conferred upon me under Section 15-I of the SEBI Act read with Rule 5 of the Adjudication Rules, hereby impose a penalty of Rs. 6,00,000/- (Rupees Six Lakh Only), on the Noticee viz. Mr. Akshay Jitendrakumar Brahambhatt under the provisions of Section 15HA of SEBI Act for the violations of the provisions of Sections 12A(a),(b),(c) of the SEBI Act read with Regulations 3(a),(b),(c),(d), 4(1), 4(2)(a) and (e) of PFUTP Regulations.

29. I am of the view that the said penalty is commensurate with the lapse/omission on the part of the Noticee.

30. Noticee shall remit / pay the said amount of penalty within 45 days of receipt of this order either by way of Demand Draft in favour of "SEBI - Penalties Remittable to Government of India", payable at Mumbai, OR through online payment facility available on the website of SEBI, i.e., www.sebi.gov.in on the following path, by clicking on the payment link: ENFORCEMENT -> Orders -> Orders of AO -> PAY NOW. In case of any difficulties in payment of penalties, Noticee may contact the support at portalhelp@sebi.gov.in.

31. Noticee shall forward said Demand Draft or the said confirmation of e-payment made in the format as given in table below which should be sent to "The Division Chief, EFD – DRA - 4, Securities and Exchange Board of India, SEBI Bhavan, Plot no. C- 7, "G" Block, Bandra Kurla Complex, Bandra (E), Mumbai - 400 051" and also to e-mail id:- tad@sebi.gov.in

1. Case Name:	
2. Name of payee:	
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)	

32. 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 for realization of the said amount of penalty along with interest thereon, *inter alia*, by attachment and sale of movable and immovable properties of Noticee.

33. In terms of the provisions of Rule 6 of the Adjudication Rules, a copy of this order is being sent to the Noticee, Viz. Mr. Akshay Jitendrakumar Brahambhatt and also to SEBI.

Place: Mumbai **SOMA MAJUMDER**

Date: June 23, 2022 **ADJUDICATING OFFICER**