BEFORE THE ADJUDICATING OFFICER

SECURITIES AND EXCHANGE BOARD OF INDIA

[ADJUDICATION ORDER Ref. No. ORDER/NH/RJ/2022-23/ 22668]

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

Sorabh Mahesh Gupta

PAN AFNPG4524M

Flat No. 701, Blg -55, NRI Phase – II

Sec 54-56-58, Seawoods Nerul,

Navi Mumbai - 400706

In the matter of investigation in the trading activities of certain entities in the scrip of Radha Madhav Corporation Limited

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FACTS OF THE CASE

1. Securities and Exchange Board of India (“**SEBI”**) investigated into the trading activities of certain entities in the scrip of Radha Madhav Corporation Limited (**“RMCL”** or **“the Company”**), listed on BSE and NSE, during the investigation period from September 01, 2016 to February 28, 2017(“**IP**”) to ascertain any violation of the provisions of Securities and Exchange Board of India Act, 1992 (“**SEBI Act**”)and SEBI (Prohibition of Fraudulent and Unfair Trade Practices relating to Securities Market) Regulations, 2003 (“**PFUTP Regulations**”).

2. The IP was divided into two patches based on the price movement of the scrip RMCL. The patch I of IP included period from October 18, 2016 to November 21, 2016 (“**patch 1**”) and the patch II of the IP included period from November 22,

2016 to February 22, 2017("**patch 2**"). In both patches, there was an increase in the share price of the scrip RMCL.

3. As a part of the investigation, patch-wise analysis of suspected price manipulation in the scrip RMCL was undertaken. On basis of the said analysis, it is alleged that Mr. Sorabh Mahesh Gupta ("**Noticee**") in patch 2 of the IP on BSE as well as on NSE has manipulated the price of the scrip RMCL by creating a false and misleading appearance of trading in the scrip of RMCL by repeatedly buying shares of the scrip in miniscule quantities (1-10 shares) at positive last traded price("**LTP**").

4. In view of the above, the Noticee is alleged to have violated Section 12A (a), (b) and (c) of the SEBI Act, 1992 and Regulations 3(a), (b), (c) and (d) and 4(1), (2) (a) and (e) of the PFUTP Regulations.

5. On this background, SEBI initiated the instant adjudication proceeding against the Noticee.

APPOINTMENT OF ADJUDICATING OFFICER

6. Shri Suresh Menon was appointed as the Adjudicating Officer ("**AO**") in the matter vide communique dated September 02, 2021 under Section 19 of the SEBI Act, 1992 read with Section 15-I of the SEBI Act, 1992 and Rule 3 of SEBI (Procedure for Holding Inquiry and Imposing Penalties) Rules, 1995 ("**Adjudication Rules"**), to inquire into and adjudge under Section 15HA of the SEBI Act, 1992 the alleged violations of Section 12 A(a), (b), (c) of SEBI Act read with Regulations 3(a), (b), (c), (d) and regulations 4(1), (2) (a) and (e) of PFUTP Regulations by the Noticee. Pursuant to the superannuation of Shri Suresh B Menon, the undersigned was appointed as AO in the instant matter vide communique dated June 07, 2022.

SHOW CAUSE NOTICE, REPLY AND HEARING

7. Show Cause Notice bearing No. EAD-1/SBM/VS/26960/1-3/2021 dated October 04, 2021 were issued to the Noticee ("**SCN**") under Rule 4 of Adjudication Rules to show cause as to why an inquiry should not be held and penalty be not imposed against the Noticee under Section 15HA of SEBI Act for the aforesaid alleged violations.

8. The allegations made in the said SCN, *inter alia*, are reproduced below.

i. It was observed that the scrip of RMCL witnessed a price rise during the investigation period. Based on the price movement, the period of investigation is divided into following two patches:

Table 1: Patches for Investigation period

	Period	***Price movement***
Patch 1	*October 18, 2016 to November 21, 2016*	*Price rise*
Patch 2	*November 22, 2016 to February 22, 2017*	*Price rise*

ii. Price Volume data of the scrip in the aforesaid two patches are given in following table:-

Table 2: Price Volume (NSE)

Period	***Dates***		***Opening Price (volume) on first day of the period(Rs.)***	***Closing price (volume) on last day of the period (Rs.)***	***Low price (volume) during the period (Rs.)***	***High Price (volume) during the period (Rs.)***	***Avg. no. of (shares) traded daily during the period***
Patch 1	***(18/10/2016-21/11/2016)***	***Price***	*8.00* *(18/10/ 2016)*	*14.25* *(21/11/ 2016)*	*8.80* *(19/10/2016)*	*18.60* *(03/11/2016)*	*1,79,57,037*
		Vol.	*1,05,55,681.95* *(18/10/ 2016)*	*33,78,654.45* *(21/11/2016)*	*7,35,630* *(03/11/2016)*	*8,93,90,037.85* *(04/11/ 2016)*	

Period	Dates		Opening Price (volume) on first day of the period(Rs.)	Closing price (volume) on last day of the period (Rs.)	Low price (volume) during the period (Rs.)	High Price (volume) during the period (Rs.)	Avg. no. of (shares) traded daily during the period
Patch 2	**(22/11/2016-22/02/2017)**	**Price**	14.00 (22/11/2016)	39.55 (22/02/2017)	13.05 (23/11/2016)	39.55 (22/02/2017)	1,54,86,919.68
		Vol.	50,44,413.95 (22/11/2016)	4,08,93,425.75 (22/02/2017)	25,21,599.35 (08/12/2016)	6,32,56,154.55 (08/02/2017)	

Table 3: Price Volume (BSE)

Period	Dates		Opening Price (volume) on first day of the period (Rs.)	Closing price (volume) on last day of the period (Rs.)	Low price (volume) during the period (Rs.)	High Price(volume) during the period (Rs.)	Avg. no. of (shares) traded daily during the period
Patch 1	**(18/10/2016-21/11/2016)**	**Price**	8.20 (18/10/2016)	14.18 (21/11/2016)	8.06 (18/10/2016)	19.87 (04/11/2016)	1,01,09,518.79
		Vol.	50,33,112 (18/10/2016)	24,43,256 (21/11/2016)	1,79,383 (08/11/2016)	5,48,88,500 (04/11/2016)	
Patch 2	**(22/11/2016-22/02/2017)**	**Price**	14.40 (22/11/2016)	39.60 (22/02/2017)	13.00 (23/11/2016)	39.60 (22/02/2017)	95,69,411.682
		Vol.	36,74,045 (22/11/2016)	3,11,94,367 (22/02/2017)	11,80,975 (08/12/2016)	3,11,94,367 (22/02/2017)	

iii. Details of top 10 buy clients and sell clients concentration on BSE and NSE during investigation period is tabulated as below:

Table 4: Top 10 buy clients and sell clients on BSE during the investigation period

Sr. No.	***Client Name****	***Gross Buy***	***% of Gross Buy to Mkt. Vol***	***Client Name****	***Gross Sell***	***% of Gross Sell to Mkt. Vol***
1.	*...*	*2983760*	*6.85*	*SORABH MAHESH GUPTA*	*2441582*	*5.61*
2.	*SORABH MAHESH GUPTA*	*2751802*	*6.32*	*…*	*1839767*	*4.23*
3.	*…*	*1848243*	*4.24*	*...*	*1521470*	*3.49*
4.	*...*	*1672657*	*3.84*	*...*	*1487391*	*3.42*
5.	*...*	*1096067*	*2.52*	*...*	*1136846*	*2.61*
6.	*...*	*987822*	*2.27*	*...*	*1016707*	*2.34*
7.	*...*	*821316*	*1.89*	*...*	*829967*	*1.91*
8.	*...*	*685633*	*1.57*	*...*	*776273*	*1.78*
9.	*...*	*652340*	*1.50*	*...*	*718301*	*1.65*
10.	*...*	*610854*	*1.40*	*...*	*632535*	*1.45*
	Top 10 Buy Clients	***14110494***	***32.40***	***Top 10 Sell Clients***	***12400839***	***28.48***
	Remaining Clients	***29435661***	***67.60***	***Remaining Clients***	***31145316***	***71.52***
	Total Traded Volume	***43546155***	***100.00***	***Total Traded Volume***	***43546155***	***100.00***

**Some names excised for the sake of confidentiality*

Table 5: Top 10 buy clients and sell clients on NSE during the investigation period

Sr. No.	**Client Name***	**Gross Buy**	**% of Gross Buy to Mkt. Vol**	**Client Name***	**Gross Sell**	**% of Gross Sell to Mkt. Vol**
1.	*SORABH MAHESH GUPTA*	*4708547*	*6.17*	*SORABH MAHESH GUPTA*	*4187887*	*5.48*
2.	*…*	*2561838*	*3.36*	*...*	*4045263*	*5.30*
3.	*...*	*1962932*	*2.57*	*…*	*2469471*	*3.23*
4.	*...*	*1673249*	*2.19*	*...*	*1926344*	*2.52*
5.	*...*	*1551437*	*2.03*	*...*	*1642364*	*2.15*
6.	*...*	*1348426*	*1.77*	*...*	*1522510*	*1.99*
7.	*...*	*1097728*	*1.44*	*...*	*1510739*	*1.98*
8.	*...*	*1024408*	*1.34*	*...*	*1102946*	*1.44*
9.	*...*	*976282*	*1.28*	*...*	*902290*	*1.18*
10.	*...*	*971844*	*1.27*	*...*	*895315*	*1.17*
	Top 10 Buy Clients	***17876691***	***23.41***	***Top 10 Sell Clients***	***20205129***	***26.46***
	Remaining Clients	***58485714***	***76.59***	***Remaining Clients***	***56157276***	***73.54***
	Total Traded Volume	***76362405***	***100.00***	***Total Traded Volume***	***76362405***	***100.00***

**Some names excised for the sake of confidentiality.*

iv. In the context of the investigation conducted by SEBI in the scrip of RMCL and during the course of examination of the KYC documents from brokers, MCA website (for common directors) and off-market transfer of shares in the scrip, it was *revealed that there were 18 suspected entities. The names, PANs, Groups and basis of connection between them are as under:*

Table 6: Details of Connection between the suspected entities

Sr. No.	Name*	Basis of Connection*	Name of the Group
1.	...	Entities at Sr. No. 3,4 & 5 are connected to the promoters of the company (Mentioned at Sr. No. 1 & 2) on the basis of same Phone Number i.e. 9...7.	Group - 1
2.	...		
3.	...	Entities at Sr. No. 3, 4 & 5 have common address i.e.	
4.	...		
5.	…		
6.	...	Entities at Sr. No. 1,3,4,5 and 6 have Bank Account in "Canara Bank, Bimpore branch, Distt. Daman". Entites at Serial No. 1,3,4,5 & 6 are connected on the basis of bank transactions. Entity at Sr. No. 6 is a Preferential Allottee who have traded in the scrip of RMCL during IP.	
7.	…	Entities at Sr. No. 8 & 9 are directors of Entity at Sr. No. 5. Entity at Sr. No. 7, 8 & 9 have common phone number 9...5. Entities at Sr. No. 7 & 8 are connected on the basis of bank transactions.	Group - 2
8.	Sorabh Mahesh Gupta		

<table>
<tr><th>Sr. No.</th><th>Name*</th><th>Basis of Connection*</th><th>Name of the Group</th></tr>
<tr><td>9.</td><td>...</td><td>Entities at Sr. No. 8 & 9 are related to each other as Husband and Wife and the said entities have common address i.e. ....</td><td></td></tr>
<tr><td>10.</td><td>...</td><td rowspan="2">Directors who have traded in the scrip of RMCL during IP</td><td rowspan="9">Entities other than Group–1 and Group- 2</td></tr>
<tr><td>11.</td><td>...</td></tr>
<tr><td>12.</td><td>....</td><td rowspan="4">Preferential Allottees who have traded in the scrip of RMCL during IP</td></tr>
<tr><td>13.</td><td>...</td></tr>
<tr><td>14.</td><td>...</td></tr>
<tr><td>15.</td><td>...</td></tr>
<tr><td>16.</td><td>…</td><td rowspan="3">Significant Last Traded Price (hereinafter referred to as “LTP”) Variator (at least 5% Positive LTP contribution)</td></tr>
<tr><td>17.</td><td>...</td></tr>
<tr><td>18.</td><td>...</td></tr>
</table>

**Some names and personal details excised for the sake of confidentiality.*

<u>Trading during Patch-2(November 22, 2016-February 22, 2017) on BSE</u>

v. *Following were observed on BSE during the Patch –II*

   a. *The price of the scrip opened at Rs.14.40/- on November 22, 2016 (previous day closing price Rs.14.18/-), reached a high of Rs.39.60/- on February 22, 2017 and closed at Rs.39.60/- (with last traded price as Rs.39.60/-) on February 22, 2017 with a net LTP of Rs.25.42/-.*

   b. *Considering significant positive LTP contribution and no connection with counterparties of Group-2, trades with miniscule buy order quantities viz. 1-10 shares were analysed which is tabulated as under:*

Table 7

*Buyer Name**	*No. of trades (LTP >0)*	*Positive LTP Contribution when buy order qty was of 1 share only*		*Positive LTP Contribution when buy order qty was between 2-10 shares*		*Positive LTP Contribution when buy order qty was more than 10 shares*		*Total Positive LTP contribution (Rs.)*	*% of positive LTP to Total Market positive LTP*	*% contribution to Total Market positive LTP through small orders (1-10 shares)*
		Positive LTP contribution	*No. of trades*	*Positive LTP contribution*	*No. of trades*	*Positive LTP contribution*	*No. of trades*			
…	*2753*	*9.6*	*125*	*121.7*	*1755*	*58.2*	*873*	*189.5*	*27.50*	*19.05*
Sorabh Mahesh Gupta	*3466*	*27.23*	*378*	*124.36*	*1754*	*95.75*	*1334*	*247.34*	*35.89*	*22.00*
…	*242*	*0.35*	*4*	*6.5*	*78*	*11.84*	*160*	*18.69*	*2.71*	*0.99*
Group-2 Total	***6461***	***37.18***	***507***	***252.56***	***3587***	***165.79***	***2367***	***455.53***	***66.10***	***42.04***

**Some names excised for the sake of confidentiality.*

c. *From the above table, it is noted that Group-2 entities contributed Rs.289.74/- (Rs.37.18/- + Rs.252.56/-) to market positive LTP of Rs.689.16/- (42.04% to market positive LTP) through 4094 trades through miniscule buy order quantities. It is observed that out of total 6461 positive LTP trades, majorly 4094 trades i.e. 63.36% comprising trades only with miniscule quantities.*

d. *On analysing order placement pattern of Group-2 entities, it is observed that out of total 4094 trades, for 4059 trades buy orders were placed with miniscule quantities which were matched with pre-existed sellers at positive LTP and for rest 35 trades buy orders were placed before sell order at positive LTP for total 58 days. Group-2 entities repeatedly bought shares with miniscule quantities at positive LTP and contributed positive LTP of Rs.289.74/- i.e. 42.04 % during total 58 days. The individual trades of the Noticee is discussed below.*

- *Sorabh bought total 13,954 shares in miniscule quantities during 51 days wherein sufficient quantities were available on initial days. For example, in first 3 trading days i.e. 23, 24 & 30.11.2016, Sorabh bought total 309 shares in miniscule quantities against total available quantity of 39,926 shares. Sorabh could have bought all 13,954 shares within third day itself at an average price of Rs.16.77/- only. However, in the same manner, Sorabh repeatedly bought shares in miniscule quantities (1-10 shares) at positive LTP (for 2132 instances of buy order placement thereby contributed 22% to market positive LTP) thereby manipulating the price of the scrip.*

<u>Trading during Patch-II (November 22, 2016-February 22, 2017) on NSE</u>

vi. Following were observed on NSE during the Patch –II

a. The price of the scrip opened at Rs.14.40/- on November 22, 2016 (previous day closing price Rs.14.25/-), reached a high of Rs.39.55/- on February 22, 2017 and closed at Rs.39.55/- (with last traded price as Rs.39.55/-) on February 22, 2017 with a net LTP of Rs.25.30/-.

b. Considering significant positive LTP contribution and no connection with counterparties of Group-2, trades with miniscule buy order quantities viz. 1-10 shares were analysed which is tabulated as under:

<u>Table 8</u>

Buyer Name*	***No. of trades (LTP >0)***	***Positive LTP Contribution when buy order qty was of 1 share only***		***Positive LTP Contribution when buy order qty was between 2-10 shares***		***Positive LTP Contribution when buy order qty was more than 10 shares***		***Total Positive LTP contribution (Rs.)***	***% of positive LTP to Total Market positive LTP***	***% contribution to Total Market positive LTP through small orders (1-10 shares)***
		Positive LTP contribution	***No. of trades***	***Positive LTP contribution***	***No. of trades***	***Positive LTP contribution***	***No. of trades***			
…	*3475*	*12.85*	*165*	*139.2*	*2057*	*81.75*	*1253*	*233.8*	*24.33%*	*15.82*

Sorabh Mahesh Gupta	*4662*	*28.55*	*405*	*171.9*	*2450*	*131.05*	*1807*	*331.5*	*34.50%*	*20.86*
...	*333*	*0.4*	*5*	*6.9*	*96*	*16*	*232*	*23.3*	*2.42%*	*0.76*
Group-2 Total	*8470*	*41.80*	*575*	*318.00*	*4603*	*228.80*	*3292*	*588.60*	*61.26*	*37.45*

**Some names excised for the sake of confidentiality.*

c. From the above table, it is noted that Group-2 entities contributed Rs.359.80/- (Rs.41.80/- + Rs.318.00/-) to market positive LTP of Rs.960.85/- (37.45% to market positive LTP) through 5178 trades through miniscule buy order quantities. It is observed that out of total 8470 positive LTP trades, majorly 5178 trades i.e. 61.13% comprising trades only with miniscule quantities.

d. On analysing order placement pattern of Group-2 entities, it is observed that out of total 5178 trades, for 5127 trades buy orders were placed with miniscule quantities which were matched with pre-existed sellers at positive LTP and for rest 51 trades buy orders were placed before sell order at positive LTP for total 60 days. Group-2 entities repeatedly bought shares with miniscule quantities at positive LTP and contributed positive LTP of Rs.359.80/- i.e. 37.45% on total 60 days. The individual trades of the Noticee is discussed below.

- *Sorabh bought total 20,169 shares in miniscule quantities during 57 days wherein sufficient quantities were available on initial days. For example, in first 2 trading days i.e. 23 & 24.11.2016, Sorabh bought total 14 shares in miniscule quantities against total available quantity of 28,500 shares. Sorabh could have bought all 20,169 shares within second day itself at an average price of Rs.14.77/- only. However, in the same manner, Mr. Gupta repeatedly bought shares in miniscule quantities (1-10 shares) at positive LTP (for 2850 instances of buy order placement thereby contributed 20.86% to market positive LTP) thereby manipulating the price of the scrip.*

9. The Noticee in his reply to the SCN dated January 12, 2022, submitted *inter alia* the following:

   i. *While showing us as part of the 18 suspected entities, it has been alleged that I and my wife are the director of Isika infracon Pvt. Ltd. (Entity No. 5 in Table 7 of clause 6 of the SCN) and that Isika infracon Pvt. Ltd is connected to promoters of RMCL i.e. Mr. ... and Mr. .... In this regard it is to be noted that I and my wife are not and were never in the past the Directors of Isika infracon Pvt. Ltd., the same can also be checked on the website of MCA*

   ii. *Other than this there is no connection alleged or otherwise with the Promoters or Directors of RMCL and also any of the other suspected entities. Once it is proved that I am not a connected person with the Company or its Promoters, consequently I also cannot be forming part of the suspected entities and therefore the SCN is liable to be disposed of against me on this ground alone.*

   iii. *Now dealing with the trade executed by me in the scrip of RMCL:*

      a. *As regards the allegation of increasing the price by placing buy orders of small quantity I humbly submit that:*

         i. *During the IP, I have carried out large amount of trading and most of it has been intra-day trading.*

         ii. *Of the entire trading, sell side trades have been completely ignored while only buy side trades are considered. I humbly submit that while investigating the transactions, a holistic view of trading is to be considered and selective analysis would always give a distorted picture.*

         iii. *Without prejudice to the fact that only buy side trades have been considered for analysis, it can be observed that the buy side trades have had both positive as well as negative price impact. However, it is common knowledge that the buy side trades will mostly result in increase in price, the net impact of buy side trades* *is positive. But there is a substantial negative price impact from the buy side trades which has been ignored while arriving at the conclusion in the SCN.*

iv. *Though the SCN does not find any fault with the trading pattern so far as it relates to trading by 18 suspected entities amongst themselves as well as between entities of group 2, the SCN goes on to find fault with buy side trades of small quantity that had a positive impact. This is incorrect for the following reasons:*

1. *There can be several type of trades:*
    a. *Buy trade > 10 quantity having positive impact*
    b. *Buy trade > 10 quantity having negative impact*
    c. *Buy trades up to 10 quantity having a positive impact*
    d. *Buy trades up to 10 quantity having a negative impact*
    e. *Sell trade > 10 quantity having positive impact*
    f. *Sell trade > 10 quantity having negative impact*
    g. *Sell trades up to 10 quantity having a positive impact*
    h. *Sell trades up to 10 quantity having a negative impact*

2. *Of the above 8 types of scenarios, the SCN goes on to only consider "Buy trades up to 10 quantity having a positive impact" while ignoring all other trades which form a major portion of the trading.*

3. *It is thus submitted that the analysis is merely based on selective data and has been carved out merely to suite the contention of allegations whereas the fact remains that these trades were a part of normal trading as will be*

observed from the detailed explanation in the further part of the reply.

v. *It is submitted that the trading was done in normal course and placing small and large orders is a part of general trading practice of the Noticee not just during the Investigation Period but also during prior and subsequent period, which has not been found fault with.*

Para by para response to the SCN

vi. *Para 1: This para deals with appointment of AO to adjudge the alleged irregularities of the Noticee during the period September 1, 2016 to February 28, 2017 under the provisions of section 15HA of SEBI Act for alleged violation of Section 12 A (a), (b), (c) of SEBI Act read with Regulation 3(a), (b), (c), (d) 4(1), 4(2)(a) and (e) of SEBI PFUTP Regulations. The Noticee denies having indulged in any irregularities as alleged or at all and denies having violated any of the provisions of SEBI Act or PFUTP Regulations as alleged in the SCN or at all.*

iv. *Para 2: Though para 1 refers to investigation period of September 1, 2016 to February 28, 2017 the Para 2 divides the investigation into 2 patches viz. Patch 1 comprising of the period October 18, 2016 to November 21, 2016 and Patch 2 comprising of the period November 22, 2016 to February 22, 2017. It appears that the rest of the period is ignored in the SCN.*

v. *Para 3: Gives the details of market wide volumes and price details of RMCL and does not contain any allegation and is therefore not commented upon.*

vi. *Para 4: Gives the details of the volumes of top 10 entities and the Noticee is a part of it.*

a. *A summary of volume of Noticees as in Table 4 and 5 is given hereunder:*

Quantity	*Buy*	*Sell*	*Net*
BSE	*4600045*	*4281349*	*318696*
NSE	*7270385*	*6657358*	*520660*
Total	*11870430*	*10938707*	*839356*

Not calculated in the SCN but calculated by the Noticees.

b. *It can be observed from the above that the Noticee had a net buying of 8,39,356 shares during the investigation period resulting from total buy and sell quantity of 2,28,09,137. Since the buy side quantity is higher, it would naturally have a positive impact on the price as it is common knowledge that increase in demand results in a price rise and vice versa and therefore no fault can be found based on analysis of select trades that resulted in positive price impact.*

c. *Further during the said period the sale quantity was 1,09,38,707 and if the intention of the Noticees was to manipulate the price by creating an irregular price rise then the Notices would have preferred to only buy the shares rather than sell such huge quantities, which will also have a negative impact on the price of shares as the sale of shares results in supply and tends to result in price reduction Further it can be observed that both buy and sell trades are done in short intervals on same day and it is not a case where shares have been continuously bought to increase the price and then dumped in the market. So it is unfathomable to allege that the Noticee manipulated the price by causing a positive movement where on a day to day basis there has also been large amount of sell trades which will eventually negate the effect or positive impact. Had the Noticee only created a positive impact by constantly executing buy trades, then probably the allegation in the SCN could have stood, but in light of the fact large quantities of buy and sell trades have been executed the allegation of causing price rise does not hold good as sell* *trades would negate the effect of the so called deliberate price rise caused by the Noticee.*

vii. *Para 5: Records that RMCL made 3 preferential issues during the period May 26, 2014 to November 20, 2015 and that the ARG Management Solutions P. L. was allotted 3,80,000 shares in the first preferential allotment at Rs. 12.50 which was subject to a locking up to October 14, 2015. This is a statement of fact and has does not draw any adverse inference. However, the following needs to be considered and appreciated:*

   a. *It is alleged that the Noticee was instrumental in bringing about positive price movement during the investigation period i.e. from September 1, 2016 to February 28, 2017. That being the case the Noticee would not have preferred to sell all his holdings of RMCL up to March 31, 2016 because if the Notice was actually instrumental in causing positive price movement then the Noticee would have preferred to sell the shares after the price increase but the fact is totally opposite. The fact that the Noticee sold most of his holdings of its company form preferential allotment just 5 months before the investigation period goes on to substantiate that the price movement cause during the investigation period was due to normal trading and was not at all manipulative as alleged or at all.*

viii. *Para 6: Gives details of relationship of entities and also divides them in groups. In this regard it is submitted as under:*

   a. *The SCN incorrectly records that the Noticee and his wife are directors in Isika Infracon Pvt. Ltd. (A company which is connected to promoters of RMCL).*

   b. *The Noticee is alleged to be connected to the promoters of RMCL solely based on this incorrect understanding and therefore the SCN needs to be set aside as there is no other basis of connection between the Noticee and the promoters of RMCL.*

ix. *Para 7 and 8: Deals with trading during Patch II on BSE and NSE respectively.*

a. *Para 7(a) and 8(a): Speak of price movement during Patch II and does not warrant comments.*

b. *Para 7(b) and 8(b): These paras carry out analysis of Group 2 entities as buyers and it is submitted that such an analysis is flawed. The entities have carried out trading most of which is intra-day trading and therefore any analysis based on only buy trades is completely flawed. Further it is common knowledge that buying results in positive impact on prices and therefore any conclusion drawn based on such a partial analysis will give a distorted picture.*

c. *Para 7(c) and 8(c): These paras allege that Group 2 entities contributed:*

    i. *Rs. 455.33 to market LTP of Rs. 689.16 and the same was 66.10% of the market positive LTP through 6461 trades and 644 counter parties on BSE and*

    ii. *Rs. 588.60 to market LTP of Rs. 960.85 and the same was 61.26% of the market positive LTP through 8470 trades and 1025 counter parties on NSE*

    iii. *Without prejudice to the forgoing requirement of data, assuming that the table in the SCN is correct, it is submitted that the same table also records, but the SCN fails to appreciate multiple facts that would go on to negate the allegation of price manipulation, some of which are as under:*

        1. *Of the total 24376 buy trades on BSE, only 6461 buy trades had a positive impact on LTP whereas 5958 buy trades had a negative impact on LTP. Further 11957 buy trades did not have any impact on LTP. This goes on to substantiate that about 74% of the trades are not alleged to be manipulative. Likewise of the total 30522 buy trades on NSE, only 8470 buy trades had a positive impact on LTP whereas 7348 buy trades had a negative impact on LTP.*

Further 14704 buy trades did not have any impact on LTP. This goes on to substantiate that about. 72% of the trades are not alleged to be manipulative. If the intention of the Noticees was to manipulate the price as alleged then there was no reason for the Noticees to execute trades that will have a negative or zero impact on the LTP as these will make the effort of alleged positive manipulation futile. Further almost 3/4th of the trades are not alleged to be manipulative and only 1/4th trades are alleged to be manipulative. Any manipulator would have a concentration of higher manipulative trades, whereas in this case non-manipulative trades are 3 times the alleged manipulative trades. This goes on to substantiate beyond doubt that all the trades were carried out in normal course of business and were not manipulative in nature and that the allegations in the SCN are misplaced.

2. *The table records that the Negative LTP due to buy side trades of the Noticee was Rs. 345.83 and that the market wide negative LTP was Rs. 663.74 on BSE. This goes on to substantiate that the Group 2 entities trades contributed 51% of the total market wide negative LTP on BSE. Similarly the table records that the Negative LTP due to buy side trades of the Noticee was Rs. 416.1 and that the market wide negative LTP was Rs. 935.55 on NSE. This goes on to substantiate that the Group 2 entities trades contributed 45% of the total market wide negative LTP on NSE. This goes on to substantiate that the buy trades of Group 2 entities have substantially contributed to negative price movement and this belies the charge of carrying out positive price manipulation as alleged in the SCN. No person who intends to manipulate the market positively will have such high negative LTP contribution. It is submitted*

that based on market conditions, the Noticees either placed pending orders or placed orders that matched with the orders of counter party. The orders that were placed as pending buy orders have gone to contribute negative LTP and if the intention was to bring about a positive price manipulation, the Group 2 entities would not have preferred to place such huge number of orders that had a negative Impact on the LTP. This trading pattern substantiates that the allegation of bringing about positive price movement in the nature of manipulation is misconstrued and incorrect.

x. *Para 7(d) to (f) and 8(d) to (f): These paras record that the trades of Group 2 entities were spread across a large number of entities and further goes on to record that the trades between Group 2 entities and suspected entities or other Group 2 entities were insignificant and therefore no adverse inference is drawn from the said analysis. However, the SCN falls to appreciate that if the trades were scattered across large number of entities and that such trades had both positive as well as negative impact and that most of the trades did not have any impact on LTP then the entire trading was in normal course and not manipulative.*

xi. *Para 7(g) and 8(g): These clauses start with the sentence "Considering significant contribution and no connection with counter parties of Group 2, trades with miniscule, buy quantities viz. 1-10 shares were analysed..." This is followed by a table trades < 10 quantity.*

   a. *It is humbly submitted that from the overall analysis of only the buy side trades on several parameters no adverse inference could be drawn and therefore a further smaller sample of trades was taken up for further analysis.*

   b. *The Noticees submit that such a hair splitting exercise is absolutely unfair as the analysis has to be based on holistic understanding of trades and* *not by a hair splitting exercise of keeping on selecting smaller samples to somehow achieve the objective of casting allegation and forming charges on the Noticees.*

c. *It is submitted that a selective analysis of trades of large institutions in even the most liquid scrips like Reliance would give skewed observations like if an institution comes to sell 10 lakh shares of Reliance in a day, it will surely end up having a negative LTP, but SEBI has never gone ahead to see such skewed samples for analysis.*

d. *There may be small quantity sell trades which have not been checked to analyse the price movement.*

e. *It is further submitted that the total Negative LTP contribution as recorded in clause 7b and 8b is Rs. 345.83 and Rs. 416 respectively on BSE and NSE. It is also possible that some of these buy side trades would be of less than 10 shares and such trades have been conveniently ignored while analysing the trading pattern. It is humbly submitted that selectively cherry picking trades that suite the allegation while ignoring other trades will give a distorted result.*

f. *Even further there may be trades of less than 10 shares, which would not have contributed any price movement, but the same have also been conveniently ignored to arrive at a skewed analysis of trades to case allegations in the SCN.*

g. *In light of the forgoing, it is submitted that the analysis of trades on a selective basis to suit the contents and allegations of the SCN is not envisaged under the scheme of SEBI and an investigation should be based on holistic analysis of trades.*

h. *There are several judgements that warrant a holistic view to be taken while scrutinising transactions and in one such case of* ***SRF Limited v/s DCIT (ITA No 2064/DEL/2014 dated 06/04/2021)*** *the Hon'ble Income Tax Appellate Tribunal has held "A pragmatic approach is required to be* *followed while analyzing the transactions. It is not a case of one-off transaction but of routine business transaction carried out over a period of time. Thus, one needs to take holistic view while dealing with such transactions."*

i. *The Noticee therefore reiterates that on taking into account a holistic view there is no reason for a noticee to execute only 1/4 trades of manipulative nature while executing 3/4 normal trades on the buy side, leave apart the sell trades, where no issues have been observed.*

xii. *Para 7(h) and 8(h): It is alleged that Group 2 entities contributed Rs. 289.74 to positive market LTP of Rs. 689.16 through 4094 trades on BSE and Rs. 359.80 to positive market LTP of Rs. 960.85 through 5178 trades on NSE. It is observed that miniscule trades were 63.36% and 61.13% of the total buy trades of Group 2 entities on BSE and NSE respectively.*

a. *It is submitted that in normal course of trading, traders mostly enter small quantity orders only and these are sometimes followed by few larger quantity orders based on opportunity. This is a market wide practice amongst traders and no fault can be found with this practice.*

b. *As per the SCN a positive movement of Rs. 289.74 was affected through 4094 trades which results in an average LTP impact of 7 paise per trade on BSE Similarly a positive movement of Rs. 359.80 was affected through 4178 trades which results in an average LTP impact of 6 paise per trade on NSE. This is extremely close to the tick size of 5 paise and therefore no fault can be found with them, it is not a case that the Noticees were bringing about huge movement in price by dealing in shares like in case of other investigations of SEBI where prices moved from 1 price band to another with a miniscule quantity of trading. The fact that the average movement is only 7 paise on BSE and 6 paise on NSE proves beyond doubt that the trading was in normal course and not manipulative. Further the impact on BSE will always be more as the* *liquidity on BSE is less and this also evidences that trading was not manipulative and was in normal course.*

c. *Further as per the SCN the negative impact on price due to buy trades was Rs. 345.83 on BSE and Rs 416.1 on NSE. Admittedly the SCN does not hold buy side trades with positive impact other than those with less than 10 shares to be manipulative. The positive impact of trades with less than 10 shares is Rs 289.74 on BSE and Rs. 359.80 on NSE. It can be observed that the positive impact due to alleged manipulative trades is less than the negative impact of buy trades. No sane person who wants to carry out positive price manipulation would negate the effect thereof by executing trades that will have a negative impact, which is more than the alleged positive impact.*

xiii. *Para 7(i) and 8(i): It is alleged that of the 4094 buy trades of less than 10 shares 4059 trades were placed in a manner where these orders were placed after sell orders were placed by counter parties on BSE. Similarly, it is alleged that of the 5178 buy trades of less than 10 shares 5127 trades were placed in a manner where these orders were placed after sell orders were placed by counter parties on NSE.*

a. *No conclusion can be drawn from this observation as the trades that have a positive impact are only considered for this analysis. Most buy trades that have a positive impact are always such where the buy orders are placed after the sale order is placed and is remaining pending in the trading system. This is how the trading happens.*

b. *However, in cases where pending buy orders are placed and they get matched with an active sale order, the impact of such transactions will be generally negative.*

c. *No conclusion can be drawn from such absurd analysis.*

d. *Further sub-paras to these clauses tend to suggest that there was no reason for the Noticees to place small orders across multiple days as the*

Noticees could have bought the quantity of shares equivalent to small quantity orders in initial few days itself. This is another absurd suggestion as small orders with positive impact are not the only orders placed by the Noticees. The small orders are a part of overall trading and these are followed by other small or big order which may not have any impact on price or which may have a negative impact on price. It is not a case that Noticees placed only these orders and therefore such absurd suggestions that the Noticees could have bought entire quantity in a few days and there was no need of trading small quantities over a longer period no way establish that the trades were manipulative.

xiv. *As regards execution of trades with small quantities. It is submitted that the Noticees have carried out trades of small quantity even during the financial year 2015-16 in the said year the Noticees carried out 39096 trades of which 20148 trades were for 1 share and a substantial number of trades were for quantity less than 10 shares. This goes on to substantiate that the Noticees had traded consistently in similar manner and a selective approach of cherry picking trades to arrive at pre-desired allegations is not envisaged under the scheme of SEBI.*

10. In consonance with the Adjudication Rules and the interest of natural justice, the Noticee was provided with an opportunity of hearing on July 14, 2022, in the present matter.

11. On the request of Noticee, the hearing scheduled on July 14, 2022, was rescheduled to July 15, 2022. The authorised representative(“**AR”**) of the Noticee attended the hearing on the said date. During the hearing, the AR reiterated the submissions made by Noticee in his reply to the SCN dated January 12, 2022.

12. Subsequently, trade logs of NSE and BSE for the IP of the scrip of RMCL forming the basis of allegations of the SCN were provided to Noticee and an opportunity to furnish further submission was granted. The Noticee vide email dated August 24, 2022, submitted *inter alia* that:

i. *We had received the data from your good self and have verified the contents of the SCN with the trade data.*

ii. *We humbly submit that the content of the SCN is correct and we do not have any further submission to add.*

13. I note that the principles of natural justice have been adhered to.

14. In the light of the allegations contained in the SCN, the submissions of the Noticee in respect of the allegations made in the SCN and relevant material available on record, I hereby proceed to decide the case on merits.

ISSUES FOR CONSIDERATION

15. The issues arising for consideration in the instant proceedings are:

Issue No. I. Whether Sections 12A (a), (b) and (c) of the SEBI Act and Regulations 3 (a), (b), (c) and (d) and 4 (1), (2) (a) and (e) of the PFUTP Regulations 2003 were violated by Noticee?

Issue No. II. If yes, whether the Noticee is liable for imposition of monetary penalty under Section 15HA of the SEBI Act?

Issue No. III. If yes, what would be the monetary penalty that can be imposed upon the Noticee taking into consideration the factors stipulated in Section 15J of the SEBI Act read with Rule 5 (2) of the Adjudication Rules?

16. At this juncture, it is relevant to note the provisions of law applicable to the present proceeding are provided 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

"3. Prohibition of certain dealings in securities

No person shall directly or indirectly—(a) buy, sell or otherwise deal in securities in a fraudulent manner;

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

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

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

"4. Prohibition of manipulative, fraudulent and unfair trade practices

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

(2) Dealing in securities shall be deemed to be a fraudulent or an unfair trade practice if it involves fraud and may include all or any of the following, namely:—
(a)indulging in an act which creates false or misleading appearance of trading in the securities market;
(e)any act or omission amounting to manipulation of the price of a security;"

FINDINGS

17. I note that the allegation against the Noticee is about manipulation in the price of the scrip of RMCL on NSE and BSE by repeatedly buying shares in miniscule quantities (1-10 shares) and contributing to positive LTP during patch 2 of the IP i.e. from November 22, 2016 to February 22, 2017.

18. At the outset, I note that the fact that the Noticee traded in the scrip during patch 2 of the IP is not disputed.

19. From the investigation report, I observe that the Noticee was amongst the top two contributors to the market positive LTP in the scrip of RMCL in patch 2 of IP on BSE and NSE. Further, I observe the following regarding the trades executed by the Noticee which contributed to positive LTP in the scrip of RMCL during patch 2 of the IP:

    i. The Noticee through 3466 and 4662 trades on BSE and NSE respectively contributed to a positive LTP of Rs. 247.34 on BSE and Rs. 331.50 on NSE in the scrip of RMCL in patch 2 of the IP. The details of the said trades are tabulated as under:

Table No. 1

Exchange where the scrip of RMCL was traded	No. of trades (LTP >0)	Positive LTP Contribution when buy order qty was of 1 share only		Positive LTP Contribution when buy order qty was between 2-10 shares		Positive LTP Contribution when buy order qty was more than 10 shares		Total Positive LTP contribution (₹)	% of positive LTP to Total Market positive LTP	% contribution to Total Market positive LTP through small orders (1-10 shares)
		Positive LTP contribution	No. of trades	Positive LTP contribution	No. of trades	Positive LTP contribution	No. of trades			
BSE	3466	27.23	378	124.36	1754	95.75	1334	247.34	35.89	22.00
NSE	4662	28.55	405	171.9	2450	131.05	1807	331.5	34.50	20.86

ii. Out of the said 3466 trades, the Noticee had placed buy orders of miniscule quantity (in the range of 1-10 shares) in 2132 instances thereby contributing 22% to market positive LTP on BSE. While at NSE, out of the said 4662 trades, the Noticee had placed buy orders of miniscule quantity (in the range of 1-10 shares) in 2850 instances thereby contributing 20.86% to market positive LTP.

iii. The Noticee brought 20,169 shares on NSE and 13,954 shares on BSE through such repeated miniscule trades despite sufficient quantities of share being available on the exchange on initial days itself.

iv. In over 90% of such trades of miniscule quantity, buy orders of the Noticee had matched with pre-existed sellers at positive LTP.

20. In this background, I note that the Noticee has executed 2132 and 2855 miniscule buy trades (1-10 shares) in BSE and NSE respectively above the LTP which has substantially contributed to the positive LTP of the scrip of RMCL in patch 2 of the IP. I note that the execution of a such large number of miniscule trades at a price higher than LTP when large quantities of sell orders were available does not appear to be normal trading activity as a rational buyer envisages purchasing a scrip at the lowest possible price. In this regard, I note the decision of Hon'ble SAT in the matter of **Shri Tarunkumar Brahmbhatt v. SEBI** (Appeal No. 322 of 2019 decided on April 28, 2021) where it was *inter alia* held that

"11. From the trades executed by the appellants which has been depicted in detail in the impugned order we notice that the appellants placed buy orders above the LTP and that some of the trades were the first trades of the day. It is common sense that when an investor buys he would like to buy a scrip at the lowest possible price and when he wants to sell he would like to get the highest possible price. Why should a person/ investor buy a share at a higher price than what is available on the stock exchange at a lower price unless there is a motive. In the instant case, the trading pattern of the appellants clearly indicates that they were placing buy orders above the LTP which led to market contribution to the positive LTP and also created a new high price(NHP)."

21. On perusal of the trade and order logs, the trading pattern of the Noticee is analysed in respect of his positive LTP contribution in the scrip. It is observed that the Noticee bought 13,954 shares over 51 days on BSE and 20,169 shares over 57 days on NSE through buy orders of miniscule quantities in patch 2, despite sufficient quantities of sell orders being available to accommodate the entire demand of the Noticee in a few trades. To illustrate, I note that the Noticee in first 3 trading days i.e. on November 23, 24 & 30 of 2016, bought total 309 shares in miniscule quantities against total available quantity of 39,926 shares on BSE.

22. I find that the Noticee has exhibited the said pattern of trading in the entire duration of patch 2 of IP on both NSE and BSE. The peculiar pattern of trading adopted by the Noticee during patch 2 of the IP shows that such trades were manipulative in nature and were undertaken to cause upward price movement of the scrip.

23. I note that the Noticee has submitted various grounds in his defense which are discussed as under:

i. No connection with RMCL or its promoters/directors

23.1 Noticee has mentioned that he is not connected with promoters/directors of RMCL in any manner and hence, SCN issued against him is liable to be disposed of.

23.2 The Hon'ble SAT in the matter of **Tanuj Khandelwal v. SEBI** (Appeal No. 357 of 2020 decided on January 04, 2021) *inter alia* held:

"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 in spite 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."* (Emphasis supplied)

23.3 Therefore, this contention of the Noticee cannot be accepted.

ii. Majority of the trade executed by him in patch 2 of the IP did not have any impact on the LTP

23.4 The Noticee has contended that the majority of the trades executed by him on BSE and NSE respectively in patch 2 of the IP did not have any impact on the LTP of the scrip of RMCL. According to him, this substantiates the fact that the Noticee had no intention to manipulate the price of the scrip of RMCL.

23.5 In this aspect, I refer to the order of the Whole Time Member, SEBI in the matter of **MBL and Company Limited** (WTM/MB/IVD/ID5/7095/2019-20, Date of Order: February 28, 2020, subsequently affirmed by the Hon'ble Supreme Court in Civil Appeal Nos. 4262-4263 of 2022) where it was held that "*Thus, in view of the observation of Hon'ble SAT, I am of the view that manipulation in the scrip can be done by single share order placement method also, which has precisely happened in the present matter, in such a scenario, volume created by such trades/self-trades in the scrip is irrelevant/immaterial."* In the present case, Noticee has repeatedly bought shares in miniscule quantity (1-10 shares) at incremental prices over the LTP at frequent intervals in patch 2 of the IP. I note that Noticee kept on placing huge quantities of buy orders of miniscule quantities and executed such trades at an artificial price.

23.6 Therefore, this defense of the Noticee does not stand.

iii. Trades not considered holistically

23.7 Noticee has argued that the SCN has selected a few trades executed by him which have resulted in a positive contribution to the LTP in the scrip and has ignored many other trades which were executed by him either at LTP or in some cases even at prices lesser than LTP. Further, the Noticee has submitted that the sell side of the trade by the Noticee in patch 2 of the IP has not been considered by SEBI.

23.8 The Hon'ble SAT, in the matter of **BP Comtrade Pvt Ltd v. SEBI** (Appeal No. 189 of 2020 decided on November 20, 2020) held as under:

"10. Having heard the learned counsel / authorized representative for the parties at reasonable length and having perused the documents placed before us, we are of the considered view that the nature / pattern of trading adopted by the appellants is not in the nature of what a rational investor would do. A large number of sell orders were placed repeatedly on several trading dates at less than the LTP; it is illogical. Therefore, the contention of the appellants that it was following momentum trading has no meaning as by placing a large number of orders below the LTP the appellants themselves were creating a momentum. ***Of course we notice that a number of orders of the appellants were placed on or marginally above LTP, but that is the rational behaviour expected from a seller and no fault can be found for SEBI in not considering such trades as violative of the PFUTP Regulations.*** *Appellants submission of a small list of trades in which they impacted LTP both positively and negatively on a few days also does not help the appellants since the overwhelming evidence is clearly towards placing sell orders below the LTP. When such trades are done on a large number of occasions, such as 166 times, one cannot but come to the conclusion that such trades are manipulative in nature. Given such large number of instances of trades in these appeals, judgments relied on by the appellants are distinguishable.*

11. Further, it is also on record that in 124 out of 166 times sell orders were placed in single digits of 1, 2, 3 etc shares, which defies the submission of the appellants that they were placing orders below the LTP because only if sell orders are placed a bit below the L TP large quantities could be sold in a falling market Therefore, clearly the strategy of trading [momentum trading] adopted by the appellants was creating its own momentum inimical to the interest of the securities market. Even if it affected only about 10 % of the market volume in the scrip of Blue Blends, as contended by the appellants, it is no consolation since influencing 10% of the market by 2 entities is a significant deviation from market equilibrium. Therefore, dehors the connectivity issue itself the appellants are in violation of the PFUTP regulations by the very nature of their trading strategy and trading pattern." (Emphasis supplied)

23.9 In this backdrop, I note that there is no genuine reason, to place such buy orders of miniscule quantity that are much higher than the last traded price, as any reasonable buyer would want to buy in the lowest possible price. Here, the Noticee has stated that he had placed some orders above LTP, some at LTP and some below LTP to contend that their trades were in the ordinary course and he was not involved in the manipulation of the scrip. The evidence is clearly towards repeated placing of miniscule buy orders above the LTP (2132 buy trades on BSE and 2855 buy trades on NSE) by the Noticee in a limited period. I note that the Noticee through such trades has contributed more than 20% to the positive LTP of the scrip on NSE as well as BSE.

23.10 Further, it must also be borne in mind that the allegations at hand are specific to the trades indulged in by the Noticee in miniscule quantity resulting in positive LTP of the scrip RMCL.

23.11 In light of the above, the reliance placed by the Noticee on other trades executed by him in the scrip of RMCL for exoneration is misplaced and unfounded.

iv. Trades were in nature of jobbing transactions

23.12 Noticee has contended that the transactions were in nature of jobbing transactions. In this aspect, it is noted that trading over the LTP is not a violation of securities laws per se, but in the facts and circumstances of the matter where the said Noticee's frequent and consistent trading in small quantities caused an artificial increase in the price of the scrip leads one to reject the argument of the Noticee that he has traded in the normal course of trading or jobbing.

23.13 Thus, this contention of the Noticee cannot be accepted.

v. No conclusion can be drawn from the fact that the majority of such buy trades were placed after sell orders were placed by the counterparties.

23.14 Concerning this contention of the Noticee, I note that a rational buyer in the market endeavours to acquire shares at a lower price. In the present matter, sell orders, on most of the days, were available in the requisite quantity for which buy orders in miniscule quantities were placed by Noticee during patch 2 of the IP. Despite that, the said Noticee was placing buy orders in miniscule quantity at a price above LTP during this period as mentioned above. This trading behavior has not been explained by the Noticee except for stating that no conclusion can be drawn from such analysis.

23.15 Hence this submission of the Noticee cannot be accepted.

vi. Traded in the scrip RMCL in a similar pattern which involved trades of a small quantity during the financial year 2015-16

23.16 The Noticee has contended that he has traded in the scrip RMCL in a similar pattern which involves trades of a small quantity during the financial year 2015-16. I find that the Noticee has not produced or submitted any documentary evidence of trading undertaken by him in the scrip RMCL for the year 2015-16. Accordingly, this submission of Noticee does not merit consideration.

24. In view of the above I note that Noticee has not adduced any justifiable reasons for executing such trades of miniscule quantity. Therefore, one cannot but infer that such trades were not genuine trades. In this regard, it is pertinent to mention that the Hon'ble SAT in the matter of **Shri Lakhi Prasad Kheradi v. SEBI** (Appeal No 232 of 2017 decided on June 21, 2018) held that *"9. Facts recorded in paras 15 to 17 of the impugned order clearly establish that the trades executed by the appellant had the effect of net positive LTP of Rs. 85.35. Very fact that the appellant had indulged in self trades/ LTP/ NHP without giving any justifiable reason, clearly justifies the inference drawn by the AO that the trades executed by the appellant were manipulative trades."*

25. I note that in his written submissions, Noticee has referred to and quoted the judgment of Hon’ble Income Tax Appellate Tribunal (“**Hon’ble ITAT**”) in **SRF v. DCIT** (ITA No. 2064/DEL/2014 dated April 04, 2021). The extract relied by the Noticee is as under:

"A pragmatic approach is required to be followed while analyzing the transactions. It is not a case of one-off transaction but of routine business transaction carried out over a period of time. Thus, one needs to take holistic view while dealing with such transactions."

In this context, I note that the facts and circumstances of the said judgment of Hon’ble ITAT and of the present case are different and distinguishable. In the appeal before the Hon’ble ITAT, the matter was relating to the “quantum of assessment” for the purpose of income tax. Transactions considered for the purpose of income tax are individual to entity concerned whereas transactions in securities market may affect the interest of other investors, as is evident in this case. Therefore, the contention of the Noticee cannot be accepted.

26. In view of the above stated findings and considering the aforesaid orders of the Hon’ble SAT, given the repeated nature of such miniscule trades (2132 buy trades on BSE and 2855 buy trades on NSE) at an incremental price over LTP which had positively contributed to the total rise in the LTP by Rs. 151.59 on BSE and Rs. 200.45 on NSE, the Noticee through his unique and peculiar trading pattern, as discussed above, has manipulated the price of scrip during patch 2 of the IP.

27. Accordingly, by executing such trades, the Noticee has violated the provisions of Section 12A(a), (b) and (c) and Regulations 3(a), (b), (c) and (d), 4 (1), (2) (a) and (e) of the PFUTP Regulations.

28. As it has been established that the Noticee has violated Section 12A(a), (b) and (c) and Regulations 3(a), (b), (c) and (d), 4 (1), (2) (a) and (e) of the PFUTP Regulations, the said Noticee is liable for payment of a monetary penalty in terms of Section 15HA of the SEBI Act.

29. Text of the abovesaid Sections 15HA of the SEBI Act is reproduced below for reference: -

SEBI Act

*“***15HA. Penalty for fraudulent and unfair trade practices.**

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.”

30. While determining the quantum of penalty under Section 15HA of the SEBI Act, the following factors stipulated in Section 15J of the SEBI Act have to be given due regard: -

SEBI Act

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

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

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

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

(c) the repetitive nature of the default.”

31. I observe that the material available on record has not quantified the amount of disproportionate gain or unfair advantage made by the Noticee and the loss suffered by the investors because of the Noticee’s default. There is nothing on record to show the repetitive nature of violations by the Noticee.

32. I note that the fraudulent trade practices adopted by the Noticee have affected the normal price discovery mechanism in the securities market and have prejudiced the interest of the investors. Such manipulative trades by the Noticee have violated the fundamental tenets of market integrity. The Noticee has executed 2132 and 2855 manipulative trades of miniscule quantity (1-10 shares) on BSE and NSE respectively in the patch 2 of IP as noted above.

33. I note that the Noticee in his reply to the SCN dated January 12, 2022, has mentioned that he has been trading in the securities market for over 28 years. Further, he, in the said reply, has also stated that he along with his wife had acquired one company in 2014 for the purpose of investing and trading in securities. Thus, the Noticee has admittedly good knowledge of the functioning of the securities market and therefore knows well about the repercussions that his trade could have on the pricing of the scrip. Hence, the trades of the Noticee cannot be seen as inadvertent trades of an uninformed investor. At this juncture, I refer to the judgment of the Hon'ble Supreme Court in the case of **N. Narayan v. SEBI** (AIR 2013 SC 3191) where it was held as under:

> *" "market abuse" has now become a common practice in the India' security market and, if not properly curbed, the same would result in defeating the very object and purpose of SEBI Act which is intended to protect the interests of investors in securities and to promote the development of securities market."*

Such deliberate acts of market manipulation, therefore, cannot be dealt with lightly. The penalty should also act as a deterrent so that such manipulation acts are not repeated.

34. I have taken note of the mitigating circumstance available on record. In this regard, I note that no connection has been established between the counterparties and the Noticee during the investigation.

35. I have considered the aforesaid factors while arriving at the penalty to be imposed on the Noticee.

ORDER

36. After taking into consideration all the facts and circumstances of the case, I, in the exercise of the powers conferred upon me under Section 15I of the SEBI Act, 1992 read with Rule 5 of the Adjudication Rules, 1995, I hereby impose a penalty of Rs. 10,00,000/- (Ten Lakhs only) on the Noticee under Section 15HA of the SEBI Act, 1992 for the violation of the Sections 12A(a), (b) and (c) of the SEBI Act and Regulations 3(a), (b), (c) and (d) and 4 (1), (2) (a) and (e) of the PFUTP Regulations 2003.

37. I am of the view that the said penalty is commensurate with the violations on the part of the Noticee.

38. Noticee shall remit / pay the said total amount of penalty within 45 days of the receipt of this order either by way of Demand Draft in favour of "SEBI- *Penalties Remittable to Government of India*", payable at Mumbai, or by following the path at SEBI website www.sebi.gov.in, ENFORCEMENT > Orders > Orders of AO > PAY NOW; OR by using the web link https://siportal.sebi.gov.in/intermediary/AOPaymentGateway.html. In case of any difficulties in payment of penalties, the Noticee may contact the support at portalhelp@sebi.gov.in.

39. The said confirmation of e-payment made in the format as given in the table below should be sent to "The Division Chief, EFD1-DRA-III, 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)	

40. In terms of the provisions of Rule 6 of the Adjudication Rules, copies of this order are sent to the Noticee and SEBI.

Date: December 30, 2022 **N HARIHARAN**

Place: Mumbai **ADJUDICATING OFFICER**