BEFORE THE ADJUDICATING OFFICER

SECURITIES AND EXCHANGE BOARD OFINDIA

ADJUDICATION ORDER NO. BD/NR/2020-21/8476-8479

UNDER SECTION15-I OF SECURITIES AND EXCHANGE BOARD OF INDIA ACT, 1992 READ WITH RULE 5 OF SEBI (PROCEDURE FOR HOLDING INQUIRY AND IMPOSING PENALTIES) RULES, 1995

In respect of

1. Anil Vishnu Bharati *(PAN: AHWPB8347C)* A-1, 205, Laram Centre S V Road, Andheri West Mumbai – 400058.	2. Pratik Jain *(PAN: AMCPJ6859L)* Swapnil, Vivekananda Colony Deoli, Tonk Rajasthan – 304804.
3. Akshata Majgaonkar *(PAN: ASMPM0261B)* G228, Giriraj Complex Bolinj, Virar (W) Palghar – 401303.	4. Narendra Kripashankar Mishra *(PAN: ANLPM9657K)* B/110, Sankalp Niketan 1st Floor, 2nd Carpenter Street Dockyard Road, Mazgaon Mumbai – 400010.

(The aforesaid entities are hereinafter referred to individually by their respective names/serial numbers or collectively as "the Noticees")

In the matter of Lifeline Drugs and Pharma Ltd.,
(Now known as Arihant Multi Commercial Ltd.,)

BACKGROUND

1. Securities and Exchange Board of India *(hereinafter referred to as "SEBI")* conducted an investigation in the scrip of Lifeline Drugs and Pharma Ltd., *(now known as Arihant Multi Commercial Ltd.,) (hereinafter referred to as "LDPL" / "Company")* based on a reference received from the Director of Income Tax (Investigation), Kolkata vide letter dated April 27, 2015 alleging that certain entities had used the stock exchange mechanism to generate Long Term Capital Gain Tax (*hereinafter referred to as "LTCG")* by trading in certain scrips and LDPL is one of such scrips mentioned in the aforesaid letter. The focus of the investigation was to ascertain whether there were any violations of the provisions of Securities and Exchange Board of India Act, 1992 (*hereinafter referred to as "SEBI Act, 1992")* and SEBI (Prohibition of Fraudulent and Unfair

Trade Practices relating to Securities Market) Regulations, 2003 (*hereinafter referred to as "SEBI (PFUTP) Regulations"*) by certain entities in scrip of LDPL during the period January 10, 2013 to May 30, 2015 (*hereinafter referred to as "Investigation Period"/"IP").*

2. Based on the variance in the quantum of trading volumes, the price movement of the scrip during the IP and the stock-split, the investigation period was split into three patches. The price & volume details of the scrip LDPL during the three patches of the investigation period are tabulated hereunder:

Patches	Period		Price Movement in ₹				Price/Volume trend
	From	To	Open	High	Low	Close	
Patch-1 (pre stock-split)	10/1/2013	13/11/2013	8.5	584.35	8.5	584.35	Price rise with low trading volumes
Patch-2 (post stock-split)	14/11/2013	2/12/2014	59.55	330	59.55	283	Price rise with high trading volumes
Patch-3 (post stock-split)	3/12/2014	30/5/2015	285	304	160	188.4	Price fall with high trading volumes

3. It was observed that during Patch 1 of the investigation period, the price of the LDPL scrip opened at ₹8.50 on January 10, 2013 and touched a high of ₹584.35 on November 12, 2013 and closed at ₹584.35 on November 12, 2013 with an average traded volume of 2 shares and total volume of 226 shares. On November 13, 2013, the Company carried out stock split in the scrip in the ratio of 10:1. The trading volumes were high in the scrip during the period November 14, 2013 and December 2, 2014 i.e., Patch 2 of the investigation period. Pursuant to carrying out Last Traded Price (LTP) analysis for the investigation period, the investigation found that during Patch-1 of the investigation period, the market net LTP in the scrip was ₹575.85 with a market volume of 226 shares and the market positive LTP was ₹575.90 with a market volume of 207 shares. The investigation revealed that the Noticees viz., Anil Vishnu Bharati (Noticee 1), Pratik Jain (Noticee 2), Akshata Majgaonkar (Noticee 3) and Narendra Kripashankar Mishra (Noticee 4) created a misleading appearance of trading

and contributed to manipulation in the scrip price. Therefore, it is alleged that the Noticees have violated the provisions of Regulations 3(a),(b),(c),(d),4(1), 4(2)(a) and (e) of SEBI (PFUTP) Regulations.

APPOINTMENT OF ADJUDICATING OFFICER

4. Pursuant to investigation, SEBI initiated Adjudication Proceedings against the Noticees and appointed the undersigned as the Adjudicating Officer, vide order dated September 4, 2017, under Section 19 of the SEBI Act read with Section15-I of the SEBI Act 1992 and Rule 3 of SEBI (Procedure for Holding Inquiry and Imposing Penalties) Rules, 1995 (hereinafter referred to as *"SEBI Adjudication Rules"*) to inquire into and adjudge under Section 15 HA of the SEBI Act 1992, for the violations alleged to have been committed by the Noticees.

SHOW CAUSE NOTICE, REPLY AND HEARING

5. A Show Cause Notice (hereinafter referred to as "SCN") bearing ref. no. SEBI/EAD-7/BJD/BKM/27754/2018 dated October 3, 2018 was issued to the Noticees under Rule 4 of SEBI Adjudication Rules to show cause as to why an inquiry be not held against them in terms of Rule 4 of the SEBI Adjudication Rules and penalty be not imposed under Section 15HA of the SEBI Act, 1992 for the violations alleged to have been committed by them. The common SCN was also issued to Mr. Rajesh Jayantilal Savadia. However, I have been given to understand from the medical certificate dated July 6, 2020 submitted by his Authorized Representative that Mr. Savadia has been suffering from Schizophrenia for the past 2 years and requested that the proceedings initiated against him be kept in abeyance. Having perused the certificate furnished by the Authorized Representative, I have decided to keep the proceedings in abeyance, since the Noticee cannot reply in the given circumstances. I note that the SCN was duly served on the Noticees 1, 3 and 4 and in respect of the Noticee 2, the SCN sent by Speed Post returned undelivered. Therefore, the SCN was delivered to the Noticee 2

by hand on January 29, 2020. I note that the Noticees did not file their reply to the charges alleged in the SCN. Since there was no reply filed by the Noticees, vide email dated May 18, 2020, the Noticees were given one more opportunity to furnish their reply by May 31, 2020. I note that the email dated May 18, 2020 sent through digitally signed, in terms of Rule 7 (b) of SEBI Adjudication Rules, did not bounce. I note that the Noticee 2 vide email dated May 31, 2020 sought extension of time to submit his reply.

6. Further, vide email dated June 1, 2020 all the Noticees were given final opportunity to furnish their reply by June 10, 2020, besides providing them with an opportunity of hearing through video conference on June 12, 2020, in view of Covid-19 pandemic. I note that the email dated June 1, 2020 sent through digitally signed in terms of Rule 7 (b) of SEBI Adjudication Rules, did not bounce. Pursuant to receipt of a request received from the Noticee 3 vide email dated June 4, 2020 for extension of time to submit her reply, the Noticee 3 was given time till June 17, 2020 to enable her to furnish her reply, besides providing her with an opportunity of hearing on June 19, 2020 through video conference. Pursuant to receipt a request from the Authorized Representative of the Noticees 1 & 2 vide email dated June 10, 2020 for adjournment of hearing scheduled on June 12, 2020, the hearing was adjourned to June 19, 2020, which was communicated vide email dated June 11, 2020. Further, vide email dated June 10, 2020, the Authorized Representative of the Noticees 1, 2 and 3 sought soft copies of all the relevant data and documents while issuing the SCN, which were provided by email on the same date. Vide email dated June 9, 2020, the Authorized Representative of the Noticee 4 sought documents annexed with the SCN, besides requesting for adjournment of hearing scheduled on June 12, 2020. Vide email dated June 11, 2020, the annexures to the SCN sought by the Authorized Representative of the Noticee 4 were provided, besides providing an opportunity of hearing through video conference on June 19, 2020. It was also informed to the Authorized Representative of the Noticee 3 that only such documents which are relevant and relied upon have formed part of SCN and

the relevant findings of investigation also forms part of SCN, which have been duly provided.

7. I note that the Noticees vide email dated June 16, 17 & 18, 2020 submitted their replies. In view of Covid-19 pandemic, the hearing was conducted through Webex video conference on June 19, 2020, which was attended by the Authorized Representatives of the Noticees. On behalf of the Noticees 1, 2 and 3, Mr. Vikas Bengani, Advocate appeared and reiterated the submissions made by the Noticees 1, 2 and 3, besides seeking some time to make additional submissions, which was duly considered and accordingly the Noticees were given time till June 23, 2020. On behalf of the Noticee 4, Mr. Harsh Kesharia, Advocate appeared and reiterated the submissions made by the Noticee 4 vide email dated June 18, 2020, besides seeking some time to make additional submissions, which was duly considered and accordingly, the Noticee 4 was given time till June 23, 2020.

8. The Authorized Representative of the Noticees 1, 2 and 3 vide email dated June 20, 2020 submitted the revised replies of the Noticees in lieu of the earlier replies submitted. I note that vide email dated June 24, 2020, the Authorized Representative of the Noticees 1, 2 and 3 made the additional submissions. I note that Noticee 4 did not make any additional submissions. The replies furnished by all the Noticees are identical in nature, which are summarized hereunder:

   a) *Copies Investigation Report including all annexures, Order Log, Reference received from DIT (Investigation, Kolkata), and RTA of the Company, besides share transfer deed, may be provided.*

   b) *On perusal of the Trade Log data it is revealed that the scrip of the Company was traded in Periodic Call Auction. However, no mention about the same is given in the SCN. Since SEBI, Stock Exchange and Brokers keep special watch on the transactions executed in the Period Call Auction window then why SEBI has not taken an early step, if SEBI found that transactions were not genuine.*

c) Furthermore, SCN are bad in law as the same has been issued after a period of more than 5 years after execution of alleged trade by me. Hence, the issue of SCN after a lapse of period of 5 years has caused extreme mental agony to us. This highly prejudices the case of the Noticee as justice delayed is justice denied. In this regard, reliance is placed on the two judgments of the Hon'ble SAT in the matter of Ashok Shivpal Rupani & Ors Vs SEBI dated August 22, 2019, Rakesh Kathotia & Ors Vs SEBI dated May 27, 2019 and Ashlesh Gunvantbhai Shah & Ors Vs. SEBI dated January 31, 2020. Further, reliance is placed on the judgment of the Hon'ble Supreme Court against the Order of the Hon'ble SAT dated August 22, 2019 in the matter of Ashok Shivpal Rupani & Ors, filed by SEBI.

d) I had not directly purchased the shares of the Company from Welldone Commodities Pvt. Ltd. I don't know anyone in Welldone Commodities Pvt. Ltd. Even, I am not remembering that the shares were in the name of Welldone Commodities Pvt. Ltd. I purchased the shares in physical form and get it demated in March, 2013. Kindly provide me share transfer form and cancelled share certificate, if possible so that I can place more submissions on this.

e) In the entire SCN, there is no whisper of allegation of connection/collusion in between me and Promoter/ Director/Employee of the Company and/or counterparties to my trades. Since I am not facing any allegation of connection/collusion with any of the entity, the allegation of price manipulation cannot be established against me. In this regard, reliance is placed on the judgment of the Hon'ble SAT in the matter of Vikas Ganeshmal Bengani Vs SEBI dated February 25, 2010.

f) I further say and submit that I had placed Orders to sell the shares of the Company at prevailing market price. It is matter of recorded that my sell Orders had been placed in the system when the buy Orders already placed. The scrip was traded in the periodic call auction wherein Order were placed in a 45 minutes time slots and further matched in a 15 minutes time slot. The Periodic Call Auction was introduced mainly for the illiquid stocks.

g) I further say and submit that SEBI had given clean chit in a case wherein Orders have been placed by the Noticee after placing of Orders by the counterparties to the trade. In this regard, reliance is placed on the Order of the Hon'ble WTM, SEBI dated May 31, 2019 in respect of Amit H Tilala the matter of Essar (India) Ltd.,

h) I further say and submit that no alleged trades had been executed after 11-

10-2013 when the price of the scrip was quoting around Rs. 489.35 per share. The price of the scrip of the Company continued to increase thereafter and went to a high of Rs. 584.35 (pre Stock Split) on 12-11-2013 and further rises to Rs. 3300/- (adjusted price as company shares was split into the ration of 10:1)). I had no role in the said increase in the price of the scrip from Rs. 489.35 to Rs. 3300 i.e. more than 6 times. This was astronomical increase in the price of the scrip. It shows that the price of the scrip of the Company was increasing due to heavy demand and poor supply and not by manipulation as alleged in the SCN. Thus, no allegation should be made against me for manipulation of price as the price was increasing in normal course of trading.

i) *It is further submitted that the allegation made against me in the SCN are vague as could be as I have every right to decide that how much quantity I should sell at a time. No SEBI Rules and Regulation bar me from trading in the quantity of my choice. I had admittedly no collusion with any entity. I had executed trades within the circuit filters established by the SEBI/Stock Exchanges. I had not received any warning or caution from the Stock Exchange when I was selling the shares. I was acting as a genuine seller and had bona fide intention to sell shares. It is not my business to fulfil the demand of the buyer and to sell the shares in one slot.*

j) *I further say and submit that my trades in the scrip of the Company spread over a period of 8 months. My alleged contribution to +ve LTP was Rs. 63.05 i.e. too miniscule if it is compared with the total +ve LTP during the Investigation Period i.e. Rs. 7056.80 (as per Trade Log Data).*

k) *I have no connection and or relation with any other shareholder/promoter/director/employee of the Company. Thus, the allegation that no other transaction had been executed on those days when the Noticees including me had executed traded is futile.*

l) *I further say and submit that I had placed orders at prevailing market price. It is the buyers who placed their orders first. Their buy Orders had always been placed at the upper circuit filter. It is further submitted that there was enough floating stock in the market during the course when I was executing trades in the scrip of the Company.*

m) *It is an admitted fact that I am not facing allegation of synchronized trades, reversal of trade, structured trades, self-trade, first trade and new high price. Thus, the only allegation made in the SCN is price manipulation. There is no word about any meeting of mind with counterparties to my trades. I further say and submit that there were huge time differences in between placing of* *buy orders and sell orders. Thus, prior meeting of mind in between the buyer and seller or with any entity is not possible at all.*

n) *In this regard, reliance is placed on the Orders of Hon'ble SAT (Nishit Shah Vs. SEBI Dated January 16, 2020, Rajesh Marchya Vs SEBI dated February 7, 2020) and SEBI (Adjudication Orders in respect of Amit Tilala in the matter of Essar (India) Ltd., dated January 23, 2018, Jayanant Indulal Sethna in the matter of Dhenu Buildcon Infra dated April 26, 2018 and Sushma Agarwal in the matter of Winsome Yarns Ltd., dated February 25, 2020) wherein the controversy involved in the present matter is squarely covered.*

o) *I place reliance on the two Judgements passed by the Hon'ble SAT in the matter of Vikas Gourihar Narnavar vs the Adjudicating Officer, SEBI (Order date 15-06-2010, Appeal No. 281 of 2009) and Dhirrajbhai V. Shanghavi HUF and Ors. vs SEBI (Order date 19-02-2020) on violation of Principle of Natural Justice in quasi-Judicial proceedings.*

p) *I had not employed any manipulative or deceptive device with respect to buy/sale of shares of Lifeline or neither have I acted in contravention of the provisions of SEBI Act and Rules/Regulations made thereunder. I had not employed any device, scheme or artifice to defraud anyone while dealing in the shares of Lifeline. I had not engaged in any act or practice during the course of business which could be construed as fraud or deceit upon any person while dealing in shares of Lifeline. I had not engaged in any act or practice during the course of business which operates or would operate as fraud or deceit upon any person in respect of shares of Lifeline. I repeat and reiterate that I had not indulged in fraudulent and unfair trade practice in respect of my dealings in shares of Lifeline. I had also not indulged in an act amounting to manipulation of price of the scrip of Lifeline.*

q) *I therefore request to your good self to consider my aforesaid submissions and dispose-off the SCN qua me without passing any adverse order against me.*

r) *The Noticee 1, 2 and 3 submitted that there were not issued any warning or alert during the course of patch 1 period despite the fact that an alert was generated at SEBI in the scrip of the Company for substantial price rise in the scrip through low volume trades.*

s) *On perusal of the Trade Log data provided with the SCN, it is revealed that several entities had substantially contributed to +ve LTP by executing trades in minuscule quantities and influenced the price of the scrip. These trades were executed purely to influence the price of the scrip as the prevailing* *circumstances not warrant execution of these types of trades. Such types of trades had been repeated by several entities. On perusal of these examples, it is revealed that the aforesaid entities had executed trades in minuscule quantities and substantially increased the price of the scrip. However, no allegation has been made against them in the SCN. Even no reference of their trades has been provided in the SCN.*

t) *It is to be noted that major increase in the price of the scrip had nothing to do with the trades of the Noticees including me. The price was increasing due to high demand and poor supply. The price of the scrip of the Company was contentiously increasing though supply had increased. It is thus submitted that the allegation made in the SCN are based on surmises and conjectures and are therefore liable to be drop.*

u) *The Noticees 1, 2, and 3 requested not to pass any adverse Order against them and in case your goodself found guilty of violation of PFUTP Regulation, reliance is placed on the Order of the Hon'ble WTM, SEBI dated June 4, 2019 in the matter of Ram Minerals and Chemicals Ltd., and the Adjudication Order in the matter of Golden Legend & Finance Ltd., for warning or lesser penalty.*

v) *The Noticee 4 further submitted that the Hon'ble SAT in various judgments had dealt with the situation where a Noticee was alleged to be a part of an alleged group. For the purpose of reference, reliance is placed on the Hon'ble ST Order in the matter of Narendra Gantara Vs SEBI dated July 29, 2011. For proving a charge of PFUTP Regulation violation a stronger/higher degree of proof or evidence is required. In this regard reliance is placed on the Hon'ble SAT Orders in the matter of KSL & Industries Ltd. vs. Chairman, SEBI (Appeal No. 9 of 2003) order dated September 30, 2003, HB Stock Holdings Ltd., Vs SEBI (Appeal No. 114 of 2012) dated 27th August, 2013, Jagruti Securities Ltd. vs. SEBI, Order dated 27th October, 2008 and Moneygrowth Investment and Consultants Pvt. Ltd. vs. SEBI, Order dated 27th August, 2008.*

9. Further, vide email dated July 23, 2020, the Noticees were provided with a copy of the email dated June 6, 2017 addressed to SEBI by Purva Share Registry providing statement of off-market transfers of 25 shares each to the Noticees by Welldone Commodities Pvt., Ltd., and sought their reply, if any by July 28, 2020. On behalf of the Noticees 1, 2 and 3, the Authorized Representative vide email dated July 23, 2020 once again sought share transfer form, wherein the

inward date for transfer of shares can be found out. On behalf of the Noticee 4, the Authorized Representative vide email dated July 25, 2020 submitted that his does not have any documents in relation to the off-market transfers as the same were pertains to the year 2013 and that his client is unable to trace the documents. The Noticee 4 also sought copy of share transfer form.

CONSIDERATION OF ISSUES

10. After perusal of the material available on record, I have the following issues for consideration viz.,

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

    II. *Whether the Noticees are liable for monetary penalty under Section 15HA of the SEBI Act?*

    III. *If so, what quantum of monetary penalty should be imposed on the Noticees?*

FINDINGS

11. On perusal of the material available on record and giving regard to the facts and circumstances of the case and submissions of the Noticee, I record my findings hereunder.

ISSUE I: Whether the Noticees have violated the provisions of Regulations 3 (a), (b), (c), (d), 4 (1), 4 (2) (a) and (e) of SEBI (PFUTP) Regulations, 2003?

12. Before moving forward, it is pertinent to refer to the relevant provisions of SEBI (PFUTP Regulations), 2003 which reads as under:

Regulation 3 of SEBI (PFUTP) Regulations: - Prohibition of certain dealings in securities

3. 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 of SEBI (PFUTP) Regulations: - 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;

13. It has been alleged that the Noticees had manipulated the price of LDPL scrip and created a misleading appearance of trading in the scrip. The method and the manner in which the trades were executed are the most important factors to be considered in these circumstances and the motive, thereafter, automatically falls in line.

14. Before going into the merits of the case, I would like to deal with the primary contentions raised by the Noticees with regard to supply of documents including investigation report and delay in issuance of SCN.

15. The Noticees have stated that a copy of the Investigation Report has not been

provided to them, and hence, it is a gross violation of natural justice as it has restricted their defence to the investigation carried out by SEBI. I note that the allegations against the Noticees are clearly delineated in the SCN and all the relevant documents that have been relied upon in the SCN have been provided to the Noticees as enclosures to the SCN and it is the Noticees' responsibility to defend their case by referring to the documents on which SEBI has relied upon in the SCN. The documents provided to the Noticees along with the SCN are as under:

a) Trade logs;
b) Statement of transactions in respect of the Noticees received from NSDL & CDSL;
c) Email dated June 6, 2017 received from Purva Share Registry regarding off-market transfer of shares;

16. I find that the SCN issued by SEBI to the Noticees contains the findings of investigation in respect of all the Noticees. I note that the vide emails dated June 10, 2020 and Jun 12, 2020 the Noticees were informed that all documents relied upon in the SCN have already been provided to the Noticee along with the SCN. Further, as requested by the Noticees, complete trade log and demat statements were provided to the Authorized Representatives. As regards, the Noticees' contention that they have not been furnished with the entire Investigation Report, I note that in the present proceeding reliance is being placed on only those documents which have been provided to the Noticees as annexures to the SCN and other documents which have been provided to them pursuant to their request.

17. In this connection, I would like to refer to the observations of the Hon'ble SAT in the matter of Mayrose Capfin Private Limited Vs SEBI (decided on 30.03.2012) wherein SAT observed that:*".....................the principles of natural justice require that the inquiry officer should make available such document and*

material to the delinquent on which reliance is being placed in the inquiry. It is not necessary for the inquiry officer to make available all the material that might have been collected during the course of investigation but has not been relied upon for proving charge against the delinquent. No prejudice can, therefore, be said to have been caused to the appellant on this count...."

18. The Hon'ble Supreme Court in the matter of Chandrama Tewari Vs. Union of India, Through General Manager, Eastern Railways, (1988) 1 SCR 1102, held that *"it is not necessary that each and every document must be supplied to the delinquent facing charges. Only material and relevant documents are necessary to be supplied to him. If a document, even though mentioned in the Memo of charges, is not relevant to the charges, or if it is not referred to or relied upon by the enquiry officer or the punishing authority in holding the charges, no exception can be taken to the validity of the proceedings or the order passed on the ground of non- supply of the copy of the order"*.

19. Further, I note that the Hon'ble SAT, in its order dated February 12, 2020, in the matter of Shruti Vora vs. SEBI had made the following observations:

> *"Reliance was also made of a decision of the Supreme Court in Union of India and Others vs E. Bashyan (1988) 2 SCC 196 which has no bearing to the controversy involved in the present context, in as much as, the said decision relates to a disciplinary proceedings wherein the Supreme Court observed that the inquiry report was required to be made available to the delinquent. An inquiry report is totally distinct and different from an investigation report. The inquiry report considers all the materials in the inquiry proceedings which form the basis of the final order and therefore the said report is required to be made available to the delinquent. In the instant case, the show cause notice relies upon certain documents which have been made available. Thus the investigation report is not required to be supplied".*

> *"The learned counsel has also placed reliance upon a minority view of this Tribunal in Price Waterhouse vs Securities and Exchange Board of India decided by this Tribunal in Appeal No. 8 of 2011 on June 1, 2011 wherein it was observed that fairness demands that the entire material collected*

during the course of investigation should be made available for inspection to the person whose conduct was in question and that said material should also be supplied. In our opinion, the said minority view is directly against the decision of the Supreme Court in Natwar Singh case (supra)".

"A bare reading of the provisions of the Act and the Rules as referred to above do not provide supply of documents upon which no reliance has been placed by the AO, nor even the principles of natural justice require supply of such documents which has not been relied upon by the AO. We are of the opinion that we cannot compel the AO to deviate from the prescribed procedure and supply of such documents which is not warranted in law. In our view, on a reading of the Act and the Rules we find that there is no duty cast upon the AO to disclose or provide all the documents in his possession especially when such documents are not being relied upon."

20. Further, the Hon'ble SAT in the matter of Anant R Sathe Vs SEBI (Appeal No. 150 of 2020) vide Order dated July 17, 2020 has reaffirmed the principle elucidated in the judgment of Shruti Vora's case, which was reproduced herein above and ruled that *"the Authority is required to supply the documents that they rely upon while serving the show cause notice which in the instant case has been done and which is sufficient for the purpose of filing an efficacious reply in his defence"*.

21. In view of the above, since all the documents which were relevant and relied upon in the instant proceedings as mentioned in pre-paragraph 15 above, have been provided to the Noticees along with the SCN, I am of the opinion that principles of natural justice have been duly complied with in the instant proceedings. Therefore, I do not find that the interest of the Noticees has been prejudiced in any manner, and the Noticee has not explained as to how its interest is getting prejudiced by not having a copy of the investigation report when the charges/allegations along with documents in support of the show cause have been clearly spelt out in the SCN and the detailed facts on the basis of which those charges have been framed are already contained in the SCN and the annexures enclosed to the said SCN. Under the circumstances, I find the Noticee's objection on the ground of non-receipt of investigation report is

frivolous and unfounded, hence reject the same.

22. The Noticees in their submissions stated that there is a great delay in issuance of SCN for the alleged violations which is not explained and has caused great prejudice to them. It is a matter of record that SEBI had received a reference from the Principal Director of Income Tax (Investigation), Kolkata vide letter dated April 27, 2015 alleging that certain entities, through stock exchange mechanism, generated bogus Long Term Capital Gain (LTCG) in many scrips. SEBI, on receipt of this letter, initiated investigation into such scrips and LDPL was one such scrip, and the numerous entities dealing in the said scrips. The investigation period was between January 10, 2013 and May 30, 2015 in respect of LDPL. Thereafter, SEBI, after completion of investigation in the matter initiated proceedings against the Noticees on September 4, 2017. I note that soon after conclusion of investigation and approval of proposed action, SCN was issued to the Noticees in October 2018. From these facts and circumstances of the case, it cannot be said that there was a delay in initiation of the proceedings.

23. In this connection, I deem it appropriate to refer to the observations made by the Hon'ble SAT in the matter of Vaman Madhav Apte & Ors. Vs. SEBI vide Order dated March 04, 2016, which reads as follows

> *"Argument of the appellants that the proceedings initiated against the appellants suffer from gross delay and laches and, therefore, the impugned order is liable to be quashed and set aside is without any merit, because firstly, neither the SEBI Act nor the regulations framed thereunder prescribe any time limit for initiating proceedings against the persons who have violated the securities laws. Secondly, neither the SEBI Act nor the regulations framed thereunder provide that if there is delay in initiating proceedings, no action can be taken against the person who has committed violations of the securities laws."*

24. Further, I find it relevant to refer to the order passed by Hon'ble SAT in the case of Metex Marketing Pvt. Ltd. vs.SEBI (order dated June 4, 2019) wherein

Hon'ble SAT held that: *"This Tribunal has consistently held that in the absence of any specific provision in the SEBI Act or in the Takeover Regulations, the fact that there was a delay on the part of SEBI in initiating proceedings for violation of any provision of the Act cannot be a ground to quash the penalty imposed for such violation."*

25. It is no doubt true that no period of limitation is prescribed in the Act or the Regulations for issuance of a show cause notice or for completion of the adjudication proceedings. The Hon'ble Supreme Court in Government of India vs, Citedal Fine Pharmaceuticals, Madras and Others, [AIR (1989) SC 1771] held that *"in the absence of any period of limitation, the authority is required to exercise its powers within a reasonable period. What would be the reasonable period would depend on the facts of each case and that no hard and fast rule can be laid down in this regard as the determination of this question would depend on the facts of each case"*. This proposition of law has been consistently reiterated by the Hon'ble Supreme Court in Bhavnagar University v.Palitana Sugar Mill (2004) Vol.12 SCC 670, State of Punjab vs. Bhatinda District Coop. Milk P. Union Ltd (2007) Vol.11 SCC 363 and Joint Collector Ranga Reddy Dist. & Anr. vs. D. Narsing Rao & Ors. (2015) Vol. 3 SCC 695.

26. In Ravi Mohan & Ors. v. SEBI and other connected appeals (decided on August 27, 2013), the Hon'ble SAT while referring to its own decision in HB Stockholdings Ltd. v. SEBI and decision of Hon'ble Supreme Court in Collector of Central Excise, New Delhi v. Bhagsons Paint Industry (India) reported in 2003 (158) ELT 129 (S.C.), held as under:

> *".... Based on decision of this Tribunal in case of HB Stockholdings Ltd. vs. SEBI (Appeal no. 114 of 2012 decided on 27.08.2013) it is contended on behalf of the appellants that in view of the delay of more than 8 years in issuing the show cause notice, the impugned order is liable to be quashed and set aside. There is no merit in this contention, because, this Tribunal while setting aside the decision of SEBI on merits has clearly held in para 20 of the order, that delay itself may not be fatal in each and every case.*

Moreover, the Apex Court in case of Collector of Central Excise, New Delhi vs. Bhagsons Paint Industry (India) reported in 2003 (158) ELT 129 (S.C) has held that if there no statutory bar for adjudicating the matter beyond a particular date, the Tribunal cannot set aside the adjudication order merely on the ground that the adjudication order is passed after a lapse of several years from the date of issuing notice...."

27. The ratio laid down by Hon'ble SAT in the aforesaid case, was upheld and reiterated by it, in its order in the matter of Kunal Pradip Savla & Ors v. SEBI (Appeal no. 231 of 2017) decided on April 13, 2018. The Hon'ble Supreme Court in the case of Adjudicating Officer, SEBI vs. Bhavesh Pabari (2019) SCC Online SC 294 held:

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

28. In the light of the aforesaid observations of the Hon'ble Supreme Court and Hon'ble SAT and the facts of the case, I am of the view that principles of natural justice have been duly followed in the instant case and no prejudice is caused to the Noticees since there is no delay in initiation of the instant proceedings.

29. As regards the connection alleged among the Noticees, I note from the information provided by Purva Sharegistry, Registrar and Transfer Agent to the Company that all the Noticees had received same number of shares i.e. 25 shares each in physical form in off-market transactions on the same day i.e. February 15, 2013 from the same entity viz., Welldone Commodities Pvt. Ltd. I also note that it cannot be a mere coincidence that the Noticees happen to acquire the same number of shares in the same scrip i.e. LDPL on the same day through off market transfer from the same seller. It is also pertinent to note from the information provided by the depositories (NSDL/CDSL) that after the receipt of shares all the Noticees got their holdings dematerialized in March 2013.

30. I am of the view that for off-market transaction to be executed successfully, the following four parameters are essential: (1) the buyer and seller should know each other, (2) the buyer must have knowledge of the fact that seller is holding the shares of the scrip which the buyer is interested to buy, (3) the buyer must have knowledge of the fact that seller is willing to sell the shares in that scrip and (4) the buyer must have knowledge of the price at which the seller is willing to sell the shares. I note that only when the buyer and seller are known to each other and know about the holding of such shares by the seller, they can negotiate the price and quantity of shares. Further, the Noticees failed to produce any evidence of payments made towards off market purchase from seller. Besides, I note that it cannot be a mere coincidence that the aforesaid Noticees happen to acquire the same number of shares in the same scrip (LDPL) on the same day through off market transfer from the same seller.

31. I note from the investigation report that as per MCA database that the status of Welldone Commodities Pvt., Ltd., is “strike off”. I also note that the Investigating Authority issued summons to the 2 Directors of Welldone Commodities Pvt., Ltd., viz., Om Prakash Goyal and Shankar Lal Agarwal, at the registered office to provide the reasons for transfer of such shares in off-market as well as the details of consideration received for the same. However, the said summons could not be delivered as the addressee could not be found on the given address.

32. The Noticees in their replies sought copy of transfer form received by Purva Share Registry, Share Transfer Agent to the Company (LDPL), with regard to transfer of shares in off-market to Noticees. I note that the Noticees in their submissions claimed ignorance of the off-market transactions and contended that they bought the shares in physical form and later got it dematted in March 2013. It is an admitted fact that the Noticees dematted their shares in the month of March 2013, however, the Noticees failed to demonstrate with any documentary proof to justify that they bought the shares. In this regard, I place

reliance on the documentary proof furnished by Purva Share Registry (SEBI registered Intermediary) that all the Noticees in fact received the shares in off-market from Welldone Commodities Pvt., Ltd., on the same day i.e., February 15, 2013 and accordingly convinced that the Noticees are connected to each other. I note from the submissions of the Noticees that instead of replying to the proof submitted by a SEBI registered intermediary certifying about off-market transfers, have been contending of unawareness of off-market transfers, which is a misguided approach.

33. In this context, I note that in the matter of A. Raghavamma and Another v. A. Chenchamma and Another (AIR 1964 SC 136), while making a distinction between burden of proof and onus of proof, the Hon'ble Supreme Court has opined as follows:

> *"There is an essential distinction between burden of proof and onus of proof: burden of proof lies upon the person who has to prove a fact and it never shifts, but the onus of proof shifts. The burden of proof in the present case undoubtedly lies upon the plaintiff to establish the factum of adoption and that of partition. The said circumstances do not alter the incidence of the burden of proof. Such considerations, having regard to the circumstances of a particular case, may shift the onus of proof. Such a shifting of onus is a continuous process in the evaluation of evidence."*

34. I note that the Noticee came up with the defence of records being unavailable only at the adjudication stage and there has been no evidence brought out before me that they had taken up such matter either with the Company or with its Share Transfer Agent to seek the requisite documents. I note that the Noticees except claiming non-availability of records; have not been able to give any plausible explanation on the documentary proof evidencing off-market transfers. The contention now raised by the Noticee pursuant to the issue of SCN that no records are available is especially suspect, given the fact that the Noticee are subject to quasi-judicial proceedings and accordingly I hold that

their contention is devoid of any merit.

35. I note from the SCN that during Patch 1 of the investigation period, the price of the scrip, LDPL had increased. I note that the scrip opened at ₹8.50 on January 10, 2013, reached a high of ₹584.35 on November 13, 2013 and closed at the same price of ₹584.35 on the same day. During this period, the market net LTP was ₹575.85 with a market volume of 226 shares and the market positive LTP was ₹575.90 with a market volume of 207 shares.

36. The price volume details of LDPL scrip, during Patch 1 of the investigation period is furnished as under: *(source: www.bseindia.com).* The trades carried out by the Noticees which are alleged to have contributed to price rise are highlighted in bold.

Date	Open Price (₹)	High Price (₹)	Low Price (₹)	Close Price (₹)	No. of Shares	No. of Trades	Total Turnover ((₹).)	Deliverable Quantity	% Delivery quantity to traded quantity
10-Apr-13	**45.45**	**45.45**	**45.45**	**45.45**	**1**	**1**	**45**	**1**	**100**
11-Apr-13	46.35	46.35	46.35	46.35	1	1	46	1	100
12-Apr-13	**47.25**	**47.25**	**47.25**	**47.25**	**1**	**1**	**47**	**1**	**100**
15-Apr-13	48.15	48.15	48.15	48.15	1	1	48	1	100
16-Apr-13	49.1	49.1	49.1	49.1	1	1	49	1	100
17-Apr-13	50.05	50.05	50.05	50.05	1	1	50	1	100
18-Apr-13	**51.05**	**51.05**	**51.05**	**51.05**	**1**	**1**	**51**	**1**	**100**
22-Apr-13	**51**	**52.05**	**51**	**52.05**	**2**	**2**	**103**	**2**	**100**
23-Apr-13	53.05	53.05	53.05	53.05	1	1	53	1	100
25-Apr-13	54.1	54.1	54.1	54.1	1	1	54	1	100
30-Apr-13	**55.15**	**55.15**	**55.15**	**55.15**	**1**	**1**	**55**	**1**	**100**
02-May-13	56.25	56.25	56.25	56.25	1	1	56	1	100
03-May-13	57.35	57.35	57.35	57.35	1	1	57	1	100
06-May-13	**58.45**	**58.45**	**58.45**	**58.45**	**1**	**1**	**58**	**1**	**100**
07-May-13	**59.6**	**59.6**	**59.6**	**59.6**	**1**	**1**	**59**	**1**	**100**
08-May-13	60.75	60.75	60.75	60.75	1	1	60	1	100
09-May-13	**61.95**	**61.95**	**61.95**	**61.95**	**1**	**1**	**61**	**1**	**100**
10-May-13	63.15	63.15	63.15	63.15	1	1	63	1	100
13-May-13	**64.4**	**64.4**	**64.4**	**64.4**	**1**	**1**	**64**	**1**	**100**
14-May-13	**65.65**	**65.65**	**65.65**	**65.65**	**1**	**1**	**65**	**1**	**100**
15-May-13	66.95	66.95	66.95	66.95	1	1	66	1	100

16-May-13	68.25	68.25	68.25	68.25	1	1	68	1	100
17-May-13	**69.6**	**69.6**	**69.6**	**69.6**	**1**	**1**	**69**	**1**	**100**
20-May-13	**70.95**	**70.95**	**70.95**	**70.95**	**1**	**1**	**70**	**1**	**100**
21-May-13	72.35	72.35	72.35	72.35	1	1	72	1	100
22-May-13	**73.75**	**73.75**	**73.75**	**73.75**	**1**	**1**	**73**	**1**	**100**
24-May-13	75.2	75.2	75.2	75.2	1	1	75	1	100
27-May-13	**76.7**	**76.7**	**76.7**	**76.7**	**1**	**1**	**76**	**1**	**100**
28-May-13	78.2	78.2	78.2	78.2	3	3	234	3	100
29-May-13	**79.75**	**79.75**	**79.75**	**79.75**	**1**	**1**	**79**	**1**	**100**
30-May-13	81.3	81.3	81.3	81.3	1	1	81	1	100
03-Jun-13	**82.9**	**82.9**	**82.9**	**82.9**	**1**	**1**	**82**	**1**	**100**
04-Jun-13	**84.55**	**84.55**	**84.55**	**84.55**	**2**	**1**	**169**	**2**	**100**
05-Jun-13	86.2	86.2	86.2	86.2	1	1	86	1	100
06-Jun-13	**87.9**	**87.9**	**87.9**	**87.9**	**1**	**1**	**87**	**1**	**100**
07-Jun-13	89.65	89.65	89.65	89.65	1	1	89	1	100
10-Jun-13	**91.4**	**91.4**	**91.4**	**91.4**	**1**	**1**	**91**	**1**	**100**
11-Jun-13	**93.2**	**93.2**	**93.2**	**93.2**	**1**	**1**	**93**	**1**	**100**
12-Jun-13	**95.05**	**95.05**	**95.05**	**95.05**	**1**	**1**	**95**	**1**	**100**
13-Jun-13	96.95	96.95	96.95	96.95	1	1	96	1	100
18-Jun-13	98.85	98.85	98.85	98.85	1	1	98	1	100
19-Jun-13	**100.8**	**100.8**	**100.8**	**100.8**	**1**	**1**	**100**	**1**	**100**
20-Jun-13	**102.8**	**102.8**	**102.8**	**102.8**	**1**	**1**	**102**	**1**	**100**
21-Jun-13	**104.85**	**104.85**	**104.85**	**104.85**	**1**	**1**	**104**	**1**	**100**
24-Jun-13	106.9	106.9	106.9	106.9	1	1	106	1	100
25-Jun-13	**109**	**109**	**109**	**109**	**1**	**1**	**109**	**1**	**100**
26-Jun-13	**111.15**	**111.15**	**111.15**	**111.15**	**1**	**1**	**111**	**1**	**100**
27-Jun-13	113.35	113.35	113.35	113.35	1	1	113	1	100
28-Jun-13	**115.6**	**115.6**	**115.6**	**115.6**	**1**	**1**	**115**	**1**	**100**
01-Jul-13	117.9	117.9	117.9	117.9	1	1	117	1	100
02-Jul-13	120.25	120.25	120.25	120.25	1	1	120	1	100
03-Jul-13	**122.65**	**122.65**	**122.65**	**122.65**	**1**	**1**	**122**	**1**	**100**
04-Jul-13	**125.1**	**125.1**	**125.1**	**125.1**	**1**	**1**	**125**	**1**	**100**
08-Jul-13	127.6	127.6	127.6	127.6	1	1	127	1	100
09-Jul-13	**130.15**	**130.15**	**130.15**	**130.15**	**1**	**1**	**130**	**1**	**100**
10-Jul-13	**132.75**	**132.75**	**132.75**	**132.75**	**1**	**1**	**132**	**1**	**100**
11-Jul-13	135.4	135.4	135.4	135.4	1	1	135	1	100
12-Jul-13	**138.1**	**138.1**	**138.1**	**138.1**	**1**	**1**	**138**	**1**	**100**
19-Jul-13	140.85	140.85	140.85	140.85	39	1	5493	39	100
26-Jul-13	143.65	143.65	143.65	143.65	1	1	143	1	100
31-Jul-13	**146.5**	**146.5**	**146.5**	**146.5**	**7**	**2**	**1025**	**7**	**100**
01-Aug-13	**149.4**	**149.4**	**149.4**	**149.4**	**1**	**1**	**149**	**1**	**100**
02-Aug-13	**152.35**	**152.35**	**152.35**	**152.35**	**1**	**1**	**152**	**1**	**100**

05-Aug-13	155.35	155.35	155.35	155.35	1	1	155	1	100
06-Aug-13	158.45	158.45	158.45	158.45	3	2	475	3	100
07-Aug-13	161.6	161.6	161.6	161.6	1	1	161	1	100
08-Aug-13	164.8	164.8	164.8	164.8	1	1	164	1	100
12-Aug-13	168.05	168.05	168.05	168.05	1	1	168	1	100
13-Aug-13	171.4	171.4	171.4	171.4	1	1	171	1	100
14-Aug-13	174.8	174.8	174.8	174.8	1	1	174	1	100
16-Aug-13	178.25	178.25	178.25	178.25	1	1	178	1	100
19-Aug-13	178.25	181.8	178.25	181.8	2	2	360	2	100
20-Aug-13	185.4	185.4	185.4	185.4	1	1	185	1	100
21-Aug-13	189.1	189.1	189.1	189.1	1	1	189	1	100
22-Aug-13	192.85	192.85	192.85	192.85	1	1	192	1	100
23-Aug-13	196.7	196.7	196.7	196.7	1	1	196	1	100
26-Aug-13	200.55	200.55	200.55	200.55	1	1	200	1	100
27-Aug-13	204.55	204.55	204.55	204.55	1	1	204	1	100
28-Aug-13	208.6	208.6	208.6	208.6	1	1	208	1	100
29-Aug-13	212.7	212.7	212.7	212.7	1	1	212	1	100
30-Aug-13	216.95	216.95	216.95	216.95	1	1	216	1	100
04-Sep-13	221.25	221.25	221.25	221.25	1	1	221	1	100
05-Sep-13	225.6	225.6	225.6	225.6	1	1	225	1	100
06-Sep-13	230.1	236.85	230.1	236.85	2	2	466	2	100
10-Sep-13	244	244	244	244	1	1	244	1	100
11-Sep-13	253	253	253	253	1	1	253	1	100
12-Sep-13	263	263	263	263	1	1	263	1	100
13-Sep-13	276.15	276.15	276.15	276.15	2	1	552	2	100
16-Sep-13	285	285	285	285	1	1	285	1	100
17-Sep-13	295	295	295	295	1	1	295	1	100
18-Sep-13	309.75	309.75	309.75	309.75	1	1	309	1	100
19-Sep-13	321	321	321	321	1	1	321	1	100
23-Sep-13	333	333	333	333	1	1	333	1	100
01-Oct-13	443.35	443.35	443.35	443.35	3	2	1330	3	100
03-Oct-13	452.2	452.2	452.2	452.2	1	1	452	1	100
04-Oct-13	461.2	461.2	461.2	461.2	1	1	461	1	100
08-Oct-13	470.4	470.4	470.4	470.4	1	1	470	1	100
09-Oct-13	479.8	479.8	479.8	479.8	1	1	479	1	100
11-Oct-13	489.35	489.35	489.35	489.35	1	1	489	1	100
12-Nov-13	584.35	584.35	584.35	584.35	1	1	584	1	100
11-Nov-13	572.9	572.9	572.9	572.9	2	2	1145	2	100
08-Nov-13	561.7	561.7	561.7	561.7	1	1	561	1	100
07-Nov-13	550.7	550.7	550.7	550.7	1	1	550	1	100
24-Oct-13	540.1	540.1	540.1	540.1	1	1	540	1	100
22-Oct-13	529.55	529.55	529.55	529.55	1	1	529	1	100

21-Oct-13	519.2	519.2	519.2	519.2	2	2	1038	2	100
18-Oct-13	509.05	509.05	509.05	509.05	1	1	509	1	100
17-Oct-13	499.1	499.1	499.1	499.1	4	1	1996	4	100
12-Nov-13	584.35	584.35	584.35	584.35	1	1	584	1	100

37. It can be seen from the above table that the price of the scrip has been increasing with minuscule quantity of shares being traded. I note from the above table that the unusual rise in the price of the scrip from 8.5 to ₹584.35 during Patch 1 of the investigation period is perplexing, as there was no significant change in economic fundamentals of the Company.

38. I note from the corporate announcements made by the company that the Company had major corporate announcements during the Patch 1 of the investigation period, which are furnished hereunder:

a) *Preferential allotment of 7,38,000 shares at ₹60 (face value of ₹10 plus premium of ₹50) each to 43 non-promoter entities on February 5, 2013, which were under lock–in till February 4, 2014.*
b) *Preferential allotment of 5,50,000 shares at ₹143 (face value of ₹10 plus premium of ₹133) each to 48 non-promoter entities on September 3, 2013, which were under lock-in till September 2, 2014.*
c) *Informed BSE on October 29, 2013 that the Company has fixed November 15, 2013 as the Record Date for the purpose of stock split of ₹10 share of the Company into ₹1 each (i.e., in the ration of 10:1).*

39. The LTP contribution by the top 10 net positive LTP contributors trading as buyers are as under:

Buyer name	**All trades**			**LTP diff>0**			**LTP diff < 0**			**LTP Diff = 0**		**% of Positive LTP to total Market Positive LTP**
	Net LTP	**Qty., traded**	**No of trades**	**LTP impact**	**Qty., traded**	**No of trades**	**LTP impact**	**Qty., traded**	**No of trades**	**Qty., traded**	**No of trades**	
VIKAS JAGDISHCHANDRA SINGHANIA	128.55	27	25	128.55	26	24	0	0	0	1	1	22.32
CHANDRAKANTA LADDHA	92.95	16	13	92.95	14	11	0	0	0	2	2	16.14
KIRITKUMAR JAYANTILAL SHAH	69.45	11	8	69.45	10	7	0	0	0	1	1	12.06
SHYAM KANHEYALAL VYAS	41.89	41	36	41.94	39	34	-0.05	1	1	1	1	7.28
NATWAR MODI	39.15	4	3	39.15	4	3	0	0	0	0	0	6.80

HETAL NILESH GOR	24.25	4	4	24.25	4	4	0	0	0	0	0	4.21
N K SETHI HUF	15.00	1	1	15.00	1	1	0	0	0	0	0	2.61
NELLAKKARA RAGHUNATH	11.90	46	8	11.90	45	7	0	0	0	1	1	2.07
SUMIT GOYAL	11.45	1	1	11.45	1	1	0	0	0	0	0	1.99
SHUKUNTALADEVI KISHANLAL MAHAJAN	11.20	1	1	11.20	1	1	0	0	0	0	0	1.95
Total of top 10	**445.79**	**152**	**100**	**445.84**	**145**	**93**	**-0.05**	**1**	**1**	**6**	**6**	**77.42**
Market Total	**575.85**	**226**	**161**	**575.9**	**207**	**149**	**-0.05**	**3**	**2**	**16**	**10**	**100**

40. I note from the above table that out of the 149 trades executed by the Top 10 LTP contributors on buy side which contributed to a positive LTP of ₹575.90, LTP analysis of the counterparty sellers were analyzed and it was found that the Noticees were counterparty sellers to the 65 trades had contributed ₹226 to LTP constituting 39.21% of total market positive LTP.

41. The number of trades and quantity of shares traded by the Noticees acting as counterparty sellers which contributed to positive LTP are as under:

Sl. No.	**Name of the Noticee**	**Trade date**	**Sell volume**	**Buy volume**	**LTP (₹))**	**LTP (%)**	**No of shares before trade**	**Balance no of shares after trade**
1.	Narendra Kripashankar Mishra	01/04/2013	1	5000	1.7	0.3	25	24
2.	Anil Vishnu Bharti	05/04/2013	1	5000	2.05	0.36	25	24
3.	Akshata Majgoankar	08/04/2013	1	5000	0.85	0.15	25	24
4.	Anil Vishnu Bharti	10/04/2013	1	500	0.85	0.15	24	23
5.	Narendra Kripashankar Mishra	12/04/2013	1	5000	0.9	0.16	24	23
6.	Anil Vishnu Bharti	18/04/2013	1	5000	1	0.17	23	22
7.	Akshata Majgoankar	22/04/2013	1	5000	1.05	0.18	24	23
8.	Narendra Kripashankar Mishra	30/04/2013	1	5000	1.05	0.18	23	22
9.	Anil Vishnu Bharti	06/05/2013	1	5000	1.1	0.19	22	21
10.	Akshata Majgoankar	07/05/2013	1	5000	1.15	0.2	22	21
11.	Narendra Kripashankar Mishra	09/05/2013	1	5000	1.2	0.21	22	21
12.	Anil Vishnu Bharti	13/05/2013	1	5000	1.25	0.22	21	20
13.	Akshata Majgoankar	14/05/2013	1	5000	1.25	0.22	21	20
14.	Narendra Kripashankar Mishra	17/05/2013	1	5000	1.35	0.23	21	20
15.	Akshata Majgoankar	20/05/2013	1	5000	1.35	0.23	20	19

16.	Akshata Majgoankar	22/05/2013	1	5000	1.4	0.24	19	18
17.	Narendra Kripashankar Mishra	27/05/2013	1	5000	1.5	0.26	20	19
18.	Anil Vishnu Bharti	29/05/2013	1	100	1.55	0.27	20	19
19.	Akshata Majgoankar	03/06/2013	1	500	1.6	0.28	18	17
20.	Narendra Kripashankar Mishra	04/06/2013	2	500	1.65	0.29	19	17
21.	Narendra Kripashankar Mishra	06/06/2013	1	200	1.7	0.3	17	16
22.	Anil Vishnu Bharti	10/06/2013	1	100	1.75	0.3	19	18
23.	Akshata Majgoankar	11/06/2013	1	500	1.8	0.31	17	16
24.	Narendra Kripashankar Mishra	12/06/2013	1	2000	1.85	0.32	16	15
25.	Anil Vishnu Bharti	19/06/2013	1	20	1.95	0.34	18	17
26.	Akshata Majgoankar	20/06/2013	1	50	2	0.35	16	15
27.	Narendra Kripashankar Mishra	21/06/2013	1	10	2.05	0.36	15	14
28.	Akshata Majgoankar	25/06/2013	1	10	2.1	0.36	15	14
29.	Anil Vishnu Bharti	26/06/2013	1	10	2.15	0.37	17	16
30.	Pratik Jain	28/06/2013	1	10	2.25	0.39	25	24
31.	Anil Vishnu Bharti	03/07/2013	1	8	2.4	0.42	16	15
32.	Akshata Majgoankar	04/07/2013	1	10	2.45	0.43	14	13
33.	Pratik Jain	09/07/2013	1	25	2.55	0.44	23	22
34.	Anil Vishnu Bharti	10/07/2013	1	10	2.6	0.45	15	14
35.	Pratik Jain	12/07/2013	1	10	2.7	0.47	22	21
36.	Narendra Kripashankar Mishra	31/07/2013	1	10	2.85	0.49	14	13
37.	Anil Vishnu Bharti	01/08/2013	1	25	2.9	0.5	14	13
38.	Akshata Majgoankar	02/08/2013	1	25	2.95	0.51	12	11
39.	Pratik Jain	05/08/2013	1	2	3	0.52	21	20
40.	Narendra Kripashankar Mishra	06/08/2013	1	100	3.1	0.54	13	12
41.	Pratik Jain	08/08/2013	1	5	3.2	0.56	20	19
42.	Anil Vishnu Bharti	12/08/2013	1	25	3.25	0.56	13	12
43.	Akshata Majgoankar	13/08/2013	1	25	3.35	0.58	11	10
44.	Pratik Jain	14/08/2013	1	25	3.4	0.59	19	18
45.	Narendra Kripashankar Mishra	16/08/2013	1	25	3.45	0.6	12	11
46.	Pratik Jain	20/08/2013	1	25	3.6	0.63	18	17
47.	Anil Vishnu Bharti	21/08/2013	1	10	3.7	0.64	12	11
48.	Akshata Majgoankar	22/08/2013	1	10	3.75	0.65	10	9
49.	Pratik Jain	26/08/2013	1	25	3.85	0.67	17	16
50.	Anil Vishnu Bharti	27/08/2013	1	25	4	0.69	11	10
51.	Akshata Majgoankar	28/08/2013	1	10	4.05	0.7	9	8
52.	Pratik Jain	04/09/2013	1	20	4.3	0.75	16	15
53.	Akshata Majgoankar	06/09/2013	1	200	4.5	0.78	8	7

54.	Akshata Majgoankar	06/09/2013	1	25	6.75	1.17	7	6
55.	Anil Vishnu Bharti	11/09/2013	1	10	9	1.56	10	9
56.	Narendra Kripashankar Mishra	12/09/2013	1	10	10	1.74	11	10
57.	Pratik Jain	13/09/2013	2	25	13.15	2.28	15	13
58.	Narendra Kripashankar Mishra	16/09/2013	1	10	8.85	1.54	10	9
59.	Pratik Jain	18/09/2013	1	5	14.75	2.56	13	12
60.	Pratik Jain	19/09/2013	1	10	11.25	1.95	12	11
61.	Anil Vishnu Bharti	23/09/2013	1	5	12	2.08	9	8
62.	Pratik Jain	09/10/2013	1	14	9.4	1.63	11	10
63.	Anil Vishnu Bharti	11/10/2013	1	23	9.55	1.66	8	7
	Total		**65**	**85302**	**226.00**	**39.23**		

42. On perusal of the above trade data of the Noticees which contributed positive LTP vis-à-vis price volume details as provided in Paragraph 36 above, I note that the price of the scrip has been continuously hitting upper circuit on the days when trades executed by the Noticees contributed to positive LTP and it continued till the cut-off date for stock split, which is an admitted fact.

43. The LTP contribution by the Noticees as sellers individually is furnished hereunder:

Sl. No.	Name of Noticee	Total order quantity (LTP> 0)	No. of instances with sell order of 1 share	No. of instances with sell order of 2 shares	Positive LTP contribution (₹)	% of positive LTP to Total Market positive LTP
1	Anil Vishnu Bharti	18	18	0	63.05	10.93
2	Pratik Jain	14	12	1	77.4	13.44
3	Akshata Majgoankar	17	17	0	42.35	7.34
4	Narendra Kripashankar Mishra	16	14	1	43.2	7.50
Total		**65**	**61**	**2**	**226.00**	**39.21**

44. I note from the above tables that the Noticees executed 65 trades on 63 different days and it is pertinent to note that the Noticees took turns and performed not more than 1 transaction on each day with the exception of two days when two shares were traded by two of the Noticees. I note that in the 65 trades as shown in the above table, the Noticees placed order only in the range of 1 to 2 shares

(in most cases 1 share per trade) whereas buy orders were in the range of 2 to 5000 shares (in most cases the buy orders were in the range of 100- 5000) with an average of 1537 shares per trade. I note that by executing these trades, the Noticees contributed to a positive LTP of ₹226.00 (39.21% of total market positive LTP) and thus to the increased scrip price, with each of their trades. From this trading pattern, it is reasonably concluded that the Noticees had no bona fide intention to sell because when sufficient buy orders were available, the Noticees, despite having adequate holdings i.e. 25 shares in the scrip of LDPL, released only 1 share in each transaction and performed not more than one transaction a day, which resulted in creation of positive LTP and thus created false or misleading appearance of trading in the securities market and amounted to manipulation of the price of LDPL scrip.

45. I note from the above table that the Noticee 1 (Anil Vishnu Bharati) traded in one share each on 18 separate days and each time the trade was executed, there was an increase in the positive LTP. The trades of Noticee 1, alone contributed to as positive LTP of ₹63.03 (10.93 %). Similarly, the Noticee 2 (Pratik Jain) by trading in one share each on 12 days and 2 shares on 1 day, had in 14 trades contributed to a positive LTP of ₹77.4 (13.44 %). Likewise, the Noticee 3 (Akshata Majgaonkar) by trading in one share each on 17 days had contributed to positive LTP of ₹42.35 (7.34 %). The Noticee 4 (Narendra Kripashankar Mishra) by trading in one share each on 14 days and 2 shares on 1 day, had in 16 trades contributed to a positive LTP of ₹43.2 (7.50 %). I note that by trading in one share, the Noticees have created a misleading appearance of trading in the scrip and thereby misled the investors.

46. From the above table at para 41, I note that in all the trading days, only single trade had taken place in the scrip and that there was 100% delivery of such trades signifying that it was of trade to trade nature. In such instances, I am of the opinion that source of the shares becomes crucial for a sale transaction as those who hold shares only can carry out the trades. In this case, the Noticees acquired 25 shares each from the same seller on the same date in off-market, however, the Noticees failed to provide the details of consideration paid.

Further, I am of the view that the Noticees without explaining the fundamentals or rationale for acquiring the shares in off-market raised a significant scope of collusion among the buyers and the sellers in off market. I note that the stock exchange provides a platform for investors to buy and sell securities from each other in an organized and regulated manner. Normally, investors come to the stock exchange in order to get a competitive price and a liquid market in which transactions can be completed efficiently. The Noticees buying the shares in off market further corroborates the intent of carrying out manipulative trades to establish artificial price raise. Based on the pattern and timing of receipt of physical shares in off-market without consideration when the scrip was in Trade to Trade (100 % delivery for each sale trade) and subsequent dematting and sale of shares in market, I have no hesitation to conclude that Noticees are well connected to Welldone Commodities Pvt., Ltd., and have entered into off market transactions with fraudulent intent to manipulate the price of the scrip as there were severe constraint on the supply of shares in the market. The fact that the Noticees ignored the competitive price available for shares of LDPL through the Stock Exchange platform and proceeded to acquire shares in off market, increases their culpability in the scheme/ artifice to manipulate the price of LDPL scrip. This seen in the context of the Noticees selling a small fraction of their shareholding through single trade on various days on the price rise period arranged in such a way that no two Noticees sold on the same day brings out a structure scheme of collusion between all the Noticees in the instant case. Therefore, there is no reason to disbelieve that the trades executed by the Noticees which caused price rise in the scrip of LDPL was rather for malafied intent to increase the price artificially.

47. It has been submitted by the Noticees that SEBI has taken action only against the Noticees who have allegedly sold only 25 shares, ignoring the counter parties of the same trades. It is also submitted that during the period of investigation, the Noticees had trades with distinct counter parties and none of them have been made Noticees in the SCN. In this regard, I note that the details of the LTP contributors on the buy side are provided in Para 39 above. The Noticees were counterparties to the trades of the said LTP contributors on the

buy side as can be seen from the trade logs. I note that the Noticees are connected to each other through off market transfers and common scheme to manipulate the price of the scrip of LDPL as shown in pre-paragraphs. However, I note that no such connection is observed in the SCN between the LTP contributors on the buy side and the Noticees contributed to the LTP on the sell side. I also note that the LTP contributors on the buy side were placing buy orders in the range of 100 - 5000 shares and on the other hand, the Noticees were placing sell orders of only 1 share each day and taking turns to execute their trades. Therefore, the contention of the Noticees is not correct.

48. The Noticees have submitted that the SCN is issued to only to the Noticee, whereas no action has been taken against the other price contributors without any justification. I note from the table at para 39 above that LTP contributors on the buy side contributed ₹575.90 to the total positive LTP contribution. As noted in para 41 of this order, the Noticees were counterparty sellers to 65 trades out of the total 149 trades carried out by the top ten LTP contributors on the buy side. Out of the 149 trades which contributed to positive LTP of ₹575.9, 89 trades by the Noticees contributed ₹226 which constituted 39.21% of total market positive LTP. I note from the pre-paragraphs that the Noticees were acting together and were part of a scheme to increase the price of the scrip of LDPL. In pursuance of the said scheme, the Noticees collectively contributed to a price rise of 39.21%. Based on the SCN, I also observe that the other LTP contributors acted individually. The SCN did not find any connection between the remaining counterparty sellers, therefore, on this count; I do not find any merit in the contention raised by the Noticees.

49. The Noticees have submitted that their trading activity was in response to the already available buy orders. The Noticees also submitted that when the buy orders are already available in the market at a higher price the seller is bound to grab the opportunity and sell his shares. Therefore, if there was any illicit rise in the price of the scrip the same due to the buy orders which were repeatedly placed at higher price than the LTP. In this regard, it is surprising to note that if the Noticees were only responding to the buyer then there is no reason for the

Noticees to place sell orders of only 1 share on different days despite holding 25 shares each of LDPL. Further, as shown in paragraphs 44 to 46 of this order, the Noticees were acting together and were instrumental in increasing the price of the scrip through their trading pattern.

50. The Noticees have submitted that on perusal of the price volume data, it can be seen that sales of only single shares were happening since the beginning of the investigation period which shows that the Noticees did not create any misleading appearance of trades in the market. On perusal of the trade log, I note that during the Patch 1 of the investigation period, there were total 157 trades of shares of LDPL in the range of 1- 2 shares. Out of the said 157 trades, 76 trades were executed by the Noticees wherein 65 trades contributed to a positive LTP of ₹260. I note that the Noticees were part of the scheme to manipulate the price of the scrip by placing orders of 1 or 2 shares. Therefore, the submission of the Noticee that there were trades of only single shares in the scrip of LDPL is not acceptable as the Noticees, themselves, were majorly trading in single shares.

51. The Noticees in their submission stated that since there is no allegation of connection/collusion with counter parties of their trades or any of the entity, the allegation of price manipulation cannot be established against them. In this regard, I note from the fact that Noticees have successfully managed to find sellers in off market when same were scarcely available on market clearly demonstrates collusion amongst themselves by formulating the scheme which involved receiving the same number of shares i.e. 25 shares in the scrip of LDPL in physical form from the same seller, Welldone Commodities Pvt. Ltd. on the same day i.e. February 15, 2013 and around which time market prices were continuously hitting upper circuit filters (as per price volume chart mentioned at para 36). The Noticees got the shares dematerialized in March 2013 and thereafter started trading in the scrip of LDPL taking turns and not executing more than one share in the scrip on each day and contributing to the positive

LTP by their trades on every such occasion. It is not the case against the Noticee that they have colluded with the counterparty buyers. Further, possibility of gullible investors showing buying interest due to positive news in public domain during relevant period, cannot be ruled out. Therefore, I am of the view that it may not be always necessary to have connection with counter parties in all circumstance especially in an illiquid stock which is in trade to trade segment. Thus, the contention of the Noticee regarding collusion is not acceptable in the facts and circumstances, as stated above.

52. I am of the view that the requirement of connection of entities will be more applicable and relevant for scheme of manipulation in liquid scrip as number of investors, trades and volumes involved would be large. In order to execute manipulative scheme involving various legs of manipulations vis-à-vis creation of artificial volumes, circular trades and offloading shares, the perpetrators necessarily route transactions through complex web of number of connected entities on both buy and sell sides. However, in an illiquid stock, it is not always necessary to have connection with the counter party, as volumes and value of trading involved would be miniscule. Further, I am of the view that first leg in scheme of manipulation in an illiquid stock would be to increase price on low volumes and thereafter generate volumes and offload shares at subsequent legs. Depending on the stage of manipulation especially first leg, even if either party is manipulative, it is sufficient to manipulate, as unsuspecting gullible investors would be attracted to deal in the scrip who could be counterparties. Therefore, it is necessary to examine trading patterns of parties with respect to their strategy and rationale for such dealings.

53. The Noticees have submitted that they have no connection with the other Noticees other than the fact that all the other Noticees had also purchased the shares of LDPL from Welldone Commodities Pvt., Ltd., The Noticees have also submitted that for a charge of ‘fraud’ to be established there has to be some relationship/ nexus/ prior meeting of mind with the other Noticees which is not

present in this case. I note that trades at higher than LTP, undoubtedly have a potential of raising the price of the scrip and the same gives a wrong impression about the price of the scrip in the market based on miniscule quantities traded. It must not be forgotten that every trade establishes the price of the scrip and trades executed at higher than LTP results in the price of the scrip going up which may influence the innocent/gullible investors. In cases of market manipulation, admittedly, no direct evidence would be forthcoming / available. Manipulative transactions are to be tested on the conduct of parties and abnormality of practices which defy normal logic and laid down procedures. What is needed, is to prove that in a factual matrix, preponderance of probabilities indicates a fraud.

54. In this regard, I note the observations of the Hon'ble Supreme Court in Securities and Exchange Board of India v. Kishore R. Ajmera (2016) 6 SCC 368 wherein the Hon'ble Supreme Court held that direct proof of such meeting of minds elsewhere would rarely be forthcoming and that the conclusion with respect to fraudulent trading has to be drawn from various circumstances such as volume of the trade effected; the period of persistence in trading in the particular scrip; the particulars of the buy and sell orders and such other relevant factors. As stated in paragraph 29 above, the thread connecting the Noticees is that all the Noticees received the same number of shares in the scrip of LDPL in physical form from the same seller on the same day i.e. February 15, 2013 and then started trading in the scrip of LDPL taking turns and executing trade of more than one share in the scrip on each day and contributing to the positive LTP by their trades on every such occasion. Therefore, I cannot accept the contention of the Noticee that there is no connection amongst the Noticee except purchasing shares from the same seller.

55. The Noticees have argued that it is a settled principle of law, that the parties to the trades should collude amongst themselves to establish charges of fraudulent trading. In this connection, I note that the Hon'ble SAT in Shri Lakhi

Prasad Kheradi v. SEBI (Appeal No. 232 of 2017, decided on June 21, 2018) while rejecting the contention of the appellant that SEBI was not justified in holding that he had indulged in manipulative trades in the absence of any connection established between him and the company or the counter parties, SAT observed the following:

> *"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. 10. As held by the Apex Court in the case of SEBI V/s Kishore R. Ajmera reported in (2016) 6 SCC 368, in the absence of direct evidence, by taking into account immediate and proximate facts and circumstances surrounding the events on which the charges/allegations are founded it is open to an AO to arrive at a reasonable conclusion that the trades executed were manipulated trades. In the facts of the present case, in our opinion, no fault can be found with the decision of the AO that the trades executed by the appellant were manipulative trades and hence, the appellant was guilty of violating the SEBI Act and the PFUTP Regulations." [Emphasis Supplied]*

56. Further, as observed in paragraphs 44 to 46 above, the manner in which trading by the Noticees have been undertaken in the scrip of LDPL, it is sufficient to conclude that it was done fraudulent. In view of the above observations of the Hon'ble SAT and observations as above, I am unable to accept the argument of the Noticee that there has to be a collusion between the buyer and seller to establish a charge of fraud.

57. The Noticees have argued that though SEBI has levied the allegation of contribution to the price without alleging synchronization and that had there been any prior agreement between the counter parties, the Noticees would have ensured that the trades executed by them were duly executed which would have resulted in synchronization. I note that synchronization of trades are those wherein 'buy' and 'sell' orders are placed simultaneously for the same quantity

and the price they wish to transact at substantially at the same time. As observed in pre-paragraphs, the case against the Noticees i.e. sellers, is that they acted together in a manner to mislead the investors. As shown in pre-paragraphs, in order to establish fraud, it is not necessary that there has to be collusion between the buyer and seller. Further, the Noticee has relied on the order of the Hon'ble SAT in Ketan Parekh v. SEBI (Appeal no. 2/ 2004, decided on July 14, 2006) with respect to synchronized trades to state that SEBI has failed to provide any evidence to prove that there was misleading appearance of trading. I note that the ratio laid down by SAT in Ketan Parekh v. SEBI, in fact, goes against the Noticees' case. The Hon'ble SAT in the said case had observed that any transaction executed with the intention to defeat the market mechanism whether negotiated or not would be illegal. The nature of the transaction executed the frequency with which such transactions are undertaken, the value of the transactions, whether they involve circular trading and whether there is real change of beneficial ownership, the conditions then prevailing in the market are some of the factors which go to show the intention of the parties. The observation of the Hon'ble SAT is not restricted to synchronized trades alone but applies to manipulative trades in general. As noted in paras 44 to 46 above, the Noticees were acting in concert to manipulate the price of the scrip of LDPL.

58. The Noticees have argued that the SCN has ignored the increase in the price rise in other phases and all other parties who have contributed to the said price. The Noticees also stated that the price of the scrip has continuously increased prior to the period when the Noticee started trading and subsequently when the Noticee had no contribution to the price rise. I note from the SCN that the SEBI found that the price of the scrip of LDPL increased from January 30, 2013 to May 30, 2015. Further, on November 13, 2013, there was a stock split in the scrip in the ratio of 10:1. Based on the variance in the quantum of trading volumes, the price movement of the scrip during the said period and stock split, the period of price rise was divided into 3 patches. As per the SCN, there was

manipulative trading observed in the scrip of LDPL in Patch 1 i.e. the period prior to the stock split, and accordingly, the Noticees were called upon to show cause about their role in the said manipulative trading. Further, as regards the Noticees' contention that SCN has ignored the increase in the price rise in other phases and all other parties who have contributed to the said price, I note that it is not necessary that every price rise in a scrip, must result in manipulation of the scrip, and if it were the case, the SCN would have alleged the same. In the present proceedings, I have to determine whether during Patch 1 of the investigation period there was any manipulative trading by the Noticees, on the basis of the allegation in the SCN and the material available on record.

59. The Noticees in their replies submitted that the scrip was under Period Call Auction during the investigation period and sought to know whether the same is being considered. I note that Periodic Call auction was introduced by SEBI in the year 2013 to curb volatility in illiquid stocks. The criteria of illiquidity is explained SEBI circular dated February 14, 2013 wherein various parameters were prescribed including average daily number of trades of less than 50, daily trading volume of less than 10000. The objective of such a system was to curb manipulation, to reduce price volatility and impact cost and to enhance liquidity in illiquid scrips. As per the system of call auction, I note that instead of a continuous matching of orders, there would be specified period of time during which orders are accepted and at the end of the call auction session, all such orders are matched and traded at a single price. The order matching mechanism during call auction session would be same as in normal continuous market. I note from the pattern of trades of the Noticees that their orders would have had significant influence during each call auction session during trading day which only fortifies their manipulative intent beyond doubt. Further, such pattern of domination of orders and trades in call auction sessions during the trading day and across trading days on continuous basis only demonstrates that notices have executed scheme of manipulation by taking turns and not executing more than one share in the scrip on each day and contributing to the positive LTP by

their trades on every such occasion caused price raise. Thus, I conclude that Noticees have dominated call auction sessions each day and have abused such system to manipulate the price of scrip and also disturbing the market equilibrium of market in order to achieve their manipulative intents.

60. The Noticees have stated that as per the definition of fraud there should be any act, expression, omission or concealment committed by the Noticees which should have induced another person to deal in securities market. The Noticees submitted that upon perusal of the price volume data of the scrip of LDPL on the website of BSE, the Noticees have contributed towards hundred per cent volume on days which they have traded and in such case, it cannot be said that Noticees have induced any other entity to trade in the scrip. In this regard, it is pertinent to note the following observations of the Hon'ble SAT in Pan Asia Advisors Limited v. SEBI (Appeal No. 126 of 2013, decided on October 25, 2016), while interpreting the expression 'fraud' under the PFUTP Regulations, 2003:

> *"From the aforesaid definition (of 'fraud') it is absolutely clear that if a person by his act either directly or indirectly causes the investors in the securities market in India to believe in something which is not true and thereby induces the investors in India to deal in securities, then that person is said to have committed fraud on the investors in India. In such a case, action can be taken under the PFUTP Regulations against the person committing the fraud, irrespective of the fact any investor has actually become a victim of such fraud or not. In other words, under the PFUTP Regulations, SEBI is empowered to take action against any person if his act constitutes fraud on the securities market, even though no investor has actually become a victim of such fraud. In fact, object of framing PFUTP Regulations is to prevent fraud being committed on the investors dealing in the securities market and not to take action only after the investors have become victims of such fraud."*

61. In view of the above observations of the Hon'ble SAT, it is noted that a charge of fraud is established if a person or persons by their acts have led the investors to believe in something which is not true and which thereby induced them to deal in securities irrespective of the fact that any investor has actually become

a victim of such fraud or not. Further, in Ketan Parekh case (Supra), the Hon'ble SAT observed that 'if the factum of manipulation is established it will necessarily follow that the investors in the market had been induced to buy or sell and that no further proof in this regard is required. The market, as already observed, is so wide spread that it may not be humanly possible for the Board to track the persons who were actually induced to buy or sell securities as a result of manipulation and law can never impose on the Board a burden which is impossible to be discharged. As noted in paragraphs 44 to 46 above, the scheme/ artifice of which the Noticees were part, was of manipulative in nature, which created a misleading appearance of trading in the scrip of LDPL. Therefore, the contention of the Noticee that he did not induce any other person to trade in the scrip is not acceptable.

62. As regards, the Noticees' contention that they have been wrongly bunched with the other entities, I note that the Noticees acquired the same number of shares i.e. 25 shares each in physical form in off-market on the same day i.e. February 15, 2013 from the same entity viz., Welldone Commodities Pvt. Ltd. I also note that it cannot be a mere coincidence that the Noticees happen to acquire the same number of shares in the same scrip, LDPL on the same day through off market transfer from the same seller. It is also pertinent to note from the information provided by the depositories (NSDL/CDSL) that after the receipt of shares all the Noticees got their holdings dematerialized in March 2013 and then took turns to execute only a single transaction for one share (sell transaction) on different trading days (with the exception of 2 transactions) which resulted in higher LTP. Therefore, I am unable to accept the argument of the Noticees that they have been clubbed with other entities without any justification.

63. The Noticees in their submissions contended that their contribution to positive LTP is minuscule as compared to the total market positive LTP to the total market LTP for the entire investigation period. I note that the Noticees' trying to justify their contribution of LTP to the total investigation period, whereas the

charge of their contribution is confined to Patch 1 of the investigation period, wherein it is established that the Noticees have together have contributed to price rise of 39.21% collectively, which is substantial and individually in the range of 7.4% to 13.44%. I note that in a case of manipulation of price of scrip, all the trades between all the Noticees including off market transfers, trading pattern and its impact have to be looked into holistically, and not in isolation.

64. I would also like to rely on the observations of the Hon'ble SAT in the matter of Giriraj Kumar Gupta HUF Vs. SEBI (DoD: February 25, 2020), wherein the Hon'ble SAT had inter-alia, observed that *"Having heard the learned counsel for the parties, we are of the considered view that the impugned transactions, in the facts and circumstances of the matter, would fall in the realm of violations of PFUTP Regulations. Individual argument that each entity's trade is miniscule and only on a few days alone etc., is not sufficient to rebut the findings in the impugned order".*

65. The Noticees placed reliance on the Orders of Hon'ble SAT, Hon'ble WTM and Ld. Adjudicating Officer, SEBI *(which are mentioned in the summary of the replies),* in their defence and having perused the same, I note that the instant case is distinguishable in view of the above findings and does not help the Noticees in any manner.

66. The pattern of trading in the present case shows that there was a well thought out plan behind placing of orders by the Noticee. Considering the trading pattern of the Noticees and the method and manner of placing the orders, I am of the view that Noticee had executed irregular trades to inflate the share price by trading in minuscule quantity above the last traded price consistently over a period of time. Therefore, I find that the trading rationale of the Noticees is inconsistent with the normal trading pattern, suggesting that the Noticees were part of the overall scheme of manipulating price of the scrip.

67. Considering the facts of the case as discussed above, I have no hesitation in concluding that the way the trades in LDPL have been executed by the Noticees was only with an intent to manipulate the price of the scrip and the said trades have been executed only to create misleading appearance to the trades in the scrip in a fraudulent manner. Hence, such trades cannot be considered as genuine trades executed in the normal course of trading in the securities market. Considering the trading pattern of the Noticees and the method and manner of placing the orders, I am of the view that Noticee had executed irregular trades to inflate the share price by trading in minuscule quantity above the last traded price consistently over a period of time.

68. It is evident from the trading pattern of the Noticee that the intention of the Noticee was to create a misleading appearance of trading in the scrip by marking the price higher and was not merely entering into the sell transactions. The trades executed by the Noticee were not done in normal course of dealing in securities and are devoid of any bonafide intentions. In this regard, I note that the Hon'ble Supreme Court in Kanaiyalal Baldev Bhai Patel v. SEBI [supra] have explained that: *"...The definition of 'fraud', which is an inclusive definition and, therefore, has to be understood to be broad and expansive, contemplates even an action or omission, as may be committed, even without any deceit if such act or omission has the effect of inducing another person to deal in securities. Certainly, the definition expands beyond what can be normally understood to be a 'fraudulent act' or a conduct amounting to 'fraud'. The emphasis is on the act of inducement and the scrutiny must, therefore, be on the meaning that must be attributed to the word "induce"*

69. In view of the various judgements of Hon'ble Supreme Court and Hon'ble SAT and on the basis of the findings in the foregoing paragraphs, I find that the alleged trading behavior of the Noticee by way of selling shares in minuscule quantity at above LTP despite more number of share were available on the buy side, was with an inherent motive to manipulate the price of the scrip, can't by

any means be held to be trades executed by a prudent trader in the normal course of trading. The trading behavior of the Noticee has certainly been very unusual and apparently lacks honesty of intent of a genuine investor of the securities market. Instead, the pattern of trades adopted by the Noticees to place sell orders above LTP in minimum lot, clearly establish that his trades were executed with only a manipulative design to raise the price of the said. Therefore, for the reasons recorded above, I conclude that the alleged trades of the Noticees as abnormal, deceptive, misleading, artificial and manipulative in nature and substance, which were executed with a malicious intent to fraudulently cause rapid rise in the price of the scrip of LDPL. Accordingly, I hold that the Noticees have violated the provisions of Regulations 3(a), (b),(c),(d) and Regulations 4(1), 4(2)(a) and (e) of SEBI (PFUTP) Regulations.

ISSUE -II: Does the violation, if any, attract monetary penalty under Section 15HA of SEBI Act.?

70. Pursuant to detailed analysis as brought out above, it is established that the Noticees manipulated the price of the scrip and created a misleading appearance of trading in the scrip by trading in minimum lot above LTP, which are not trades executed in normal course of trading and investment in securities market. The Noticees have deliberately manipulated the price of the scrip and created a misleading appearance of trading in the scrip to induce innocent investors in the securities market thereby contravening the provisions of Regulations 3 (a), (b), (c), (d), 4 (1), 4 (2) (a), and 4 (2) (e) of SEBI (PFUTP) Regulations, 2003. Therefore, the Noticees are liable for monetary penalty under Section 15HA of SEBI Act, the provisions of which are reproduced hereunder:

Section 15HA of SEBI Act - 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".

ISSUE – III: If so, what would be the monetary penalty that can be imposed taking into consideration the factors mentioned in Section 15J of SEBI Act?

71. While determining the quantum of monetary penalty under Section 15HA of SEBI Act, I have considered the factors stipulated in Section 15-J of SEBI Act, which reads as under:

Section 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.

72. The material made available on record has not quantified the amount of disproportionate gain or unfair advantage made by the Noticees and the loss suffered by the investors as a result of the Noticee's default. There is also no material made available on record to assess the amount of loss caused to investors or the amount of disproportionate gain or unfair advantage made by the Noticees as a result of default.

73. It is difficult, in cases of such nature, to quantify with mathematical precision the disproportionate gains or unfair advantage enjoyed by an entity and the consequent loss suffered by the investors. General public and normal prudent investors could have been easily carried away by such unusual change in the prices in the scrip of LDPL and were bound to get induced into investing in the

said scrip looking at the steep rise in its price without realizing that the price rise was been artificially introduced by manipulative trades executed by the Noticees. This kind of trading behavior seriously affects the normal price discovery mechanism in the securities market. Therefore, I am of the view that people who indulge in manipulative, fraudulent and deceptive transactions, or abet in carrying out such transactions which are fraudulent and deceptive in nature, should be suitably penalized for such acts of omissions and commissions.

ORDER

74. After taking into consideration the nature and gravity of the violations established in the preceding paragraphs and in exercise of the powers conferred upon me under Section 15-I of the SEBI Act, 1992 read with Rule 5 of the SEBI Adjudication Rules, 1995, I hereby impose a penalty of ₹5,00,000/- (Rupees Five lakh only) each on the Noticees viz., Anil Vishnu Bharati (Noticee 1), Pratik Jain (Noticee 2), Akshata Majgaonkar (Noticee 3) and Narendra Kripashankar Mishra (Noticee 4) under Section 15HA of the SEBI Act, 1992 for violation of the provisions of Regulations 3 (a), (b), (c), (d), 4 (1), (2) (a) and (e) of SEBI (PFUTP) Regulations, 2003.

75. The said penalty imposed on the Noticees, as mentioned above, shall commensurate with the violation committed by the Noticees and acts as a deterrent factor for the Noticees and others in protecting the interest of investors.

76. The Noticee shall remit / pay the said amount of penalty within 45 days from the date 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 SEBI website **www.sebi.gov.in** on the following path by clicking on the payment link.

ENFORCEMENT → Orders → Orders of AO → PAY NOW

77. The Noticees shall forward said Demand Draft or the details / confirmation of penalty so paid through e-payment to the Division Chief, Enforcement Department-I, DRA-I, SEBI, in the format as given in table below

Case Name	
Name of Payee	
Date of payment	
Amount Paid	
Transaction No	
Bank Details in which payment is made	
Payment is made for	Penalty

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

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

Date: 31 July 2020 **B J DILIP**
Place: Mumbai **Adjudicating Officer**