BEFORE THE ADJUDICATING OFFICER
SECURITIES AND EXCHANGE BOARD OF INDIA
ADJUDICATION ORDER NO. Order/VV/AK/2022-23/16120

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

In respect of:
SIC Stock and Services Pvt Ltd
(PAN: AAHCS8176P)

In the matter of Mefcom Agro Industries Limited

BACKGROUND OF THE CASE

1. Securities and Exchange Board of India (hereinafter referred to as **"SEBI"**) conducted an investigation to ascertain the violation, if any, of the provisions of Securities and Exchange Board of India, Act 1992 (hereinafter referred to as the **"SEBI Act"**) and SEBI (Prohibition of Fraudulent and Unfair Trade Practices relating to Securities Market) Regulations, 2003 (hereinafter referred to as the "**PFUTP Regulations**") and SEBI (Stock Brokers & Sub Brokers) Regulations, 1992 (hereinafter referred to as "**Stock Broker Regulations 1992**") by the **SIC Stock and Services Pvt Ltd** (hereinafter referred to as "**Noticee**") while trading in the scrip of Mefcom Agro Industries Limited (hereinafter referred to as "**Mefcom/Company**") during the period from January 01, 2006 to June 30, 2007 (hereinafter referred to as "**Investigation Period/IP**").

2. It was alleged that the Noticee was entered into repeated self-trade, at a rate higher than Last Trade Price (LTP) without intention of change in ownership. It was also alleged that the Noticee had manipulated the price of scrip by trading at a price higher than LTP. Further, Noticee allegedly responsible for order book manipulation in the scrip of the Mefcom.

3. In view of all of the above, it was alleged that the Noticee violated the provisions of Regulation 3(a), 3(b), 3(c), 3(d), 4(1), 4(2)(a), 4(2)(e) & 4(2)(g) of SEBI (Prohibition of Fraudulent and Unfair Trade Practices relating to Securities Market) Regulations, 2003 (hereinafter referred to as the "PFUTP Regulations, 2003"). In addition to this Noticee failed to adhere clause A(1), (3), (4), (5) of code of conduct for stock brokers as specified under schedule II read with regulation 7 of "**Stock Broker Regulations 1992**" for being broker and counterparty broker to self-trade of Purshottam Khandelwal and Shilpi Modi (hereinafter collectively referred to as **"Clients"**), for manipulating the price of scrip by trading at price higher than LTP by trading behalf of Clients and for trading at a rate higher than LTP in substantial number of first trades on behalf of Purshottam Khandelwal (hereinafter referred to as **"PK"**).

APPOINTMENT OF ADJUDICATING OFFICER

4. Shri **Jeevan Sonporate** was appointed as the Adjudicating Officer (hereinafter referred to as "**erstwhile AO**") by a communication-order dated January 18, 2018 under section 19 read with section 15-I(1) of the SEBI Act, 1992 and Rule 3 of SEBI (Procedure for Holding Inquiry and Imposing Penalties) Rules, 1995 (hereinafter referred to as "**Adjudication Rules**") to conduct adjudication proceedings in the manner specified under Rule 4 of Adjudication Rules read with section 15I (1) and (2) of SEBI Act, and if satisfied that the Noticee is liable, impose such penalty deemed fit in terms of Rule 5 of Adjudication Rules read with Section 15HA and 15HB of SEBI Act. Pursuant to the transfer of erstwhile AO, vide communication order dated August 13, 2019 the case has been transferred to undersigned. It has been advised that except for the change of the Adjudicating Officer the other terms and conditions of the original orders '*shall remain unchanged and shall be in full force and effect*' and that the "*Adjudicating Officer shall proceed in accordance with the terms of reference made in the original orders*".

Show Cause Notice, Reply and Personal Hearing

5. A Show Cause Notice (hereinafter referred to as "SCN") EAD-8/JS/VRP/OW/5510/2018 dated February 21, 2018 was *inter-alia* issued to the Noticee under Rule 4 of the Adjudication Rules to show cause as to why an inquiry

should not be initiated and penalty be not imposed under section 15HA and 15HB of the SEBI Act, 1992 for the alleged violations specified in the SCN. The aforesaid SCN was duly served upon Noticee. Accordingly, Hearing Notice dated May 20, 2019, in terms of 4(3) of Adjudication Rules, issued to Noticee and given an opportunity of hearing to the Noticee on June 21, 2019 which postpone to June 26, 2019 *vide* letter dated June 11, 2019. *Vide* letter dated June 17, 2019, Noticee filed reply and requested for adjournment of hearing and along with the additional time till the disposal of parallel proceeding before Whole Time Member, SEBI (hereinafter referred to as "**WTM**"). *Vide* letter dated June 24, 2019 it had been informed to Noticee, that the request for "*additional time till the disposal of parallel proceedings before WTM would be completed*" cannot be acceded to. Threafter, *vide* letter dated July 01, 2019, Noticee requested for inspection of documents *viz,* complete market log and order log of both stock exchange, documentary evidence having financial transaction with Avisha Trade log and order log by alleged clients, details of off market transaction alleged to be executed date and time wise details of alleged LTP trade, execution of first trade, date wise, time wise details of alleged first trade Copy of statement recorded wherein clients alleged that trades in their account carried out by SIC, any other document in SEBI's possession which can assist in preparing Noticee's defence. Accordingly, the Inspection opportunity given to Noticee on September 13, 2019 with respect to all the relied upon documents. *Vide* letter dated September 17, 2019 Noticee requested for all the said documents as mentioned in the letter dated July 01, 2019. Thereafter, various hearing opportunities has been given to the Noticee *viz vide* letter dated March 16 2020, *vide* letter dated November 12, 2021, *vide* letter dated November 18, 2021. Each time adjournment has been sought by the Noticee. Thereafter, in the interest of principles of Natural Justice Hearing Notice dated February 14, 2022 issued to Noticee to make appearance before me on February 25, 2022, with the advice that *sufficient opportunities of hearing have already been given to you, and if no reply or no appearance has been made by you matter would be decided on the basis of documents available of record.*

6. The hearing was conducted on February 25, 2022. In view of the prevailing circumstances owing to COVID-19, the hearing was scheduled through video conferencing on WebEx platform. On the scheduled date of hearing, the

authorized representative of Noticee appeared before me through video conference and made submissions on the lines of the reply dated November 19, 2021 of the Noticee in this matter. The hearing has been concluded. The AR also sought time to file a post hearing submission, which was acceded to. Accordingly, Noticee filed its post hearing written submission *vide* letter dated March 03, 2022.

7. The allegations levelled against the Noticee in the SCN are summarized below as follows:

    i. Based on the price movement in the following 2 patches viz. patch-1 (price rise) January 1, 2006 – January 10, 2007 and patch- 2 (price fall) January 11, 2007 - June 30, 2007, the following was identified:

Table 1

Patch	No. of trading days	Dates	Price /Vol.	Opening Price (volume) on first day	Closing price (volume) on last day	Low price (volume) during the period (Rs.)	High Price (volume) during the period (Rs.)	Avg. No. of (shares) traded daily
Patch-I (Price rise)	232	01.01.2006-10.01.2007	Price	5.72	196.45	3.47(10/3/06)	217(10/01/2007)	54563
			Vol.	100	241026	1(17/10/06)	439188(28/12/06)	
Patch-II (Price fall)	115	11.01.2007-30.06.2007	Price	186.5	24.3	17.6	186.65(11/01/07)	102791
			Vol.	1783	116	182(30/05/07)	699922(15/03/07)	

    ii. The Brokers Concentration during the investigation period is as follows:

Table 2

Buy Broker Name	Gross Buy	% to market volume	Sell Broker Name	Gross Sell	% to market volume
SIC Stocks & Services P Ltd	4912981	20.50	SIC Stocks & Services P Ltd	4754487	19.84

Buy Broker Name	Gross Buy	% to market volume	Sell Broker Name	Gross Sell	% to market volume
Top 10 Buy brokers	15780243	65.85	**Top 10 Buy brokers**	16414531	68.49
Remaining Brokers	8185799	34.15	**Remaining Brokers**	8269938	31.51
Total Market Volume	23966042	100	**Total Market Volume**	23966042	100

iii. It is observed from the above that trading member Noticee, SIC Stocks & Services Pvt Ltd had the highest contribution of 20.50% in gross buy and 19.84% in gross sell during the investigation period. Further, top 10 brokers contributed 65.85% to gross buy and 68.49% to gross sell.

Connected Entities

iv. Investigation observed that there were certain entities connected to each other. The details of these entities and their connections are as below:

Table 3

Sr.	Name of Entity	PAN NO.	Connection
1	Vijay Mehta	AAKPM 1588M	• Promoter of Mefcom Agro Industries. Also Chairman of Mefcom
2.	Harsh Kumar Mehta	AAHPM 7953M	• Promoter group entity-brother of promoter Vijay Mehta-(as per the documents submitted by Vijay Mehta, Harshkumar Mehta Expired in 2011)
3	Mefcom Capital Markets Ltd (MCML)	AAACM 7077N	• Promoter of Mefcom. Also Vijay Mehta was the chairman of MCML
4	Rakesh Kumar Mishra (Cosmo Corporate Services Ltd-Cosmo)	AAACC 3529P	• Off market transfer with Master Finlease. • As per BSE database, phone number of Cosmo i.e. "23739998" is registered in the name of Vijay Jindal (Director of Avisha Credit Capital Ltd and Master Finlease Ltd, which shares the new address of Mefcom i.e.606 Kailash Building KG Marg,New Delhi).
5	Avisha Credit Capital Ltd ("Avisha")	AAACA 5715D	• Shares new address of Mefcom. also the address of Master Finlease Limited viz., "606 Kailash Building, KG Marg, New Delhi"
6	Sunita Investments (Sunita Gupta)	AAHPG 4700E	• Off market transfer with Cosmo Corporate Services Ltd
7	Vishvas Securities Limited	AAACV 2921N	• Shared same address as that of Mefcom during the Investigation period (viz., 912 Kailash Building KG Marg Delhi)
			• Off market transfer to Master Finlease Ltd., SIC Stock and Services Pvt. Ltd. and Avisha Credit Capital Ltd. • During the IP, Avisha Credit capital Ltd. and Master Finlease Ltd. were holding 45% of share capital in Vishvas Securities Ltd. (Unlisted Co.) - as on 30/9/2006 • Atul Joshi one of the present directors of Vishvas Securities Ltd., as on December 16, 2015, is also director in Mefcom Agro Industries Ltd.

Sr.	Name of Entity	PAN NO.	Connection
8	Vijay Jindal (Master Finlease Limited-MFL)	AAACM 6050D	• Shares new address of the company ("606 Kailash Buildibng , KG Marg, New Delhi) which is also the address of Avisha. • Master Finlease Ltd. along with Avisha Credit capital Ltd. held 45% of share capital in Vishvas Securities Ltd. (Unlisted Co.). • Off market transfer with Vishvas Securities limited
9	**SIC Stocks & Services P Ltd**	**AAHCS 8176P**	• Off market transfer with Vishvas Securities Ltd (It was revealed during investigation that entity traded using its client's name- at sr.No.10,11, 12 & 13 - during IP) • Financial transaction with Avisha
10	Purshottam Khandelwal	ADZPK 9831B	• It was observed that these entities were major counter parties to the sale by original promoters when the promoters exited the company. It was revealed during investigation that their broker (SIC) was trading using client's name.
11	Pushpa Bansal	AMBPB 5527G	
12	Deepak Shantilal Rana	ABCPR 2985E	
13	Shilpi Krishnakumar Modi	AGDPM 3368E	
14	ISF Securities Ltd	AAACI1 667E	• Off market trade with Master Finlease. Financial transaction with Avisha Credit Capital Ltd.
15	BP Comtrade P Ltd (BP)	AAACA 3758Q	• During investigation period, BP had purchased 380432 shares and sold380313 shares. 79% of the counter parties to the buy trade and 67% of the counter parties to the sale trades were Mefcom group entities. Further the entity had indulged into price manipulation through LTP contribution.

LTP Analysis

v. It was alleged that the Mefcom Group entities had carried out a total of 8806 trades during patch-I of the Investigation period, of which 6345 trades were at LTP and did not create any price variation. Further, total market positive LTP during patch-I of the investigation period was Rs.661.06 and the Mefcom Group entities contributed Rs.399.63 positive LTP. The Mefcom Group entities contributed 60.45% to positive market LTP in 1275 trades.

vi. It was further alleged that the Mefcom Group entities created a positive LTP of Rs. 15.03 (i.e. 2.27% of market positive LTP) by entering buy order first in 28 trades where counterparties to the trades were non Mefcom Group entities. Further, LTP of Rs.307.30 (i.e. 46.48%) was created by the Mefcom Group entities wherein sell orders were placed first in 1017 trades by 267 Non-Mefcom Group entities. Further, a positive LTP of Rs.77.30 i.e. 11.69% of market positive LTP was created in 230 trades by group entities when they traded among themselves.

vii. As Mefcom group entities contributed significant amount of 77.30 positive LTP (11.55% of market positive LTP) by trading among themselves, group entities who had contributed positive LTP of more than Rs. 5.00 as a buyer in such trades were shortlisted. As group entities were counterparties to these trades, group entities who had contributed positive LTP of more than Rs. 5.00 as a seller in such trades were also shortlisted.

Table 4

Seller / Buyer	BP Comtrade Pvt. Ltd	Sunita Investments	Purshottam Khandelwal	Total LTPV as buyer
Cosmo Corporate Services Limited	7.5	1 .39	0.83	0.83
I S F Securities Ltd	11 .66	0.73	3.7	3.7
Master Finlease Ltd	9.65	0.81	0.52	0.52
Sunita Investments	2.43	0.42	1.26	1 .26
Purshottam Khandewal	8.55	4.91	10.13	23.59
Total LTPV As Seller	**39.79**	**8.26**	**16.44**	**64.49**

viii. It was further alleged that the 6 entities namely Cosmo Corporate Services Limited (Cosmo), ISF Securities Limited (ISF), Master Finlease Limited (MFL), BP Comtrade Private Limited (BPCPL) and Sunita Investments (Sunita) and Purshottam Khandewal contributed significant amount of Rs. 64.49 positive LTP (9.75% of market positive LTPV) by trading among themselves and have been alleged to have manipulated the price of the scrip.

Self-Trade

ix. It was observed that the connected entities executed self-trades during the investigation period is as under:

Table 5

S.N	Entity Name	Broker On Both Buy & Sell Side	Total Self Trade Vol	Total Self Trade Count	No of days of self trades
1	Purshottam Khandelwal	SIC Stocks & Services P Ltd	88309	690	79
2	Shilpi Modi	SIC Stocks & Services P Ltd	19551	250	16
3	Sunita Investments	Shri Parasram Holdings Pvt. Ltd	7723	15	8
4	Vishvas Securities Ltd	Sic Stocks & Services Pvt. Ltd.	3944	81	5
5	Master Finlease Ltd	Integrated Master Securities Pvt. Ltd.	1875	2	1

S.N	Entity Name	Broker On Both Buy & Sell Side	Total Self Trade Vol	Total Self Trade Count	No of days of self trades
6	I S F Securities Ltd	Sam Global Securities Ltd.	1144	3	3
7	Cosmo Corporate Services Limited	Integrated Master Securities Pvt. Ltd.	500	2	1
8	Sunita Investments	Shri Parasram Holdings Pvt. Ltd	250	2	2
9	Sunita Investments	Sam Global Securities Ltd.	25	5	1
10	Bp Comtrade Pvt Ltd	Babubhai Purshottamdas Stock Brokers Pvt. Ltd.	25	25	9

x. It was observed from the trade and order log for the investigation period that two entities of the group had entered into self-trades for more than 10,000 shares for 2 or more days. In these self-trades, there was no transfer of beneficial ownership and it creates artificial volume.

xi. Based on the above criteria, it was observed that Noticee has entered into repeated self-trades through its clients without intention of change in ownership of such securities, hence fictitious in nature. It was alleged that self-trades of Noticee had significant price impact. Since same Brokers were acting as broker for both buy and sell trades for repeated self-trades, it is alleged that brokers failed to exercise due care and diligence.

First Trade

xii. It was alleged that the connected entities in Mefcom group has executed 74 first trades during the IP, with a net LTP contribution of Rs. 51.57. PK, had executed 60 first trades, with a positive LTP contribution of Rs- 42 and net LTP of Rs 33.49. On further analysis it is observed that, Out of 60 first trades, for 38 trades, seller had put the sell order first and for 22 trades buyer had put the order first. For 38 trades, where seller had put the order first, 5 trades were by the counter parties contributing to positive and Net LTP of Rs 5.29. For 22 trades where buyer had first placed the order the I-TP was Rs. 15.27. Therefore, PK allegedly contributed to the price rise in the scrip of company by putting first trades at higher than LTP of about Rs 20.56 about 6.03% of market positive LTP through first trades.

xiii. It has been alleged that connected entities had manipulated the scrip using first trades, the details of which are as follows:-

Table 6

			Buy Client Analysis	
Entity	**No of first trades**	**Vol of Shares**	**+ve LTP through first trades**	**Net LTP through first trade (Rs.)**
Purshottam Khandewal (PK)*	60	13816	42	33.49
IS F Securities Ltd	6	661	2.37	-0.48
BP Comtrade Pvt Ltd	5	403	3.65	-10.3
Sunita Investments	4	2085	2.29	2.24
Shilpi Krishnakumar Modi	4	52	2.35	-0.05
Arya Investments	2	1500	2.15	2.15
Deepak Shantilal Rana	2	1410	2.3	1.65
Cosmo Corporate Services Limited	1	3000	2.35	2.35
Master Finlease Ltd	1	300	0.52	0.52
Vishvas Securities Ltd	1	25	1.5	1.5
Total	**86**	**23252**	**61.48**	**33.07**

xiv. Mefcom group has executed 74 first trades during the IP, with a net LTP contribution of Rs. 51.57. The Noticee had executed 60 first trades, with a positive LTP contribution of Rs- 42 and net LTP of Rs 33.49. On further analysis it is observed that, Out of 60 first trades, for 38 trades, seller had put the sell order first and for 22 trades buyer had put the order first. For 38 trades, where seller had put the order first, 5 trades were by the counter parties contributing to positive and Net LTP of Rs 5.29. For 22 trades where buyer had first placed the order the LTP was Rs. 15.27. It was observed that PK has contributed to the price rise in the scrip of company by putting first trades at higher than LTP of about Rs 20.56 about 6.03% of market positive LTP through first trades. Since PK is one of the client of Noticee and all trades executed by it, it has been alleged that Noticee is responsible for trading at a rate higher than LTP in substantial number of first trades on behalf of Purshottam Khandelwal

Order Book Manipulation

xv. It was observed on analyzing order book, that total valid buy orders were for 10,19,12,340 shares and broker SIC had highest concentration of 5,71,73,092 shares (56%). It was further alleged that there were substantial number of order deletion/modification by broker SIC in the orders placed by it in the name of clients, Purshotham Khandelwal and Shilpi Modi, which are mentioned in detail in the SCN. It is alleged that the buy orders were entered with the intention to inflate the buy side depth in the market and not to actually buy these shares. Therefore, it is alleged that these orders resulted in a false or misleading appearance of trading in the securities market.

8. The relevant submissions of Noticee are summarized as below:
   i. Noticee submitted that multiple proceedings for trading carried out for one client *i.e.* Mr Purshottam Khandelwal. For this purpose, Noticee relied upon the SAT order in the matter of **Aditi Dala** (Appeal Np. 143 of 2011, decided on November 28, 2011).
   ii. Noticee submitted that there is delay in initiation of the current proceedings. The period of investigation is from January 01, 2006 to June 30, 2007. First time the details were sought from us in the year 2013 i.e. more than nearly six years after the alleged transactions. Here it is noted that as per Regulation 18 of Stock Broker Regulations, 1992, every stock broker shall preserve the specified books of account and other records for minimum period of 5 years. However, the derails in case sought after period of 6 years. Noticee placed reliance on various SAT Orders *viz HB Stockholdings (SAT Appeal no. 114 of 2012), Bharat J Patel vs SEBI (Appeal No. 154 of 2020, decided on September 08, 2020), Aditi Dalal(Supra), Shriram Insight Share Brokers Ltd. Vs SEBI (Appeal No. 559 of 2020, dated 04.01.2022), ICICI Bank Limited vs SEBI(Appeal No 583 of 2019), Ashok Shivlal Rupani vs SEBI (Appeal no. 417 of 2018), Ashlesh Gunvantbhai Shah vs SEBI (Appeal No. 169 of 2019), Morepen Laboratories Ltd. (SAT Appeal No. 62 of 2020, decided on April 15, 2021), Mr. Rajeev Bhanot (Appeal No. 396 of 2018, decided on July 9, 2021), Garware Polyster Ltd. (Appeal No. 187-192 of 2021, decided on August 09, 2021)* and Supreme Court Orders *viz* SEBI vs Bharat J Patel, Civil Appeal No. 3782/2020, dated December 16, 2020), Adjudication Officer, SEBI vs Bhavesh Pabri (Civil Appeal No. 11311 of 2013, on February 28, 2019).
   iii. Noticee submitted that order of the higher appellate authorities should be followed unreservedly by the subordinate authorities. For this purpose

Noticee placed reliance on **Union of India vs Kamalakshi Finance Corporation**.

iv. Noticee submitted that in case of **Sumeet industries Ltd.** SEBI Whole Time Member (Hereinafter referred as "**WTM**"), *vide* order dated May 22, 2014, WTM give benefit of doubt to the Noticee with respect to the allegation that Noticee had colluded with the company in the alleged manipulation of order book of the scrip of the company. Further, WTM held that to establish the charge of collusion for manipulation mere the stock broker client relationship is not sufficient. In the present proceedings, the material available on record clearly suggest that Mr. K.K. Modi in his capcity as remisier was handling Mr. Purshottam Khanlewal's account. In the light these facts, the preponderance of probability works in favour of Noticee since it did not have any role or collusion with Mr. Purshottam Khandelwal while he was dealing in the scrip of the company.

v. Noticee submitted that it does not advise its client in connection with the sale or purchase of securities by them and merely execute the orders received as per the instruction of clients without questioning the prudence of transactions. SIC only earns brokerage on the transactions executed through it and nothing more.

vi. Noticee submitted that in the parallel proceeding before Whole Time Member (hereinafter referred to as "**WTM**") under sections 11(1) and 11B(1) of the SEBI Act, WTM in her order *i.e.* in the matter of Mefcom Agro Industries Limited, dated February 12, 2020 held that SIC cannot be said to connected with Mefcom group through MFL. Further, two clients *viz* purshottam khandelwal and Shilp Modi have not been considered part of Mefcom group and in absence of that to allege any kind of plan, scheme, artifice against to warrant violation of PFUTP Regulations and code of conduct for stock berks is devoid of merit.

vii. Noticee submitted that inspection of relevant documents as mentioned in the letter dated July 01, 2019, February 14, 2022 and November 18, 2021 has not been provided and rejected without giving any reason vide letter dated February 14, 2022. For this purpose, reliance has been placed on Supreme Cort decision in the case of **T. Takano Vs SEBI Anr**. (Civil Appeal Nos. 487-488 of2022 decided on February 18, 2022).

viii. VSL is registered with the Noticee as a constituent and is having 5V1 as Unique Client Code. Noticee was not a registered depository participant with either NSDL or CDSL during that time. Its clients had their DP accounts with other depository participants and whenever there is a pay-in of securities or client is required to deposit the securities with the Noticee for margin or collaterals, the clients used to transfer the securities in off market from their account with other depository participants to the clients' beneficiary account of the Noticee and from that account the pay in of securities used to take place. These transfers used to take place in off market and various quantities of shares were transferred from the VSL's demat account with Globe Capital Market Ltd. to the clients' beneficiary account of SIC. Hence, the Noticee has been erroneously clubbed in 'Mefcom group' without appreciating that these transactions were carried out in the ordinary course of business.

ix. As regards financial transactions with Avisha Credit Capital Ltd., the Noticee submits that Avisha Credit Capital Ltd. was a constituent registered with Noticee having UCC-5V. Noticee was maintaining Avisha's account on an open, mutual, current and running account basis and transfer of money to Avisha Credit Capital Ltd. was on account of its trading at BSE Ltd. and in the ordinary course of business.

x. Hence, in the view of the above Noticee denied all the allegation made in the SCN.

<u>CONSIDERATION OF ISSUES AND FINDINGS</u>

9. I have perused the SCN, written and oral submissions and other materials available on record. The issues that arise for consideration in the present case are:

    (a) Whether the Noticee, by its act has violated the provisions of Regulations 3(a), 3(b), 3(c), 3(d), 4(1), 4(2)(a), 4(2)(e) and 4(2)(g) of PFUTP regulation and clause A(1), (3), (4), (5) of code of conduct for stock brokers as specified under schedule II read with regulation 7 of Stock Broker Regulations 1992.

    (b) If yes, then do the violations, if any, on the part of the Noticee attract any monetary penalty under Section 15HA & section 15HB of the SEBI Act?

(c) If yes, then what would be the monetary penalty that can be imposed upon the Noticee, taking into consideration the factors mentioned in Section 15J of the SEBI Act read with Rule 5(2) of the Adjudication Rules?

Issue I: Whether the Noticee, by its act has violated the provisions of Regulations 3(a), 3(b), 3(c), 3(d), 4(1), 4(2)(a), 4(2)(e) and 4(2)(g) of PFUTP regulation and clause A(1), (3), (4), (5) of code of conduct for stock brokers as specified under schedule II read with regulation 7 of Stock Broker Regulations 1992.

10. Before moving forward, it is pertinent to refer to the relevant provision of the PFUTP Regulations which are alleged to have been violated. The said provisions are reproduced hereunder:

3. *Prohibition of certain dealings in securities*

No person shall directly or indirectly –

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

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

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

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

4. Prohibition of manipulative, fraudulent and unfair trade practices

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

********[Explanation.– For the removal of doubts, it is clarified that any act of diversion, misutilisation or siphoning off of assets or earnings of a company* *whose securities are listed or any concealment of such act or any device, scheme or artifice to manipulate the books of accounts or financial statement of such a company that would directly or indirectly manipulate the price of securities of that company shall be and shall always be deemed to have been considered as manipulative, fraudulent and an unfair trade practice in the securities market.]*

(2) Dealing in securities shall be deemed to be a ********[manipulative] fraudulent or an unfair trade practice if it involves* *********[any of the following]:*

(a) *******[knowingly] 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 ***[including, influencing or manipulating the reference price or bench mark price of any securities]*

(g) Entering into a transaction in securities without intention of performing it or without intention of change of ownership of such security

******* *Inserted vide Securities and Exchange Board of India (Prohibition of Fraudulent and Unfair Trade Practices relating to Securities Market) (Amendment) Regulations, 2018 w.e.f. February 01, 2019.*

******** *Inserted vide Securities and Exchange Board of India (Prohibition of Fraudulent and Unfair Trade Practices relating to Securities Market) (Second Amendment) Regulations, 2020 w.e.f. October 19, 2020.*

********* *Substituted vide Securities and Exchange Board of India (Prohibition of Fraudulent and Unfair Trade Practices relating to Securities Market) (Amendment) Regulations, 2018 w.e.f. February 01, 2019. Before the substitution the words read as "fraud and may include all or any of the following, namely".*

<u>Below mentioned regulation are as on date of investigation period</u>.

Stock brokers to abide by Code of Conduct.

7. The stock broker holding a certificate shall at all times abide by the Code of Conduct as specified in Schedule ll.

SCHEDULE II

Securities and Exchange Board of India (Stock Brokers) Regulations, 1992

Code of Conduct for Stock Brokers

[Regulation 7]

A. General.

(1) INTEGRITY*: A stock-broker, shall maintain high standards of integrity, promptitude and fairness in the conduct of all his business.*

(2) EXERCISE OF DUE SKILL AND CARE: *A stock-broker, shall act with due skill, care and diligence in the conduct of all his business.*

(3) MANIPULATION: *A stock-broker shall not indulge in manipulative, fraudulent or deceptive transactions or schemes or spread rumours with a view to distorting market equilibrium or making persona/ gains.*

(4) MALPRACTICES: *A stock-broker shall not create false market either singly or in concert with others or indulge in any act detrimental to the investors interest or which leads to interference with the fair and smooth functioning of the market. A stock-broker shall not involve himself in excessive speculative business in the market beyond reasonable levels not commensurate with his financial soundness.*

(5) COMPLIANCE WITH STATUTORY REQUIREMENTS: *A stock-broker shall abide by all the provisions of the Act and the rules, regulations issued by the Government, the Board and the stock exchange from time to time as may be applicable to him.*

11. SIC has submitted that the instant proceedings against it should be dropped as SEBI has initiated multiple proceedings against SIC for trading carried out by one client, PK during the same period. In this regard, I find that though the investigation period pertains to a similar period, in the instant proceedings the investigation period covered 18 months as opposed to shorter duration of investigation period in other 2 scrips (2-5 months) and the findings of the investigation are specific to the activities carried out in the scrip of Mefcom. The findings of each investigation has to be adjudicated based upon its own unique facts and circumstances and it has to be completely independent of the outcome of another proceedings of a

similar period, even if the parties involved are same. The two investigations may resemble each other in some aspects like involvement of same Noticees, similar modus operandi, however, the peculiar facts and circumstances of each investigation, for instance, price- volume data, particulars of the trade, trading pattern etc. are not identical. The same necessitates independent examination of facts and circumstances of each investigation without being prejudiced with the outcome of the other proceedings. Thus, the submission of SIC is without any merit.

12. Noticee contended that there is unreasonable delay in the adjudicating proceeding in this regard, I note that, as seen from material before me, this delay is attributable to procedural issues. However, I note that there is no limitation prescribed in the SEBI Act and SEBI Regulations for the completion of investigations or for the issuance of a SCN. I note from the records that the involvement of the Noticee in the scrip of Mefcom came to the attention of SEBI through a media report dated October 12, 2010. I also note that multiple investigating authorities were appointed in the extant matter. Moreover, the investigation process is a detailed one which passes through various levels of analysis. This will invariably consume considerable time depending on the number of Noticees involved and the complexity of the transactions. Further, I note that Noticee failed to show that what prejudice has been caused to him due to the delay in the issuance of SCN. I find that contention of the noticee with reference to the delay is devoid of merits. For this purpose, reliance has been placed on the order in the matter of **M/s. Adamina Traders Private Limited vs SEBI** (Appeal No. 331 and 366 of 2020), wherein SAT held that "*We do not find any evidence to hold that there was an inordinate delay in the issuance of the show cause notice. This contention is accordingly rejected. Further, nothing has been shown as to how this delay has prejudiced the appellant. In the absence of any prejudice the delay, if any, cannot be set aside*".

13. Noticee made a contention that not all the documents *viz* complete market log and order log of both stock exchange, documentary evidence having financial transaction with Avisha Trade log and order log by alleged clients, details of off market transaction alleged to be executed date and time wise details of alleged LTP trade, execution of first trade, date wise, time wise details of alleged first trade

Copy of statement recorded wherein clients alleged that trades in their account carried out by SIC, any other document in SEBI's possession which can assist us in preparing Noticee's defence, has been provided. In this regard, I note that documents which have been relied upon in the SCN to make allegations against Noticee, have already been provided to the Noticee as annexures to the SCN. I note that Noticee time and again made a generic request to allow inspection of certain documents that are neither relied upon by SEBI nor are relevant to the proceedings. I am of the view that since all the copies of the relevant to Noticee has been given to Noticee, no prejudice is caused to Noticee on this account. Further, Noticee placed reliance on Supreme Court Judgment on **T. Takano vs SEBI** (Civil Appeal Nos. 487-488 of 2022). In this regard, I note that aforesaid judgment itself mention that: *"The requirement of compliance with the principles of natural justice cannot therefore be read to encompass the right to a roving disclosure on matters unconnected or as regards the dealings of third parties. The investigating authority may acquire information of sensitive nature bearing upon the orderly functioning of the securities market. The right of the noticee to disclosure must be balanced with a need to preserve any other third party rights that may be affected.*"

14. I note from SCN that the charge against the Noticee while trading on behalf of its clients was entered into repeated self-trade, at a rate higher than Last Trade Price (LTP) without intention of change in ownership. It was also alleged that the Noticee had manipulated the price of scrip by trading at a price higher than LTP on behalf of clients and for trading at a rate higher than LTP in substantial number of first trades on behalf of PK. Further, Noticee allegedly responsible for order book manipulation in the scrip of the Mefcom. In this regard, I note that the aforesaid allegation rests on the premise that the aforesaid entities are part of a Mefcom Group. The said premise requires evaluation of the basis of connection amongst the entities. As per the SCN, Noticee was part of a larger group of 15 entities called the Mefcom Group and are related as per the connection shown in aforementioned Table 3. I note from the Table 3, the connection of Noticee alleged with the Mefcom group on two bases: (i) Off market transfer with Vishvas Securities Ltd (ii) Financial transaction with Avisha. In this regard, I note that Noticee has submitted that it registered as a Depsoitory Participants of CDSL only in Nov 2007. For the purpose

of investigation period SIC is not a registered depository participant with either NSDL or CDSL, hence its clients' DP accounts were with other depository participants throughout that time. Thus, I find that whenever a client was required to deposit securities or pay in of securities with the Noticee for margin or collateral, the clients would transfer the securities in off market from their accounts with other depository participants to the clients' beneficiary account with the Noticee. Previously, these transfers were done off-market, with varied amounts of shares being moved from Vishvas Securities Ltd's demat account with Global Capital Market Ltd. to the clients' SIC beneficiary account. Further, Noticee has submitted the relevant period's demat account statement. In the light of this, I note that the stock broker's practice is both legal and valid. As a result, there isn't anything wrong with it. It also establishes a broker-client relationship between Vishvas Securities Ltd and Noticee. Therefore, I am of the view that Noticee cannot be linked to the Mefcom Group *via* Vishvas Securities Ltd. Noticee has also supplied a copy of its KYC in relation to Avisha, demonstrating that Avisha was a client of SIC prior to the investigation period. In the absence of any contrary evidence, the financial transaction between them must be in the ordinary course of business in the securities market.

15. Further, I note from the material available on record, that there is no substantial additional evidence has been present for the purpose of establishing allegation with respect to the self-trade other than trades of the PK (one of the client of the Noticee). In this regard, I note the SEBI's policy decision dated May 16, 2017, wherein *inter-alia* it is stated that *"...it is observed that intention is a sine qua non for establishing manipulation in case of self-trades and accidental/ unintentional self-trades are not covered under the said regulations. Accordingly, mere occurrence of self-trades should not be considered as per se illegal in the absence of any other additional evidence to prove manipulation or intent to defraud as is done in cases of synchronised trades. Therefore, in all matters of self-trade, an assessment has to be made regarding whether the said trade was intentional or unintentional on the basis of supporting evidence and the manipulation caused by indulging in self-trades should be clearly brought out. The quasi-judicial authority may assess on the basis on SCN/ Investigation report whether any manipulation is arising out of self-trade or any intention to enter into self-trade is evident from*

the material on record. If the manipulation or intent can be established the same may be proceeded with as approved. However, if no intention or manipulation is evident from the case and only charge is mere occurrence of self-trades, then entity may be exonerated by quasi-judicial authority."

16. In view of the above, there is no clear evidence regarding connection between the Noticee to the Mefcom Group and therefore, allegation of the positive contribution to LTP in the scrip of the Mefcom, cannot be casted upon the Noticee. In this regard reliance has been placed on judgement of the Hon'ble SAT in the matter of M/s **Nishit M. Shah Huf v SEBI decided on January 16, 2020,** wherein it is held that "*Allegation that the appellant has contributed to the LTP cannot be upheld in the absence of any collusion with the buyer or promoter / director of the Company. One has to establish a connetion between a buyer and with the seller in order to infer a manipulation in the price of the scrip."* It further held that - "*the trading in small quantities in scrips is per se not impermissible as per the Ajmer's Case. If the trade in miniscule amount leads to an increase in the price of scips one can presume or infer that trading is manipulative but such trading cannot happen unilaterally. There must be evidence to show collusion between the buyer and seller. In the instant case there is none. The principle of preponderance of probability cannot be exercised in absence of any connection between the seller and buyer."*

17. I further note that Hon'ble SAT in the matters of **Jagruti Securities Limited v SEBI (Appeal No. 102 of 2006 decided on October 27, 2008)** and **Vikas Bengani v WTM, SEBI (Appeal No. 225 of 2009 decided on February 25, 2010),** held that the charge of raising price artificially has to be established with the element of collusion between the buyer and the seller is a *sine qua non*. In absence of any finding of collusion between the buyer and seller the charge contributing to the LTP cannot be sustained.

18. In this case, it has been further alleged that Noticee contributing to the LTP through repeated self-trades and indulging in order book manipulation. In this regard, I note that purpose of extant proceedings is to determine whether, Noticee being part of the Mefcom Group and in furtherance of the purported scheme, indulged in

repeated self-trades, and order book manipulation while trading in the scrip of Mefcom. I note that, in above paras it has been found that the evidence available on records are not sufficient to establish connection among the Noticee and the original Promoters. Therefore, for the purpose of allegation of self-trades and order book manipulation, the first leg of the allegation i.e. connection of the Noticee with the Mefcom is absent.

19. I further note that in the parallel proceeding before WTM under sections 11(1) and 11B (1) of the SEBI Act, WTM in her order, in the matter of Mefcom Agro Industries Limited, dated February 12, 2020 held that:

> *"83. It has been alleged in the SCN that both PK and SIC are responsible for the trades executed in the name of PK in the scrip of Mefcom. Therefore, prima facie the connection of either PK or SIC or both has to be established with the Mefcom Group. …Hence, the said trading activity of PK cannot be a basis for his connection with the Mefcom Group*
>
> *“84. The connection of SIC with the Mefcom Group has been established through its off market transfer with Vishvas Securities Ltd. and its financial transaction with Avisha. SIC has submitted that since it was not a registered depository participant with eitherNSDL or CDSL during that time its clients had their DP accounts with other depository participants. Whenever there was a pay-in of securities or client was required to deposit the securities with the Noticee for margin or collaterals, the clients used to transfer the securities in off market from their account with other depository participants to the clients' beneficiary account of the Noticee and from that account the pay in of securities used to take place. These transfers used to take place in off market and various quantities of shares were transferred from the Vishvas Securities Ltd's demat account with Global Capital Market Ltd. to the clients' beneficiary account of SIC. The Noticee has submitted its demat account statement for the relevant period. In this regard, I note that the practice adopted by the stock broker is a valid practice and is permitted by law. Hence, no fault can be found with the same. It also goes on to establish broker-client relationship between SIC and Vishvas Securities Ltd. Thus, SIC cannot be said to be connected with the Mefcom Group through*

Vishvas Securities Ltd. Similarly, with respect to Avisha, SIC has submitted a copy of its KYC which again proves that Avisha was the client of SIC prior to the investigation period. Thus, the financial transaction between them, in the absence of any contrary evidence has to being the normal course of trading business in the securities market. <u>Thus, SIC cannot be said to be connected with the Mefcom Group through MFL</u>". (emphasis supplied)"

96……. I find that Ms. Shilpi Modi is also not a part of the Mefcom Group…

20. I also note that adjudication orders in the matter of Mefcom Agro Industries Limited bearing reference number Order/VV/AK/2021-22/15775 dated January 27, 2022 and Order/VV/AK/2021-22/15198 dated February 28, 2022 established that no conclusive evidence to show the connection of SK and PK respectively to Mefcom group.

21. I note that, in totality of the above facts and circumstances, Noticee and its Clients have not been considered part of the Mefcom group Hence, I find that, there is no sufficient material to attribute the violation of PFUTP Regulations by the Noticee especially as no connection with the Mefcom Group has been brought on record and in view of the same benefit of doubt is given to the Noticee. Consequently, no violation has been made out for the violation of Stock Broker Regulations 1992. I further note that the allegation in the present adjudication proceedings pertains to the investigation period of 2006 and 2007. Considering the above facts and circumstances, I am of the view that the allegation against the Noticee with regard to repeated self-trade, manipulating the price of scrip by trading at a price higher than LTP, placing substantial number of first trades on behalf of Purshottam Khandelwal and order book manipulation are not tenable.

Order

22. For the aforesaid reasons, Show Cause Notice EAD-8/JS/VRP/OW/5510/2018 dated February 21, 2018 alleging the violation of the provisions of Regulations 3(a), 3(b), 3(c), 3(d), 4(1), 4(2)(a), 4(2)(e) and 4(2)(g) of SEBI (Prohibition of Fraudulent and Unfair Trade Practices relating to Securities Market) Regulations, 2003 and clause A(1), (3), (4), (5) of code of conduct for stock brokers as specified

under schedule II read with regulation 7 of SEBI (Stock Brokers & Sub Brokers) Regulations, 1992 by the Noticee *i.e.*, **SIC Stock and Services Pvt Ltd** is disposed of without imposition of penalty.

23. In terms of rule 6 of the SEBI Adjudication Rules, copies of this order are sent to the Noticee and also to SEBI.

Date: April 26, 2022 **Vijayant Kumar Verma**

Place: Mumbai **Adjudicating Officer**