BEFORE THE ADJUDICATING OFFICER
SECURITIES AND EXCHANGE BOARD OF INDIA
[ADJUDICATION ORDER NO. Order/SR/PP/2020-21/7775-7790/9-24]

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

In respect of:

Sr. no	Noticee	PAN	Order no.
1	Motilal Ahuja	ATKPA9288R	Order/SR/PP/2020-21/7775/9
2	Tanu Sudan	BKMPS6192L	Order/SR/PP/2020-21/7776/10
3	Divesh Singh	EPBPS0458J	Order/SR/PP/2020-21/7777/11
4	Ashok Kumar	AENPP9862L	Order/SR/PP/2020-21/7778/12
5	Sunaina	CDAPS0234H	Order/SR/PP/2020-21/7779/13
6	Romit Mehta	AOCPM6021R	Order/SR/PP/2020-21/7780/14
7	Ravi Dewan	ALJPD0195P	Order/SR/PP/2020-21/7781/15
8	Deepak	AICPD9588Q	Order/SR/PP/2020-21/7782/16
9	Balwant kaur	AROPKI 925F	Order/SR/PP/2020-21/7783/17
10	Hardeep Singh	BWJPS4532F	Order/SR/PP/2020-21/7784/18
11	Rohit	ATAPR7090J	Order/SR/PP/2020-21/7785/19
12	Deepak Kumar	ASNPK8564E	Order/SR/PP/2020-21/7786/20
13	Mohit Kumar	BPLPK8554A	Order/SR/PP/2020-21/7787/21
14	Monika	BOXPM5309C	Order/SR/PP/2020-21/7788/22
15	Akash	AQKPA3180F	Order/SR/PP/2020-21/7789/23
16	Jasvinder Kumar	ALXPK3958R	Order/SR/PP/2020-21/7790/24

In the matter of Gallantt Ispat Ltd.

BACKGROUND OF THE CASE IN BRIEF

1. A Department (in short '**OD**') of Securities and Exchange Board of India (in short '**SEBI**') appointed Investigating Authority (in short **IA**) and undertook an investigation in the scrip of Gallantt India Limited (in short '**the company**' / '**GIL**') matter for a period starting from April 01, 2014 to December 31, 2014 (hereinafter referred to as '**Investigation period'** / '**IP'**) to ascertain whether there was any violation of Securities and Exchange Board of

India Act, 1992 (in short **SEBI Act**) and rules, regulations made thereunder. The shares of GIL were listed at Bombay Stock Exchange and National Stock Exchange during IP. IA observed non-compliances with regard to the Securities and Exchange Board of India (Prohibition of Fraudulent and Unfair Trade Practices) Regulations, 2003 (in short **PFUTP Regulations**) by Motilal Ahuja **(Noticee 1),** Tanu Sudan **(Noticee 2),** Divesh Singh **(Noticee 3),** Ashok Kumar **(Noticee 4),** Sunaina **(Noticee 5),** Romit Mehta **(Noticee 6),** Ravi Dewan **(Noticee 7),** Deepak **(Noticee 8),** Balwant Kaur **(Noticee 9),** Hardeep Singh **(Noticee 10),** Rohit **(Noticee 11),** Deepak Kumar **(Noticee 12),** Mohit Kumar **(Noticee 13),** Monika **(Noticee 14),** Akash **(Noticee 15),** Jasvinder Kumar **(Noticee 16)**. Noticee 1 to 16 are collectively referred to as '**Noticees**'.

2. In view of the said investigation and observations by IA regarding the Noticees, OD initiated adjudication proceedings against the Noticees to inquire into and adjudge under section 15HA of the SEBI Act the alleged violations of provisions of regulations 3(a), (b), (c) & (d) and regulation 4(1), 4(2)(a) & (g) of PFUTP Regulations.

APPOINTMENT OF ADJUDICATING OFFICER

3. Shri Nagendraa Parakh was appointed Adjudicating Officer (in short **AO**) and his appointment was communicated vide communique dated March 09, 2017 under section 15-I of the SEBI Act read with (**r/w**) rule 3 of the Securities and Exchange Board of India (Procedure for Holding Inquiry and Imposing Penalties by Adjudicating Officer) Rules,1995 (in short **AO Rules**) to inquire into and adjudge under section 15HA of the SEBI Act the alleged violations of provisions of regulation 3(a),(b),(c)&(d) and regulation 4(1), 4(2)(a)&(g) of PFUTP Regulations by the Noticees. Subsequently, the matter was transferred and Ms. Sangeeta Rathod (undersigned) was appointed an AO in this

matter. The appointment of undersigned as AO was communicated vide order dated July 10, 2017.

SHOW CAUSE NOTICE, REPLY AND PERSONAL HEARING

4. Show Cause Notice no. EAD/NP/AS/OW/9295/1/2017 dated April 24, 2017 (hereinafter referred to as SCN) was issued by previous AO to the Noticees under rule 4 of the AO Rules advising to show cause as to why an inquiry should not be held against the Noticees and why penalty under section 15HA of SEBI Act be not imposed on Noticees for the violations alleged and specified in the said SCN. Proof of service of the SCN upon the Noticees is on record. Following is alleged in the said SCN-

1. *It has been observed that the price of the scrip at BSE opened at Rs. 305.80 touched a high of Rs. 481.40 low of Rs. 261 and closed at Rs. 393.85 during the investigation period. The price volume data of the scrip at BSE is given below:*

Source: BSE

Period	*Dates*		*Opening Price (volume) on first day of the period*	*Closing price (volume) on last day of the period*	*Low price (volume) during the period*	*High Price (volume) during the period*	*Avg. no. of (shares) traded daily during the period*
Before Investigation period	*01 /01/2014 to 31/03/2014*	*Price*	*266*	*304.75*	*250 (06/01/14)*	*332(13/03/14)*	*18973*
		vol.	*18179*	*11141*	*2729 (22/03/14)*	*49600 (14/03/14)*	
During Investigation Period	*01 /04/2014 to 31/12/2014*	*Price*	*305.80*	*393.85*	*261 (22/04/14)*	*481.40 (26/06/14)*	*28369*
		vol.	*15263*	*29819*	*1544 (23/10/14)*	*66767 (01/08/14)*	
After investigation period	*01 /01/2015 to 31/03/2015*	*Price*	*394.50*	*404.70*	*392.75 (02/1/15)*	*409.85 (13/01/15)*	*38570*
		vol.	*25986*	*30445*	*12278 (26/02/15)*	*101658 (05/01/15)*	

2. *It has been observed that the price of the scrip at NSE opened at Rs.305.05, touched a high of Rs.499.95, low of Rs.275.30 and closed at Rs.394.45 during the investigation period.*

Source: NSE

Period	Dates		Opening rice volume) on first day of period	Closing price volume) on last day of the period	Low price(volume) during the period (Rs)	High price(volume) during the period (Rs.)	Avg. no. of (shares) traded daily during the period
Before Investigation period	01/01/2014 to 31/03/2014	Price	266.25	305.45	252.40 (06/01/14)	339.95 (13/03/14)	24856
		Vol.	19873	15428	3448 (22/03/14)	76859 (18/03/14)	
During Investigation Period	01/04/2014 to 31/12/2014	Price	305.05	394.45	275.30 (22/04/14)	499.95 (26/06/14)	30610
		Vol.	19529	27879	474 (03/11/14)	91073 (01/08/14)	
After investigation period	01/01/2015 to 31 /03/2015	Price	394.50	404.65	394 (01/01/15)	409.90 (30/03/15)	40985
		vol.	28207	26224	12432 (05/03/15)	105043 (05/01/15)	

3. *It is observed from the investigation report that based on the connections, 4 groups of suspected entities have been identified (Group 1: Entities at Sr. No. 1 to 17, Group 2: Entities at Sr. No. 18-19 below, Group 3: Entities at Sr. No. 20 to 24 below, Group 4: Entities at Sr. No. 25-26). Names and connection of all such suspected entities is given hereunder;*

SN	Particulars	PAN	Remarks
1	Divesh Singh *	EPBPS0458	• Entity at Sr. No. 1 - 6 connected through common mob no. : 9711750159
2	Ravi Dewan *	ALJPDO195P	
3	Romit Mehta *	AOCPM6021R	
4	Tanu Sudan *	BKMPS6192L	
5	ReenaVerma *	AJXPV3261A	
6	Himanshu Panchal *	AWIPP1078K	• Entity at Sr. No. 1, 4 & 7- 8 connected through common Email ID: AMANGUPTA2000@1N.COM • Entity at Sr. No. 3 - 5 & 9 - 12 connected through common mob. no.: 9212020104 • Entity at Sr. No. 5, 10 & 13 connected through common mob no. : 8505856972
7	Motilal Ahuja *	ATKPA9288R	
8	Balwant Kaur *	AROPK1925F	
9	Rajesh Kumar	ALKPK3782A	

10	Mithun Singh *	BZBPS7580L	• Entity at Sr. No. 7 & 13 connected through common mob. no.: 9211827956 • Entity at Sr. no. 13 & 14 connected through Common Email VIKASHARMA074@GMAIL.COM • Entity at Sr. No. 5 & 13 connected through common mob no. : 9013901386 • Entity at Sr. No. 4 & 13 connected through common Email ID: TSUDAN142@GMAIL.COM • Entity at Sr. No. 7 & 15 connected through common Email ID: RAJMEHRA577@GMAIL.COM • Entity at Sr. No. 7 & 15 - 16 connected through common Email ID: SARMAPRAKASH268@GMAIL.COM • Entity at Sr. No. 16 - 17 connected through common mob no.: 8470002628 • Entity at Sr. No. 16-17 connected through common Email Id: DEEPAK_DCBL@YAHOO.CO.IN • Entity at Sr. No. 16 - 17 connected through common Address: H.no.a-68/a, NT.Vodafone Tower, Kunwar Singh Nagar, Na loi, Nilothi, Delhi.
11	Amit Kumar Jyoti	AJWPJ9788R	
12	Vinay Yadav *	ACCPY8623M	
13	Sunaina	CDAPS0234H	
14	Rohit	ATAPR7090	
15	Hardeep Singh	BWJPS4532F	
16	Deepak *	AICPD9588	
17	Ashok Kumar	AENPP9862L	
18	Kanchan Saini	CVDPS6255D	• Entity at Sr. No. 18 - 19 connected through common Address : E -125 Vishwas Park, New Delhi, Delhi, India, 110059 • Entity at Sr. No. 18 - 19 connected through Common Email ID: JASVINDER.IJAN@GMAIL.COM • Entity at Sr. No. 18 - 19 connected through Common Mob No. : 8860075975
19	Jasvinder Kumar *	AIXPK3958R	
20	Monika *	BOXPM5309C	• Entity at Sr. No. 20 - 23 connected through common mob. no. : 9999888015 • Entity at Sr. No. 20 - 21 connected through common mob. no.: 9990360943
21	Mohit Kumar *	BPLPK8554A	
22	Menika *	BU PM7890F	
23	Deepak Kumar	ASNPK8564E	
24	Akash	AQKPA3180F	
25	Sanjay Gupta*	ALCPG7419G	Entity at Sr. no. 25 - 26 connected through common mob. no.: 9716888801
26	Amarender Kumar*	BPWPK3680Q	

4. *It was observed from investigation that during the investigation period, significant artificial volume was created by suspected entities of Group 1 through synchronized trades. The*

volume of synchronized trades at BSE was 16.07% and at NSE 16.31% of total market Analysis of synchronized trades of suspected entities of Group 1 at BSE & NSE who contributed more than 1% as individual was carried out and is given hereunder;

		BSE							NSE							
		Buy Side			Sell Side				Buy Side				Sell Side			
Particulars	Qty of Synch Trade	% of Synch vol. to Mkt. Vol.	No of day	No. of Trade	Qty of Synch Trade	% of Synch Vol. to Mkt. vol.	No of days	No. of Trades	Qty of Synch Trade	% of Synch vol. to Mkt. vol.	No of day s	No. of Tra des	Qty of Synch Trade	% of Synch vol. to Mkt. vol.	No of day s	No. of Tra des
Ashok Kumar	65681	1.279	24	175	64523	1257	24	175	68751	I .242	23	174	67209	1.214	23	176
Balwant Kaur	35338	0.688	15	408	35714	0.696	15	402	39583	0.714	17	447	39540	0.714	17	435
Deepak	34821	0.678	18	103	37290	0.726	18	110	35009	0.632	17	93	35889	0.648	17	99
Divesh Singh	10430	2.032	25	649	104704	2.039	25	650	10606 5	1.914	24	610	108312	1.955	25	637
Hardeep Singh	33945	0.661	18	303	34887	0.679	18	318	39613	0.715	20		39393	0.71	21	313
Moti Lai Ahuja	16481 5	3.209	68	1743	164148	3.196	68	1772	18026 5	3.254	71	1847	180807	3.262	71	1893
Ravi Dewan	47040	0.917	18	784	47595	0.926	18	774	48122	0.868	18	745	47812	O. 862	18	714
Rohit	32422	0.631	18	76	31186	0.607	18	65	33656	o. 608	18	79	34667	0.626	18	74
Romit Mehta	51431		18	383	49977	0.973	18	351	53888	0.972	21	405	52902	0.955	20	383
Sunaina	56188	1.095			56113	1.093	22	126	61591		21	138	61242	1.106	21	135
Tanu Sudan	94455	1.839	37	893	94300	1.837	37	896	10383 7	1.874	41	976	102607	1.853	40	955
Total	72043 7	14.029	281	5639	720437	14.029	281	5639	77038 0	13.905	291	5814	770380	13.905	291	5814

5. *It was observed that suspected entities had executed synchronized trades amongst themselves in repetitive manner which resulted in creation of artificial volume in the market. Following entities had executed synchronized trades at BSE & NSE-*

<u>BSE Group 1</u>: *1) Motilal Ahuja (6.41%), 2) Tanu Sudan (3.68%), 3) Divesh Singh (4.07%),4) Ashok Kumar (2.54%), 5) Sunaina (2.19%), 6) Romit Mehta (1.97%), 7) Ravi Dewan (1.84%), 8) Deepak (1.40 %), 9) Balwant kaur (1.38%), 10) Hardeep Singh (1.34%), 11) Rohit (1.24%).*

<u>NSE Group 1</u>: *1) Motilal Ahuja (6.52%), 2) Tanu Sudan (3.73%), 3) Divesh Singh (3.87%), 4) Ashok kumar (2.46%), 5) Sunaina (2.22%), 6) Romit Mehta (1.93%), 7) Ravi Dewan (1.73%), 8) Deepak (1.28%), 9) Balwant kaur (1.43%), 10) Hardeep SIngh (1.43%), 11) Rohit (1.23%).*

Entity	BSE				NSE			
	Sum Of Reversal Qty.	% of reversal Qty to Mkt. vol.	No. of Reversal trades	No. of days of Reversal trades	Sum Of Reversal Qty.	Reversal Qty to Mkt. vol.	No. of Reversal trades	No. of days of Reversal trades
Group 1								
MOTI LAL AHUJA	167987	3.273	3630	67	183118	3.308	3844	69
DIVESH SINGH	113600	2.212	1411	25	111673	2.013	1320	25
TANU SUDAN	101661	1.981	1886	37	106543	1.925	2014	37
ASHOK KUMAR	66328	1.292	361	24	70325	1.27	367	
SUNAINA	56505	1.101	252	21	63765	1.151	292	21
ROMIT MEHTA	55027	1.072	799	18	55322	0.997	846	18
RAVI DEWAN	49865	0.971	1653	18	49499	0.893	1551	18
DEEPAK	37106	0.721	220	18	36929	0.666	205	17
BALWANT KAUR	36155	0.705	833	15	40215	0.727	911	17
HARDEEP SINGH	35165	0.684	642	18	39732	0.719	620	18
ROHIT	31943	0.62	143	17	35967	0.649	168	18
Total of Group 1	751342	14.632	11830	278	793088	14.318	12138	280
Group 3								
AKASH	133533	2.602	1088	27	122637	2.213	1025	26
DEEPAK KUMAR	72045		796	32	92697	1.671	1060	33
MONIKA .	165204	3.22	1497	41	154349	2.786	1454	40

MOHIT KUMAR	*83250*	*I .62*	*939*	*38*	*109835*		*1259*	*39*
Total of Group 3	*454032*	*8.844*	*4320*	*138*	*479518*	*8.652*	*4798*	*138*

In view of the above it is alleged that noticee no. 1 to 11 have created artificial volume in the market through synchronized trades at BSE & NSE and violated Regulations 3 (a), (b), (c), (d), 4 (1), 4 (2) (a) & (g) of PFUTP Regulations. Extracts of the trade log for the above synchronized trades are given in Annexure 2 to the SCN.

6. *It was observed from investigation that during the Investigation period suspected entities had reversed trades in repetitive manner in the same group during the Investigation period. Analyzing the reversal trades, it was observed that 11 of 17 entities, which are part of Group 1 contributed 14.63% & 14.32% of the total market volume at BSE & NSE respectively out of 16.88% & 17.13% of total group contribution through reversal trades while 4 of the 5 suspected entities which are part of group 3 contributed 8.84% & 8.65% of the total market volume at BSE & NSE respectively out of 9.31% & 9.13% of total group contribution through reversal trades. Following table shows the entity-wise reversal contribution by Group 1 & 3 at BSE and NSE;*

7. *It was observed that suspected entities has executed reversal trades amongst themselves in repeated manner at BSE and NSE which resulted in creation of artificial volume in the market. Following entities have been shortlisted for BSE & NSE respectively;*

   ***BSE Group 1** : 1) Motilal Ahuja (3.27%), 2) Divesh Singh (2.12%), 3) Tanu Sudan (1.98%), 4) Ashok Kumar (1.29%), 5) Sunaina (1.10%), 6) Romit Mehta (1.07%), 7) Ravi Dewan (0.97%), 8) Deepak (0.72%), 9) Balwant Kaur (0.71%), 10) Hardeep Singh (0.68%), 11) Rohit (0.62%).*

   ***BSE Group 3** : 1) Monika (3.22%), 2) Akash (2.60%), 3) Mohit Kumar (1.62%), 4) Deepak Kumar (1.40%).*

   ***NSE Group 1**: 1) Motilal Ahuja (3.31%), 2) Divesh Singh (2.01%), 3) Tanu Sudan (1.93%), 4) Ashok Kumar (1.27%), 5) Sunaina (1.15%), 6) Romit Mehta (0.99%), 7) Ravi Dewan (0.89%) 8) Deepak (0.67%), 9) Balwant Kaur (0.73%), 10) Hardeep Singh (0.72%), 11) Rohit (0.65%).*

   ***NSE Group 3**: 1) Monika (2.79%), 2) Akash (2.21%), 3) Mohit Kumar (1.98%), 4) Deepak Kumar (1.67%).*

8. *In view of the above it is alleged that the noticee no. 1 to 15 have created artificial volume in the market through reversal trades at BSE & NSE and violated Regulation 3 (a), (b) (c), (d), 4(1), 4(2), (a) & (g) of PFUTP Regulations. Extracts of the trade log for the above reversal trades are given in Annexure 3 of the SCN.*

9. *It was observed from investigation that during investigation period, Jasvinder Kumar (noticee no. 16) has executed self-trades repeatedly without intention of change of ownership thereby created artificial volume in the market. The details of self-trade of the notice no.16 is given as under-*

Particulars	*NSE*			*BSE*		
	Self-Trade Qty.	*No. of Self-Trades*	*No. of days*	*Self-Trade Qty.*	*No. of Self Trades*	*No. of days*
Jasvinder Kumar	*31,940*	*261*	*25*	*17*	*2*	*1*

In view of the above it is alleged that the noticee no.16 has created artificial volume in the market through self-trades at BSE & NSE and violated Regulations 3(a), (b), (c), (d), 4(1), 4 (2) (a) & (g) of PFUTP Regulations. Extracts of the trade log for the above self-trades are given in Annexure 4 of the SCN.

10. *The relevant provisions of the PFUTP Regulations is reproduced below for your ready reference:*

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 proposed to be listed on a recognized stock exchange;
(d) engage in any act, practice, course of business which operated or would operate as fraud or deceit upon any Person in connection with any dealing in or issue of securities which are listed or Proposed to be listed on a recognized stock exchange in contravention of the provisions of the Act or the rules and the regulations made thereunder
4. Prohibition of manipulative, fraudulent and unfair trade 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;
(g) entering into a transaction in securities without intention of performing it or without intention of change of ownership of such security;

Noticees were therefore, called upon to show cause as to why an inquiry should not be held against them in terms of Rule 4 of SEBI Adjudication Rules and penalty be not imposed under section 15HA of SEBI Act, 1992.

5. The SCN was sent to the Noticees through Speed Post Acknowledgment Due (**SPAD**). Acknowledgment of service of the SCN upon the Noticee 11, 13, 14, 15 and 16 is available on record. Noticee 4 and 8 had applied for settlement of adjudication proceedings through application for consent. SCN was served upon Noticee 2, 3, 5 and 7 through publication in the newspapers (viz. *The Times of India and Dainik Jagran, New Delhi edition*) dated January 12, 2018 and an opportunity of hearing was granted to them on February 06, 2018.

6. Details of the reply, if any sent by the Noticees.
   a. Noticee 1, 2, 3, 4, 5, 7, 8, 11 and 15 have been served the SCN in terms of the AO Rules however no response received.
   b. Noticee 6 vide emails dated January 02, 2018, May 27, 2019 and letter dated January 22, 2020 submitted that his PAN was misused by someone, who executed the impugned transactions which is the subject matter of instant adjudication proceedings in the matter of GIL. Noticee 6 has further submitted that pursuant to receipt of Recovery Certificate for penalty imposed in another adjudication proceeding and consequent freezing of bank accounts, Noticee 6 has lodged a complaint with bank and local police station interalia stating some unknown people using his documents and opening demat/ trading accounts in his name to execute fraudulent securities transactions. Noticee 6 further submitted that the Kolkata police lodged an FIR on June 4, 2019 and started investigating the matter and currently special cell of Kolkata police is handling the matter. Further, vide letter dated June 06, 2019 Asst. Commissioner of Police, EOW, Kolkata requested Adjudicating Officer for a copy of Enquiry report in the matter. Further, certified copies of record of proceedings before ACMM, Kolkata dated August 06, 2019, obtained by the Noticee 6, the investigation by Kolkata Police revealed that fraudulent trades were executed in the office of Amrapali Aadya Trading & Investment Pvt. Ltd. and Best Bull Stock Trading Pvt. Ltd. Anil Kumar Sharma is also one of the close associate in commissioning of the alleged offence where the alleged fake account was opened in the name of the de facto complainant of the instant case, i.e. Noticee 6. He submitted various documents such as copies of the

said complaints, letter from Kolkata police, certified copy of court proceedings, proof of his actual KYC, details of UCC and other supporting documents.

c. Noticee 9 vide reply dated June 12, 2017 interalia submitted that *I am neither aware, involved, connected, related nor concerned nor have means to verify acts of omission and commission and alleged relations between Divesh Singh, Tanu Sudan, and Gallantt Ispat Promoters. It is not the case that trades have taken place in daily basis (which is normally the case when a person intends to create artificial volumes or intends to create misleading appearance of trading in market.) Therefore in circumstances it cannot be suggested that trades were repeatedly executed. The percentage volume of our alleged trade vis-à-vis market volume was exceedingly insignificant to any kind of impact on either the price or volume of the script admittedly there is no allegation that we had increased or decreased the price.*

d. Noticee 10 vide reply dated December 26, 2017 interalia submitted that *I am a small investor and I done the trading with a very nominal amount and if you think I am attached with any particular identity those are attached with Gallantt Ispat or any employee of this companies so it is a wrong. At the time of account opening nobody trained us for a trading but when I got a verbal objection from the broker or exchange that time I stopped the trading on immediate basis and that thing shows my innocency.*

e. (i) Noticee 12, 13 and 14 vide their separate but identical replies dated September 07, 2017 submitted that they are relatives and Noticee 13 & 14 are Husband and wife. Further, they submitted that Noticee 15 is their employee. (ii) Noticee 12 submitted that i*t is denied that I had executed reversed-trades in a repeated manner as alleged. It is submitted that the percentage volume of my alleged reversal trades vis a vis market volume during the investigation period was exceedingly insignificant (i.e. 1.40% at NSE and 1.67% at BSE) to have any kind of impact on either the price or volume of the scrip. Further, it is submitted that just because certain trades have reversed, it cannot be alleged that I was executing reversed trades repeatedly. It may be noted that while doing trading I had no intention to manipulate the market and I was not aware of the counterparty to the trade. In Mr. Babubhai Desai v Securities and Exchange Board of India (SAT Order dated 15.02.2016, Appeal no. 81 of 2014) the following observations made by the Hon'ble Securities Appellate Tribunal; "there had to be unambiguous and clear evidence in respect of the* *connection sought to be established among the ten appellants by the learned adjudicating officer in the impugned order. The guilt or culpability of each of the appellants had to be analysed and established separately before holding them guilty of forming on alleged group to manipulate the price or volume in a given case. Mere common landline number or that of the accountant of the appellants would not by itself convert certain entities into a group or concert who could have jointly traded in a design. It is a serious charge and hence cogent and convincing evidence is required to be brought on record before the said charge could be proved against the appellants". In the matter under reference also, adverse inference has been made on the common mob no. and e mail id. However, the same would not by itself convert me into a group or concert who could have jointly traded in a design. Further, there is nothing in the notice to even remotely indicate that the alleged reversed trades were intentional or were executed with a view to induce others. Further, the impugned trades were not fraudulent in nature. Furthermore, same were exceedingly insignificant to have any effect on the volume or price of the scrip.* (iii) Noticee 13 submitted that *the percentage volume of my alleged reversal trades vis a vis market volume during the investigation period was exceedingly insignificant (i.e. 1.62% at BSE and 1.98% at NSE) to have any kind of impact on either the price or volume of the scrip. The allegation of creating artificial volume in the market cannot sustain in view of the miniscule quantum of reversed trades during the Investigation Period.* (iv) Noticee 14 *submitted that the percentage volume of my alleged reversal trades vis a vis market volume during the investigation period was exceedingly insignificant (i.e. 3.22 % at BSE and 2.79 % at NSE) to have any kind of impact on either the price or volume of the scrip. Such miniscule quantum of alleged reversed trades cannot create artificial volume in the market. In the matter under reference adverse inference has been made on the common mobile no. and email id. However, the same would not by itself convert me into a group or concert who could have jointly traded in a design. Further, there is nothing in the Notice to even remotely indicate that the alleged reversed – trades were intentional or were executed with a view to induce others. Further, the impugned were not fraudulent in nature. Furthermore, same were exceedingly insignificant to have any effect on the volume or price of the scrip.*

f. Notice 16 vide email dated February 05, 2020 and letter dated October 04, 2017 interalia submitted that "*vide reply dated September 07, 2017 I have duly replied to the SCN. It may be appreciated that in the entire trading pattern only a small percentage of trades have resulted in the alleged self-trades, which were done by me in the ordinary course of trading dehors sinister intent or design. There is nothing in the notice to even remotely indicate that the alleged self-trades were intentional or were executed with a view to induce others. Further, the impugned self-trades were not fraudulent in nature. As per SEBI's own policy, following are the parameters for non-manipulative self-trades: i) It is accidental / unintentional self-trades; ii) In the absence of additional evidence, mere occurrence of self-trades should not be considered; iii) If no manipulation or intention is evident from the material on record. While considering my submissions it may be noted that I have not made any gains or gained any unfair advantage and I have also not caused loss to investors or anybody. Same had not been even alleged*".

7. Vide letter dated January 24, 2020 sent through SPAD and also through publication in the newspapers (*viz. The Hindustan Times and Navbharat Times, New Delhi edition*) on January 25, 2020, Noticees were advised to visit SEBI website for the SCN uploaded under the tab 'Unserved Summons / Notices' and file reply in 15 days, and an opportunity of hearing was granted to the Noticees on February 12, 2020.

a) Romit Mehta / Noticee 6 appeared for the personal hearing on February 12, 2020 and while reiterating the replies submitted vide emails dated January 02, 2018, May 27, 2019 and January 22, 2020 further submitted that his PAN was misused by someone, who executed the impugned transactions in the scrip of Gallantt Ispat Ltd. and in this regard complaint has been filed with Kolkata Police, which is being investigated. Noticee 6 also submitted that the Kolkata Police arrested a person from Delhi for the fraudulent act and submitted a certified copy of the Court Proceedings. During the course of hearing, Noticee 6 has submitted that "*(i) the judgment delivered by Hon'ble SAT in the matter of Romit Mehta vs. SEBI on January 02, 2020; (ii) a copy of court proceedings* *in the Court of Ld. Addl. Chief Metropolitan Magistrate, Calcutta; (iii) trading statement of his account maintained with India Infoline Limited. Noticee 6 further submitted that his client id "MEHTAAAA", address as "20 Sarkar Bye Lane, Kolkata- 700007", and email id is romitmehta02@hotmail.co.uk. Further, Noticee 6 submitted that the client ids "BB674" & "345R40", address " 717, Nand Nagri Janta Flats New Delhi- 110093" and email id "romitmehta9@gmail.com" does not pertain to Noticee 6*.

b) Deepak Kumar / Noticee 12 appeared for personal hearing for himself and on behalf of Mohit / Noticee 13 & Akash / Noticee 15. Deepak reiterated submissions made by him and Mohit vide separate letters dated September 07, 2017. With regard to Akash, Deepak Kumar submitted that Akash has not received the SCN and hearing notices, however, Deepak Kumar is authorized for representing. Deepak Kumar further submitted that Akash is his employee and he had opened account on behalf of Akash and Akash has traded under the guidance of Deepak Kumar in the scrip of GIL. Further, Deepak Kumar submitted that the above said oral submissions may be considered as Akash's reply to the SCN.

c) Noticee 14 attended hearing through AR and reiterated the submissions made vide reply dated September 07, 2017.

d) Noticee 1 to 5, 7, 8, 11 and 15 have neither replied to the SCN nor evinced any interest to avail opportunity of hearing. Vide note dated June 19, 2019, Settlement division of SEBI intimated the rejection of settlement application no: 3440/2018 filed by Noticee 4 and settlement application no. 3441/2018 filed by Noticee 8.

CONSIDERATION OF ISSUES

8. After taking into account, the allegations levelled in the SCN, replies received and material available on record, I hereby proceed to decide the case on merit. I have

carefully perused the charges levelled against the Noticees in the SCN and the material available on record. In the instant matter, the following issues arise for consideration and determination:-

Issue (a): Whether the Noticees have violated the provisions of regulation 3(a), (b), (c) & (d) and 4(1), 4(2)(a) & (g) of PFUTP Regulations?

Issue (b): If yes to issue a then, do the violations by Noticees attract monetary penalty under sections 15HA of SEBI Act for the alleged violations by the Noticees?

Issue (c): If yes to issue b then, what is the quantum of monetary penalty to be imposed upon the Noticees, taking into consideration the factors mentioned in section 15J of the SEBI Act r/w rule 5(2) of the AO Rules?

FINDINGS AND EVIDENCES

9. Before proceeding further, I refer to the relevant provisions of PFUTP Regulations.

PFUTP Regulations
3. Prohibition of certain dealings in securities
No person shall directly or indirectly—
(a) buy, sell or otherwise deal in securities in a fraudulent manner;
(b) use or employ, in connection with issue, purchase or sale of any security listed or proposed to be listed in a recognized stock exchange, any manipulative or deceptive device or contrivance in contravention of the provisions of the Act or the rules or the regulations made there under;
(c) employ any device, scheme or artifice to defraud in connection with dealing in or issue of securities which are listed or proposed to be listed on a recognized stock exchange;
(d) engage in any act, practice, course of business which operates or would operate as fraud or deceit upon any person in connection with any dealing in or issue of securities which are listed or proposed to be listed on a recognized stock exchange in contravention of the provisions of the Act or the rules and the regulations made there under.

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

(2) Dealing in securities shall be deemed to be a fraudulent or an unfair trade practice if it involves fraud and may include all or any of the following, namely:—
(a) indulging in an act which creates false or misleading appearance of trading in the securities market;
(g) entering into a transaction in securities without intention of performing it or without intention of change of ownership of such security;

10. On perusal of the material available on record and giving regard to the facts and circumstances of the case, I hereby record my findings as under.

Issue (a): Whether the Noticees have violated the provisions of regulation 3(a), (b), (c) & (d) and 4(1), 4(2)(a) & (g) of PFUTP Regulations?

a. It was observed by IA, that Noticee 1 to 11 are sharing common email id / mobile number/ address and the volume of synchronized trades of Noticee 1 to 11 at BSE was 16.07% and at NSE was 16.31% of total market volume, who had contributed more than 1% as individual and executed synchronized trades amongst themselves in repetitive manner which resulted in creation of artificial volume in the market. Their individual contribution to synchronized trades at BSE is as under: Noticee 1 (6.41%), Noticee 2 (3.68%), Noticee 3 (4.07%), Noticee 4 (2.54%), Noticee 5 (2.19%), Noticee 6 (1.97%), Noticee 7 (1.84%), Noticee 8 (1.40 %), Noticee 9 (1.38%), Noticee 10 (1.34%), Noticee 11 (1.24%). Further, at NSE their individual contribution to synchronized trades is: Noticee 1 (6.52%), Noticee 2 (3.73%), Noticee 3 (3.87%), Noticee 4 (2.46%), Noticee 5 (2.22%), Noticee 6 (1.93%), Noticee 7 (1.73%), Noticee 8 (1.28%), Noticee 9 (1.43%), Noticee 10 (1.43%), Noticee 11 (1.23%). IA further observed that Noticee 1 to 11, contributed 14.63% & 14.32% of the total market volume at BSE & NSE respectively through reversal trades. IA also observed that, Noticee 12 to 15 are sharing common mobile numbers / email has contributed 8.84% & 8.65% of the total market volume at BSE & NSE respectively through reversal trades. Noticee 1 to 15 are alleged to have created artificial volume in the market through reversal trades and Noticee 1 to 11 have also indulged in synchronized trades, at BSE & NSE in violation of regulation 3 (a), (b) (c), (d), 4(1), 4(2) (a) & (g) of PFUTP Regulations. As regards, Noticee 16, IA further observed that Noticee 16 has executed self-trades repeatedly through 261 trades for 31,940 shares on 25 days at NSE and two trades for 17 shares on a single day at BSE without intention of change of ownership thus alleged to have created artificial volume in the market in violation of regulation 3(a), (b), (c), (d), 4(1), 4 (2) (a) & (g) of PFUTP Regulations.

(b) I note that Noticee 1 to 5, 7, 8, 11 and 15 have neither filed any reply nor evinced interest for availing opportunities of hearing granted to them. As regards, no reply received to the SCN issued, I refer to the judgment of Hon'ble Securities Appellate Tribunal (SAT) dated December 08, 2006 in the matter of Classic Credit Ltd. v SEBI (Appeal No. 68 of 2003) wherein, it observed that, "… *the appellants did not file any reply to the second show-cause notice. This being so, it has to be presumed that the charges alleged against them in the show cause notice were admitted by them". I also observe that the Hon'ble Securities Appellate Tribunal in the matter of Sanjay Kumar Tayal & Ors. v SEBI (Appeal 68 of 2013 dated February 11, 2014) had inter alia observed that, "...As rightly contended by Mr. Rustomjee, learned senior counsel for respondents, appellants have neither filed reply to show cause notices issued to them nor availed opportunity of personal hearing offered to them in the adjudication proceedings and, therefore, appellants are presumed to have admitted charges leveled against them in the show cause notices*...".

In view of the above, I find that the allegations levelled in the SCN are not in dispute in absence of any reply from Noticee 1 to 5, 7, 8, 11 & 15 and by not submitting any reply to SCN, the Noticee 1 to 5, 7, 8, 11 and 15 have admitted the charges levelled against them in the said SCN. However, I will look into the allegations on the merit of the matter, based on material on records.

(c) Before going into the merits of the case, I would like to examine the main contention of Noticee 6 with regards to misuse of his PAN details. Noticee 6 vide his emails dated January 02, 2018, May 27, 2019 and letter dated January 22, 2020 and also during the course of personal hearing held on February 12, 2020, submitted that his PAN was misused by some unknown person, who had executed the impugned transactions which is the subject matter of instant adjudication proceedings. Noticee 6 has further submitted that pursuant to receipt of Recovery Certificate by the Recovery Officer, SEBI in a separate adjudication proceeding and subsequent freezing of bank accounts, Noticee 6 has lodged a complaint with bank, local police station and Kolkata Police Head Quarters and that on June 4, 2019 Kolkata police lodged a FIR and started investigating the matter. Further, vide letter dated June 06, 2019 Asst. Commissioner of Police, EOW, Kolkata requested Adjudicating Officer for a copy of Enquiry report in the matter. Having no material on record to ascertain veracity of the said contentions of the Noticee 6, undersigned referred the matter back to OD with a request to ascertain whether there was any actual misuse, in this regard, OD has not placed any material on record to show whether that said PAN details of the Noticee were misused or not. However, Noticee 6 has submitted evidentiary proof for his KYC details. Further, from the certified copies of record of proceedings before ACMM, Kolkata dated August 06, 2019, obtained and submitted along with the reply by Noticee 6, I note that the investigation by Kolkata Police revealed that fraudulent trades were executed in the office of Amrapali Aadya Trading & Investment Pvt. Ltd. and Best Bull Stock Trading Pvt. Ltd. In this regard, Anil Kumar Sharma was found to be one of the close associate in commissioning of the alleged offence in the name of Noticee 6.

Thus, in view of the submissions made by Noticee 6 that his PAN was misused by some unknown person who had executed the impugned trades, which is substantiated from the various documents produced before me by Noticee 6. I note that there is nothing on record to suggest that the impugned trades in the scrip of GIL were executed by Noticee 6 during the investigation period. Accordingly, I am of the view in light of the evidentiary proof submitted by Noticee 6 and no confirmation received from OD, I conclude that the allegation of creation of artificial volume in the scrip of GIL against Noticee 6 cannot be supported in terms of material on record.

(d) With regard to connection between the suspected entities, IA has observed the following connection on the basis of common email id/ mobile number/ address as detailed hereunder-

<table>
<tr><th>Sr. no.</th><th>Particulars</th><th>PAN</th><th>Remarks</th></tr>
<tr><td>1</td><td>Divesh Singh</td><td>EPBPS0458</td><td rowspan="10">• Entity at Sr. No. 1 – 3 connected through common mob no. : 9711750159

• Entity at Sr. No. 1, 3, 4, 5 connected through common Email ID: AMANGUPTA2000@1N.COM

• Entity at Sr. No. 4 & 6 connected through common mob. no.: 9211827956

• Entity at Sr. no. 6 & 7 connected through Common Email VIKASHARMA074@GMAIL.COM

• Entity at Sr. No. 3 & 6 connected through common Email ID: TSUDAN142@GMAIL.COM

• Entity at Sr. No. 4 & 8 connected through common Email ID: RAJMEHRA577@GMAIL.COM

• Entity at Sr. No. 4, 8 & 9 connected through common Email ID: SARMAPRAKASH268@GMAIL.COM

• Entity at Sr. No. 9 - 10 connected through common mob no.: 8470002628

• Entity at Sr. No. 9 -10 connected through common Email Id: DEEPAK_DCBL@YAHOO.CO.IN

• Entity at Sr. No. 9 - 10 connected through common Address: H.no.a-68/a, NT.Vodafone Tower, Kunwar Singh Nagar, Na loi, Nilothi, Delhi.</td></tr>
<tr><td>2</td><td>Ravi Dewan</td><td>ALJPDO195P</td></tr>
<tr><td>3</td><td>Tanu Sudan</td><td>BKMPS6192L</td></tr>
<tr><td>4</td><td>Motilal Ahuja</td><td>ATKPA9288R</td></tr>
<tr><td>5</td><td>Balwant Kaur</td><td>AROPK1925F</td></tr>
<tr><td>6</td><td>Sunaina</td><td>CDAPS0234H</td></tr>
<tr><td>7</td><td>Rohit</td><td>ATAPR7090</td></tr>
<tr><td>8</td><td>Hardeep Singh</td><td>BWJPS4532F</td></tr>
<tr><td>9</td><td>Deepak</td><td>AICPD9588</td></tr>
<tr><td>10</td><td>Ashok Kumar</td><td>AENPP9862L</td></tr>
</table>

11	Jasvinder Kumar	AIXPK3958R	-
12	Monika	BOXPM5309C	• Entity at Sr. No. 12 – 14 connected through common mob. no. : 9999888015 • Entity at Sr. No. 12 - 13 connected through common mob. no.: 9990360943
13	Mohit Kumar	BPLPK8554A	
14	Deepak Kumar	ASNPK8564E	
15	Akash	AQKPA3180F	

In support of this connection seen by the IA, UCC details sought from the Stock Exchanges have been placed on record.

(e) Synchronized trades are the trades where the buy and sell order quantity and rate are identical and orders for these transactions are placed in a time gap of within one minute. Synchronized trades create artificial/fictitious volume in the market and give a false and misleading appearance of trading in the scrip at the exchange. With regard to the alleged synchronized trades by Noticee 1 to 5 & Noticee 7 to 11, details of their trades is detailed hereunder:

	BSE								NSE							
	Buy Side				Sell Side				Buy Side				Sell Side			
Particulars	Qty of Synch Trade	% of Synch vol. to Mkt. Vol.	No of day	No. of Trade	Qty of Synch Trade	% of Synch Vol. to Mkt. vol.	No of days	No. of Trades	Qty of Synch Trade	% of Synch vol. to Mkt. vol.	No of days	No. of Trades	Qty of Synch Trade	% of Synch vol. to Mkt. vol.	No of days	No. of Trades
Ashok Kumar	65681	1.279	24	175	64523	1257	24	175	68751	I .242	23	174	67209	1.214	23	176
Balwant Kaur	35338	0.688	15	408	35714	0.696	15	402	39583	0.714	17	447	39540	0.714	17	435

Deepak	*34821*	*0.678*	*18*	*103*	*37290*	*0.726*	*18*	*110*	*35009*	*0.632*	*17*	*93*	*35889*	*0.648*	*17*	*99*
Divesh Singh	*10430*	*2.032*	*25*	*649*	*104704*	*2.039*	*25*	*650*	*106065*	*1.914*	*24*	*610*	*108312*	*1.955*	*25*	*637*
Hardeep Singh	*33945*	*0.661*	*18*	*303*	*34887*	*0.679*	*18*	*318*	*39613*	*0.715*	*20*		*39393*	*0.71*	*21*	*313*
Moti Lal Ahuja	*164815*	*3.209*	*68*	*1743*	*164148*	*3.196*	*68*	*1772*	*180265*	*3.254*	*71*	*1847*	*180807*	*3.262*	*71*	*1893*
Ravi Dewan	*47040*	*0.917*	*18*	*784*	*47595*	*0.926*	*18*	*774*	*48122*	*0.868*	*18*	*745*	*47812*	*0. 862*	*18*	*714*
Rohit	*32422*	*0.631*	*18*	*76*	*31186*	*0.607*	*18*	*65*	*33656*	*o. 608*	*18*	*79*	*34667*	*0.626*	*18*	*74*
Sunaina	*56188*	*1.095*			*56113*	*1.093*	*22*	*126*	*61591*		*21*	*138*	*61242*	*1.106*	*21*	*135*
Tanu Sudan	*94455*	*1.839*	*37*	*893*	*94300*	*1.837*	*37*	*896*	*103837*	*1.874*	*41*	*976*	*102607*	*1.853*	*40*	*955*
Total	*669006*	*14.029*	*263*	*5256*	*670460*	*13.056*	*263*	*5288*	*716492*	*12.933*	*270*	*5409*	*717478*	*12.95*	*271*	*5431*

(f) From the various replies of Noticee 1 to 5 & Noticee 7 to 11, it is noted that they have not disputed any of the trades alleged in the SCN to have been done by them and I note that for Noticee 1 to 5 & Noticee 7 to 11 its an admitted position of having done those trades which allegedly resulted in to synchronized trades. From the order/ trade logs provided as enclosures with the SCN, I observe that Noticee 1 to 5 & Noticee 7 to 11 have repeatedly entered into trades which were synchronized in terms of quantity and price and executed within time difference of one minute in such trades. These synchronized trades contributed to 25.98% of the total market volume at the exchanges.

(g) From the material on record it is also noted that Noticee 1 to 5 & Noticee 7 to 15 have entered into reversal trades. Reversal trades are the trades where the buyer and seller reverse their position with each other on same day. Reversal trades create artificial/fictitious volume in the market and give a false and misleading appearance of trading in the scrip at the exchange. Details of the alleged reversed trades are given below:

Entity	*BSE*				*NSE*			
	Sum Of Reversal Qty.	*% of reversal Qty to Mkt. vol.*	*No. of Reversal trades*	*No. of days of Reversal trades*	*Sum Of Reversal Qty.*	*reversal Qty to Mkt. vol.*	*No. of Reversal trades*	*No. of days of Reversal trades*
Group 1								
MOTI LAL AHUJA	*167987*	*3.273*	*3630*	*67*	*183118*	*3.308*	*3844*	*69*
DIVESH SINGH	*113600*	*2.212*	*1411*	*25*	*111673*	*2.013*	*1320*	*25*
TANU SUDAN	*101661*	*1.981*	*1886*	*37*	*106543*	*1.925*	*2014*	*37*
ASHOK KUMAR	*66328*	*1.292*	*361*	*24*	*70325*	*1.27*	*367*	
SUNAINA	*56505*	*1.101*	*252*	*21*	*63765*	*1.151*	*292*	*21*
RAVI DEWAN	*49865*	*0.971*	*1653*	*18*	*49499*	*0.893*	*1551*	*18*
DEEPAK	*37106*	*0.721*	*220*	*18*	*36929*	*0.666*	*205*	*17*
BALWANT KAUR	*36155*	*0.705*	*833*	*15*	*40215*	*0.727*	*911*	*17*
HARDEEP SINGH	*35165*	*0.684*	*642*	*18*	*39732*	*0.719*	*620*	*18*
ROHIT	*31943*	*0.62*	*143*	*17*	*35967*	*0.649*	*168*	*18*
Total of Group 1	*696315*	*13.56*	*11031*	*260*	*737766*	*13.321*	*11292*	*262*
Group 3								
AKASH	*133533*	*2.602*	*1088*	*27*	*122637*	*2.213*	*1025*	*26*
DEEPAK KUMAR	*72045*		*796*	*32*	*92697*	*1.671*	*1060*	*33*

MONIKA	*165204*	*3.22*	*1497*	*41*	*154349*	*2.786*	*1454*	*40*
MOHIT KUMAR	*83250*	*I .62*	*939*	*38*	*109835*		*1259*	*39*
Total of Group 3	*454032*	*8.844*	*4320*	*138*	*479518*	*8.652*	*4798*	*138*

(h) Noticee 1 to 5 & Noticee 7 to 15 have not disputed any of the trades alleged in the SCN to have been done by them and I note that for Noticee 1 to 5 & Noticee 7 to 15 its an admitted position of having done those trades which allegedly resulted in to reversal trades. From the order/ trade logs provided as enclosures with the SCN, I observe that Noticee 1 to 5 & Noticee 7 to 15 have entered into trades which were reversed on the same day. Also, Group 3 viz. Noticee 12 to 14 admitted that they are relatives to each other and Noticee 12 executed trades on behalf of Noticee 15. I further note that Noticee 12 to 14 have placed reliance on Mr. Babubhai Desai vs. SEBI. In this regard, in the instant matter I note that the trade and order logs establishes the allegation of repeated reversal trades executed by them and the said logs were also provided as enclosures with the SCN. Thus, the connection among the Noticee 12 to 14 goes beyond the relationship established on the basis of common mobile and email. These reversal trades of Noticee 1 to 5 & Noticee 7 to 15 contributed to 22.19% of the total market volume at the exchanges. Further, I place reliance on the Hon'ble Supreme Court of India judgment in the matter of Securities and Exchange Board of India *Vs* Kishore R. Ajmera in Civil Appeal No. 2818 of 2008 decided on February 23, 2016 held that:

"*22. It is a fundamental principle of law that proof of an allegation levelled against a person may be in the form of direct substantive evidence or, as in many cases, such proof may have to be inferred by a logical process of reasoning from the totality of the attending facts and circumstances surrounding the allegations/charges made and levelled. While direct evidence is a more certain basis to come to a conclusion, yet, in the absence thereof the Courts cannot be helpless. It is the judicial duty to take note of the immediate and proximate facts and circumstances surrounding the events on* *which the charges/allegations are founded and to reach what would appear to the Court to be a reasonable conclusion therefrom. The test would always be that what inferential process that a reasonable/prudent man would adopt to arrive at a conclusion….*

26. It has been vehemently argued before us that on a screen based trading the identity of the 2nd party be it the client or the broker is not known to the first party/client or broker. According to us, knowledge of who the 2nd party/ client or the broker is, is not relevant at all. While the screen based trading system keeps the identity of the parties anonymous it will be too naive to rest the final conclusions on said basis which overlooks a meeting of minds elsewhere. Direct proof of such meeting of minds elsewhere would rarely be forthcoming. The test, in our considered view, is one of preponderance of probabilities so far as adjudication of civil liability arising out of violation of the Act or the provisions of the Regulations framed thereunder is concerned. Prosecution under Section 24 of the Act for violation of the provisions of any of the Regulations, of course, has to be on the basis of proof beyond reasonable doubt. The conclusion has to be gathered from various circumstances like that volume of the trade effected; the period of persistence in trading in the particular scrip; the particulars of the buy and sell orders, namely, the volume thereof; the proximity of time between the two and such other relevant factors. The fact that the broker himself has initiated the sale of a particular quantity of the scrip on any particular day and at the end of the day approximately equal number of the same scrip has come back to him; that trading has gone on without settlement of accounts i.e. without any payment and the volume of trading in the illiquid scrips, all, should raise a serious doubt in a reasonable man as to whether the trades are genuine. The failure of the brokers/sub-brokers to alert themselves to this minimum requirement and their persistence in trading in the particular scrip either over a long period of time or in respect of huge volumes thereof, in our considered view, would not only disclose negligence and lack of due care and caution but would also demonstrate a deliberate intention to indulge in trading beyond the forbidden limits thereby attracting the provisions of the FUTP Regulations. The difference between violation of the Code of Conduct Regulations and the FUTP Regulations would depend on the extent of the persistence on the part of the broker in indulging with transactions of the kind that has occurred in the present cases. Upto an extent such conduct on the part of the brokers/sub-brokers can be attributed to negligence occasioned by lack of due care and caution. Beyond the same, persistent trading would show a deliberate intention to play the market. The dividing line has to be drawn on the basis of the volume of the transactions and the period of time that the same were indulged in. In the present cases it is clear from all these surrounding facts and circumstances that there has been transgressions by the respondents beyond the permissible dividing line between negligence and deliberate intention."

(i) Owing to the material available on record and the details of synchronized trades and reversal of trades as detailed in the above paras, allegation of the violation of provisions of regulations 3(a), (b), (c) & (d) and 4(1), 4(2) (a) & (g) of PFUTP Regulations as given in the SCN thus stand established against Noticee 1 to 5 and Noticee 7 to 15.

(j) Further, with regards to allegation against Noticee 16 for executing self-trades, upon perusal of material on record I find that Noticee 16 has executed self-trades repeatedly through 261 trades for 31,940 shares on 25 days at NSE and two trades for 17 shares on a single day at BSE. Noticee 16 has provided no evidentiary proof of having not done the above trades, on the contrary it is an admitted position that the Noticee 16 has carried out these trades. In this regard, I note that it is a matter of record now, that SEBI has come out with a policy on issue of self-trades dated May 16, 2017 which states that intention is a sine qua non for establishing manipulation in case of self-trades and accidental/unintentional self-trades are not covered under Regulations 4(2)(a) and 4(2)(g) of PFUTP Regulations which are the specific legal provisions applicable to self-trades. I note that volume transacted in self-trades is a factor to analyze the manipulative intention of a person as per the SEBI policy dated May 16, 2017 on the issue of self-trades. If the self-trades of the Noticee 16 is considered in that background then it would not be appropriate to hold that there was any manipulative intent on the part of the Noticee 16 to engage in intentional self-trades as the percentage of self-traded quantity of the Noticee 16 to that of the market trade volume on exchanges was 0.299%. Volume of self-trades (i.e. 0.299%) of the Noticee 16 in the scrip of GIL is small as compared to the total trading in the said scrip during the investigation period. Thus, the allegation of the violation of provisions of regulations 3(a), (b), (c) & (d) and 4(1), 4(2) (a) & (g) of PFUTP Regulations by Noticee 16 does not stand established.

(k) In conclusion of all the above- charges levelled against Noticee 6 and 16 are not established, whereas charges levelled in the SCN against Noticee 1, 2, 3, 4, 5, 7, 8, 9, 10, 11, 12, 13, 14 and 15 are established.

Issue (b): **Do the violations, if any, on the part of the Noticees attract any monetary penalty under Section 15HA of the SEBI Act?**

11. Therefore, after taking into account the aforesaid entire facts / circumstance of the case, submissions of the Noticee 1 to 5 & Noticee 7 to 15 for synchronized trades and reversal trades, I am of the view that the said violations of PFUTP Regulations by the Noticee 1 to 5 & Noticee 7 to 15 attracts the imposition of monetary penalty under section 15HA of SEBI Act and, which is reproduced below:

SEBI Act
Penalty for fraudulent and unfair trade Practices.
15HA. If any person indulges in fraudulent and unfair trade practices relating to securities, he shall be liable to a penalty which shall not be less than five lakh rupees but which may extend to twenty-five crore rupees or three times the amount of profits made out of such Practices, whichever is higher.

Issue (c): **What would be the monetary penalty that can be imposed upon the Noticees taking into consideration the factors mentioned in section 15J of the SEBI Act?**

12. While determining the quantum of penalty under section 15HA of the SEBI Act, it is important to consider the factors stipulated in section 15J of the SEBI Act read with Rule 5(2) of the AO Rules which reads as under:-

Factors to be taken into account by the adjudicating officer-
(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."

13. After taking into consideration the facts / circumstance of the case, I am of the view that the Noticee 1 to 5 & Noticee 7 to 15 are jointly and severally liable for monetary penalty of Rs. 28,00,000/- (Rupees Twenty Eight Lakh only) for the synchronized and reversal trades in violation of provisions of PFUTP Regulations.

ORDER

14. In exercise of the powers conferred under section 15-I of the SEBI Act, I hereby impose a penalty of Rs. 28,00,000/- (Rupees Twenty Eight Lakh only) on Noticee 1, 2, 3, 4, 5, 7, 8, 9, 10, 11, 12, 13, 14 and 15 under Section 15HA of the SEBI Act and the said are jointly and severally liable to pay the said penalty. I am of the view that the said penalty is commensurate with the default committed by Noticee 1, 2, 3, 4, 5, 7, 8, 9, 10, 11, 12, 13, 14 and 15.

15. Noticee Noticee 1, 2, 3, 4, 5, 7, 8, 9, 10, 11, 12, 13, 14 and 15 shall remit / pay the said amount of penalty within 45 days of receipt of this order by one of following two modes:

a. By using the web link https://siportal.sebi.gov.in/intermediary/AOPaymentGateway.html
b. By way of Demand Draft in favour of "SEBI - Penalties Remittable to Government of India", payable at Mumbai

16. Details of Demand Draft made as given in format below shall be sent to "The Division Chief, EFD-DRA-II, Securities and Exchange Board of India, SEBI Bhavan, Plot no. C-7, "G" Block, Bandra Kurla Complex, Bandra (E), Mumbai - 400 051." and also to e-mail id :- tad@sebi.gov.in

a) Case Name
b) Name of the 'Payer/Noticee'
c) Date of Payment
d) Amount Paid
e) Transaction No.
f) Bank Details in which payment is made
g) Payment is made for (like penalties/disgorgement / recovery/ settlement amount and legal charges along with order details)

17. 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.

18. Copies of this Adjudication Order are being sent to the Noticees and also to SEBI in terms of rule 6 of the Adjudication Rules, 1995.

Date: May 29, 2020 **SANGEETA RATHOD**

Place: Mumbai **ADJUDICATING OFFICER**