BEFORE THE ADJUDICATING OFFICER

SECURITIES AND EXCHANGE BOARD OF INDIA

ADJUDICATION ORDER NO. Order/VV/AS/2023-24/28376-28375

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 & Imposing Penalties) Rules, 1995

Crosseas Capital Services Ltd

(PAN: AACCC5470H)

In the matter of trading in the Scrip of Wockhardt Ltd

A. BACKGROUND

1. Securities and Exchange Board of India (hereinafter referred to as "**SEBI**") conducted an investigation in the matter of Trading Activity in the scrip of Wockhardt Ltd (hereinafter referred to as the "**Wockhardt/Company**") for the period January 07, 2012 to August 07, 2013 (hereinafter referred as "**Investigation Period/ IP**") to find any violation of SEBI (Prohibition of insider trading) Regulations, 1992 (hereinafter referred to as "**PIT Regulations, 1992**") and SEBI (Prohibition of Fraudulent and Unfair Trade Practices Relating to Securities Market) Regulations, 2003 (hereinafter referred to as "**PFUTP Regulations**"), due to trading activity in the scrip during the investigation period.

B. APPOINTMENT OF ADJUDICATING OFFICER

2. Pursuant to investigation, SEBI initiated adjudication proceedings against Crosseas Capital Services Ltd (hereinafter referred to as "**Noticee**"). Accordingly, Competent Authority of SEBI, vide communiqué dated August 02, 2022 appointed Ms Asha Shetty as Adjudicating Officer ("**AO**") under Section 15-I (1) of the SEBI Act read with Rule 3 of SEBI (Procedure for Holding Inquiry and Imposing Penalties) Rules, 1995 (hereinafter referred to as "**Adjudication Rules**") to inquire into and adjudge under the provisions of the Section 15HA and 15HB of the SEBI Act for the alleged violation of Regulations 3 (a), (b), (c) and (d), 4 (1), 4 (2) (a) and

(g) of PFUTP Regulation and Clause A(3) of the Code of Conduct for Stock Brokers as specified under Schedule II read with Regulation 7 of SEBI (Stock Brokers and Sub Brokers) Regulations, 1992 (hereinafter referred to as "**Stock Brokers Regulations**"). Pursuant to internal restructuring, the undersigned has been appointed as the Adjudicating Officer *vide* communiqué dated October 06, 2022. It has been advised that "*except for the change of the Adjudicating Officer, all the other terms and conditions of the original orders shall remain unchanged and shall be in full force and effect. The Adjudicating Officer shall proceed in accordance with the terms of reference made in the original orders read with this order*."

C. SHOW CAUSE NOTICE, REPLY, HEARING

3. A common Show Cause Notice dated September 15, 2022 (hereinafter referred to as "**SCN**") was *inter-alia* issued to the Noticee under Rule 4 of the SEBI Adjudication Rules to show cause as to why an inquiry should not be initiated and penalty be not imposed under section 15HB and 15HA of the SEBI Act for the alleged violations specified in the SCN. The SCN was issued through Speed Post with Acknowledgment Due ("SPAD")/e-mail and duly delivered to the Noticee in terms of rule 7 of SEBI Adjudication Rules. Subsequently, Noticee filed its reply vide letter dated October 06, 2022. Noticee in the said reply requested for inspection of relevant documents and the same has been acceded by me in the interest of principles of natural justice. Accordingly, inspection has been concluded on November 17, 2022. Thereafter, considering the material on record and facts and circumstances of the case a hearing opportunity was given to the Noticee vide hearing notice dated November 28, 2022. Accordingly, hearing was concluded on December 09, 2022 in terms of rule 4(3) of Adjudication Rules. The hearing was conducted through video conferencing on WebEx platform. On the scheduled date of hearing, the authorized representative of the Noticee appeared before me through video conference and reiterated the submission vide letter dated October 06, 2022. Noticee has also filed the post hearing submission vide letter dated June 26, 2023 and the same has also been taken into consideration. The process of whole adjudication proceeding has been mentioned below:

Table No 1

Noticee	SCN dated	Inspection	Reply	Hearing Concluded
Crosseas Capital Services Ltd	September 15, 2022	November 17, 2022	Letter dated October 06, 2022; Letter dated June 26, 2023	December 09, 2022

4. The allegations levelled in the SCN has been summarized below:

   i. *It was observed during the investigation that Crossseas Capital Services Ltd has entered into self-trades on BSE and NSE on several occasions in its proprietary account. It is also observed the broker on buy side and sell side was same i.e., Crossseas Capital Services Ltd as detailed under:*

Table No 2

Sr. No.	*Exchange*	*Entity Name*	*Broker On Both Buy & Sell Side*	*Total Self Trade Volume*	*Total Self Trade Count*	*No of days on which self-trades done*	*% Of Self Traded Qty. To Market Vol.*
1	*NSE*	*Crosseas Capital Services Ltd*	*Crosseas Capital Services Ltd*	*145475*	*13829*	*233*	*0.21*
2	*BSE*	*Crosseas Capital Services Ltd*	*Crosseas Capital Services Ltd*	*258476*	*22199*	*246*	*0.87*

   ii. *In view of the above, it is alleged that Noticee, by carrying out self-trades repeatedly in its own account created artificial volume in the scrip, leading to false and misleading appearance in the securities market and indulged in manipulative, fraudulent or deceptive transactions distorting market equilibrium and thereby, violated Regulations 3 (a),(b),(c) and (d), 4 (1), 4 (2) (a) and (g) of SEBI(PFUTP) Regulations, 2003 and consequently allegedly also violated Clause A(3) of the Code of Conduct for Stock Brokers as specified under Schedule II read with Regulation 7 of SEBI (Stock Brokers and Sub Brokers) Regulations, 1992.*

5. The submissions made by the Noticee in their replies are summarized below:

   i. *Noticee submitted that Hon'ble WTM, in the same matter i.e. in the matter of trading in the scrip of Wockhardt, arising from the same set of facts, the present Noticee has been exonerated. By order dated June 19, 2023, the Hon'ble WTM was pleased to dispose of the proceedings/SCN against the Noticee without any directions.*

   ii. *Noticee submitted that mere occurrence of self-trades is not per se illegal in absence of any other additional evidence. For this purpose, Noticee placed reliance on*

a) *SEBI's letter no EFD/MISC/OW/7371/1/2018 dated March 08, 2018, addressed to Ms. Alka Taneja, Department of Economic Affairs, on the subject of Self Trade Practice in India.*

b) *and SEBI's letter no. SEBI/PQ CELL/13132/2017 dated June 8, 2017, addressed to Ms. Shalini Mahajan, Assistant Director, Department of Economic Affairs on the subject of "VIP reference from Shri Gajendra Singh Shekhawat, MP, on self trades" was in reply to DEA's letter no. F.No.15/3/SM/2016 dated May 5, 2017.*

c) *Order of AO dated July 20, 2018 in the matter of Inventure Growth and Securities Ltd*

iii. *In the present case, the self-trades were purely unintentional / accidental. Further, the volume of such unintentional/accidental self-trades executed by us was only approximately 0.41% of total combined market volume of Wockhardt Ltd. on both the exchanges i.e. NSE and BSE. In order to understand the calculation of the total percentage of self-trades, kindly refer to the below mentioned table:*

Table No 3

Sr. No	***Volume of Self Trades (A)***	***Total Market Volume (B)***	***% of Self Trades to total Market (A/B)***
1	*1,45,475* *NSE* *(as stated in para 31 of SCN dated September 15, 2022)*	*6,92,73,810*	*0.21%* *(as stated in para 31 of SCN dated September 15, 2022)*
2	*2,58,476* *BSE* *(as stated in para 31 of SCN dated September 15, 2022)*	*2,97,09,885*	*0.87%* *(as stated in para 31 of SCN dated September 15, 2022)*
Tota (BS	***4 03 951***	*9,89,83,695*	*0.408%*

iv. *Your attention is drawn to Adjudication order dated November 02, 2017 in the matter of Sungold Capital Limited wherein* ***THE SELF-TRADES OF THE NOTICEE WERE 1.75% OF THE MARKET VOLUME AND THE ADJUDICATING OFFICER DISPOSED OF THE SHOW CAUSE NOTICE IN FAVOUR OF THE NOTICEE ON THE GROUNDS THAT UN-INTENTIONAL SELF TRADES THAT CONSTITUTED ONLY 1.75% OF MARKET VOLUME.*** *This order has been accepted by the SEBI Board and no review u/s 15 (I) (3) has been carried out by the board and neither is possible anymore due to expiry of limitation period.*

v. *We state that Show Cause Notices/proceedings in many similar matters have been disposed of on the basis of the Board's Enforcement Action Policy no. EFD-DRA-3/ON/332/2017 dated May 16, 2017. Below are some of the instances-*

Table No 4

Sr. No	Date of the Order	Scrip	Noticees	% of self trade of total market volume	Adjudicatio n Officer	Observation /Findings
1.	*June 19, 2017*	*Unitech Limited*	*1. Genuine Stock Brokers Pvt. Ltd* *2.Transglobal Securities Ltd* *3. OPG Securities P Ltd* *4. Ambit Securities Broking Private Limited* *5. BLB Limited* *6. Total Securities Ltd* *7.Nissar Brothers* *8. Kaushik Shah Shares & Securities Pvt. Ltd. and Prashant Patel*		*Shri Nagendraa Parakh*	*The order states that "There is no evidence... to suggest any fraudulent intention behind execution of self-trades by the Noticee. The volume of self trade is less than 1% of the total volume in share of Unitech Ltd. Therefore, in compliance of SEBI policy, I am inclined to drop the adjudication proceedings initiated against the Noticee vide SCN dated April 21, 2017*
2	*June 22, 2017*	*Aster Silicates Limited*	*Crosseas Capital Services Pvt Ltd*	*0.55%*	*Shri Nagendraa Parakh*	*The order states that "There is no evidence... to suggest any fraudulent intention behind execution of self-trades by the Noticee. The volume of self trade is less than 1% of the total volume in share of Aster Silicates Ltd. Therefore, in compliance of SEBI policy, I am inclined to drop the adjudication proceedings initiated*

						against the Noticee vide SCN dated May 06, 2015."
3	*Septembe r 29, 2017*	*Multi Commodity Exchange of India Ltd*	*1. Crosseas Capital Services Private Limited* *2. Marwadi Share and Finance Ltd* *3. Adroit Financial Services Pvt Ltd.* *4. Genuine Stock Brokers Private Limited.* *5.Pace Stock Broking Services Private Limited.* *6. CPR Capital Services Limited* *7. Millennium Stock Broking Pvt Ltd* *8. Indus Portfolio Pvt Ltd* *9. BP Equities Pvt Ltd* *10. BP Equities Pvt Ltd*	*Crossea s Capital Service s - 0.16%*	*Ms. Rachna Anand*	*The AO has relied on the above order dated June 22, 2017. Further disposed of the said matter on the basis of SEBI's policy dated May 15, 2017. The AO stated that the present case bears similarities to the aforesaid order/case dated June 22, 2017.In fact, in the present case, such percentage of self-trades is comparatively less. After the perusal of investigation report and taking into account miniscule volume of self trades as compared to the total market volume during the investigation period, the AO stated that no such malafide intention / motive could be established in the present case.*
4	*Septembe r 29, 2017*	*Apollo Tyres Limited*	*1. Crosseas Capital Services Private Limited* *2. Marwadi Share and Finance Ltd.* *3. Adroit Financial Services Pvt Ltd.* *4. Genuine Stock Brokers Private Limited*	*Crosseas Capital Services -0.16%*	*Ms. RachnaAn and*	*The AO has relied on the above order dated June 22, 2017. Further disposed of the said matter on the basis of SEBI's policy dated May 15, 2017. The AO stated that the present case bears similarities to the aforesaid order/case dated June 22, 2017.In fact, in the present case, such percentage of self-trades is comparatively less. After the perusal of investigation report and taking into*

			5. Pace Stock Broking Services Private Limited 6.CPR Capital Services Limited 7.Millennium Stock Broking Private Limited 8. Indus Portfolio Private Limited 9.BP Equities Private Limited 10.BP Equities Private Limited			account miniscule volume of self trades as compared to the total market volume during the investigation period, the AO stated that no such malafide intention / motive could be established in the present case.
5.	September 29, 2017	United Spirits Ltd	1.Crosseas Capital Services Private Limited 2. Pace Stock Broking Services Limited 3.Share India Securities Limited 4.Marwadi Shares and Finance Limited 5.Adroit Financial Services Private Limited 6. AKG Securities and Consultancy	1. 0.03% 2.0.006% 3.0.003% 4.0.02% at NSE and 0.04 at BSE 5.0.003% 6. 0.02%	Ms. Rachna Anand	The AO has disposed of the matter on the basis of SEBI's EAP dated May 16, 2017. The AO has also relied on order dated June 22, 2017. Order states that "after perusal of investigation report and taking into account, in particular, the miniscule percentage / volume of self-trades as compared to the total market volume during the investigation period, I am of the view that self-trades of Noticee in the scrip of United Spirits during the investigation period were non-intentional and non-manipulative."
6.	October 13, 2017	Rushil Decor Ltd	1. A K G Securities and Consultancy Ltd. 2. Genuine Stock Brokers Pvt. Ltd.	1. 0.031% (paragraph 20 of the order) 2. 0.031% (paragrap	Shri Biju S	The order states that no mala fide intention behind self-trades executed by the Noticee has been brought out in investigation report. The AO further stated

			3. Crosseas Capital Services Pvt Ltd *4. AKG Securities and Consultancy Ltd*	*h 20 of the order)* *3.1.19%* *4.0.30%*		*that on perusal of investigation report and taking into account miniscule volume of self-trades as compared to the total market volume during the investigation period, no such malafide intention can be established in the present case.*
7.	*October 30, 2017*	*Prakash Constrowell Ltd*	*AKG Securities and Consultancy Ltd*	*0.24%*	*Shri Prasanta Mahapatra*	*The AO has disposed of the matter on the basis of SEBI's EAP dated May 16, 2017. The Order states that "after perusal of investigation report and taking into account, in particular, the miniscule percentage / volume of self-trades as compared to the total market volume during the investigation period, I am of the view that self-trades of Noticee in the scrip of PCL during the investigation period were non-intentional and non-manipulative."*

8.	*October 31, 2017*	*Prakash Constrowell Ltd*	*Adroit Financial Services Ltd*	*0.24%*	*Shri Prasanta Mahapatra*	*The AO has disposed of the matter on the basis of SEBI's EAP dated May 16, 2017. The Order states that "after perusal of investigation report and taking into account, in particular, the miniscule percentage / volume of self-trades as compared to the total market volume during the investigation period, I am of the view that self-trades of Noticee in the scrip of PCL during the investigation period were non-intentional and non-manipulative."*
9.	*November 02, 2017*	*Sunglod Capital Limited*	*Parimal Raj*	*1.75%*	*Shri Suresh Gupta*	*The AO has disposed of the matter on the basis of SEBI's EAP dated May 16, 2017. The order states that "I note that the self-trades of the Noticee were 1.75% of the market volume. Further, the Investigation Report does not bring out any manipulative intent behind execution of self-trades by the Noticee"*

10.	*November 08, 2017*	*Prakash Constrowell Ltd.*	*Chandarana Intermediaries Brokers Pvt. Ltd.*	*0.83%*	*Shri Prasanta Mahapatra*	*The order states, "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 is considered in that background then it would be difficult to hold that there was any manipulative intent on the part of the Noticee to engage in intentional self-trades as the quantity of shares in self-trades of the Noticee to market volume is only 0.83%.Such percentage / volume of self-trades of the Noticee in the scrip of PCL was miniscule as compared to the total trading in the said scrip during the investigation period."*

11.	*November 13, 2017*	*Prakash Constrowell Ltd*	*Marwadi Shares & Finance Ltd*	*NA*	*Shri Prasanta Mahapatra*	*The order states, "Since it is not established that Chandarana had entered into self-trades repetitively to create artificial volume in the scrip, there is no case to draw any adverse inference on the Noticee as regards its role on exercise of due skill and care under Clause A(2) of the Code of Conduct as stipulated under Schedule II read with Regulation 7of Broker Regulations, 1992*
12.	*March 22, 2018*	*Ujaas Energy Limited*	*GKN Securities*	*0.39% (NSE) 0.37% (BSE)*	*Shri K. Saravanan*	*The percentage volume of self-trades is negligible and is not capable of creating artificial volume. Based on the records made available, it is difficult to hold the view that the self trades entered into by the Noticee are intentional and are capable to manipulate the scrip.*

vi. *It may kindly be noted that in all the above matters, the proceedings were disposed of since there was no additional evidence to suggest any intention behind execution of self-trades of the Noticees. It is also pertinent to note that after the Enforcement Action Policy decided/adopted by SEBI, all the above orders since June 2017 related to self-trade matters have been disposed of in favour of Noticees. The percentage of Self trade in our present matter is miniscule and the Show Cause Notice does not allege or cite any additional evidence to prove that self trades were intentional.*

vii. *We could not have manipulated the market with such negligible volume and could not have disturbed the market equilibrium because the self trades were miniscule in quantity as compared to the total trading volume in the markets. Further, Wockhardt Ltd. was highly* *liquid in the captioned period (investigation period) both volume and value wise. It is very well understood that volume manipulation is resorted to in illiquid securities to display a false sense of liquidity to general investors and not in highly liquid securities.*

Table No. 5

BSE			
Date	***Symbol***	***Total Trading Value***	***Ranking***
22-05-2012	***WOCKHARDT***	***1,020,478,310.00***	***2***
23-05-2012	***WOCKHARDT***	***2,120,429,635.00***	***1***
27-03-2012	***WOCKHARDT***	***414,744,198.00***	***11***
NSE			
Date	***Symbol***	***Total Trading Value***	***Ranking***
22-05-2012	***WOCKHARDT***	***2,140,012,378.10***	***5***
23-05-2012	***WOCKHARDT***	***4,130,045,842.40***	***2***
27-03-2012	***WOCKHARDT***	***861,869,101.35***	***35***

viii. *We would also like to draw your attention to Your Honour's Order no. EAD-2/SS/GSS/2018-19/792 dated June 29, 2018 in the matter of Timbor Home Ltd. wherein it is held that "Considering the facts and circumstances of this case, I find that the instances of self-trades alleged in this case were merely an occurrence on account of genuine trading strategies in the liquid and volatile scrip at the relevant time. The self-trades in question were, thus, purely accidental/incidental in the ordinary course of business. In addition, it is noted that the contribution of the Noiticee's self-trades vis-a-vis the total market volume is miniscule. No niala-fide intention behind self-trades executed by the Noticee has been brought out in the SCN/Investigation Report." This finding of Your Honour in the matter of Timbor is squarely applicable in the instant matter too.*

ix. *Self Trade volume of approximately 0.41% to market volume would be like a drop in the ocean of liquidity in Wockhardt Ltd., and no one would intentionally attempt it. There can't be any purpose of attempting to inject, say 0.41 % extra liquidity in already the most highly liquid scrip. In this regard, we draw your attention to SEBI order no. WTM/MPB/EFD-1-DRA-3/102/2017 dated November 30, 2017 in respect of AKG Securities and Consultancy Limited, where the WTM disposed the SCN in favour of Noticee. In this order, the WTM, inter-alia observed that **"Self-trades executed by the Noticee in the scrip of RDL was at the time of listing when liquidity in the scrip was high". This was one of the factors on the basis of which WTM decided the matter in favour of the Noticee.***

x. *Moreover, in such a highly liquid environment, it would well high be impossible to intentionally do any self trade successfully. There would be an extremely high probability (almost certainty) that any attempted self-trade would actually get traded with a third party.*

xi. *Based on all our above arguments, we submit that our self-trade volume was miniscule, had no effect on the liquidity of Wockhardt Ltd., which was already highly liquid, and that it was purely unintentional.*

xii. *The below mentioned findings of SEBI in other cases, on the basis of which the show cause notice was disposed of in favour of the Noticees are applicable in this matter also-*

"On examination of the trade and order log with respect to the self-trades, I find that the user id and location/terminal id for the buy and sell orders were different thereby corroborating the submissions of the Noticee" (Order no.AO/ BJD/ MAS/EAD/91/2017dated December 19, 2017 in respect of Genuine Stock Brokers Pvt. Ltd)

"There was no consistent/repetitive pattern of placing buy and sell orders by Noticee as the orders were placed by different dealers through different terminals" (Order no. AO/BJD/MAS/EAD/76/2017 dated December 08, 2017 in respect of Smart Equity Brokers Pvt. Ltd).

xiii. *The below mentioned finding of WTM in order no WTM/MPB/EFD-1-DRA-3/102/2017 dated November 30, 2017 in the matter of Rushil Decor Limited on the basis of which the show cause notice was disposed of in favour of the Noticee is on the same footing as our instant case-*
"Out of 576 alleged self-trades, 572 self-trades for 2,66,184 shares were executed through different terminal ID's and 4 self-trades for 1,635 shares were executed through same terminal ID."

xiv. *Kindly refer to the Adjudication Order no. EAD-2/DSR/RG/07/2013 in respect of Crosseas Capital Services Pvt. in the matter of trading activities in the scrip of Servalakshmi Papers Limited. The Order states that "I find merit in the submissions made by the Noticee with respect to the matching of trades due to the algo trading software system used by the Noticee and that if the self-trades are counted and examined at the terminal/ trader id level then the number of internal matching is much lower than the one alleged in the SCN." The same pattern and characteristics apply to this matter as well. This Servalakshmi matter was decided in our favour.*

xv. *It can be seen in various self-trade matters that there is no structure to the self-trades in terms of order quantity, price, or actual matched quantity. Moreover, there is no charge of synchronized trades. All our self-trades were purely co-incidental to high speed trading and purely unintentional. The same has been taken on record by AO Shri BJ Dilip in the matter of Bedmutha Industries Ltd and accordingly proceedings initiated against us was dropped. (SEBI's AO order no. EAD/AO/BJD/ VS/96/2018 dated July 26, 2018).*

xvi. *Further, the below mentioned finding of SEBI, on the basis of which the SCN was disposed of in favour of the Noticee is applicable in this matter also-*
"I have taken note that there was difference in quantity between the buy and sell orders of the self trades. On examination of the order log I find that out of the total of 125 trades only 8 trades were found to be matching buy and sell quantity. Also, I find that there is nothing to indicate that the impugned self trades have impacted the price of the scrip" (Order no. AO/BJD/MAS/EAD/76/2017 dated December 08, 2017 in respect of Smart Equity Brokers Pvt. Ltd).

xvii. *Similarly, in the Order passed by the WTM in the matter of Orissa Minerals Development Company Limited, it is clearly mentioned that mere occurrence of self-trades may be accidental and it may attract the provisions of Regulation 4(a) and (g) of the PFUTP Regulations, 2003 if any additional material, evidence or circumstances are available to indicate manipulation of the price or volume of the scrip or creation of false or misleading appearance of trading in securities market resulting from such self-trades. It is further stated that "the SCN has been issued upon the Noticee inter alia on the basis of execution of said number of self-trades in the scrip of OMDCL and no fitrther material is available to indicate that such self-trades were manipulative or resulted into creation of false or misleading appearance of trading in the securities market or executed for manipulating the price or volume of the scrips. In this respect, I note that since no material to establish that the said self-trades were manipulative or created false or misleading appearance of trading in the securities market or executed for manipulating the price or volume of the scrip."*

xviii. *The details of the order log given in the matter of Orissa Minerals Development Company Limited under inspection, are as follows:*

a) *Order which resulted into partial and miniscule self trades were part of much larger "ORIGINAL" orders generated by our approved Algo software.*

b) *This original order gets modified into a smaller quantity based on progressive matching, which would depend on the conversion of the original order into trade. (based on market movement) This modified order is itself a miniscule percentage of the original order and further a miniscule percentage of this modified order might have accidently and rarely resulted into self trades. The remaining part of the original and modified order gets matched with orders of other market participants or gets expired.*

c) *Further, given the odd/random quantities of orders that partially resulted in self trades, it can be concluded that such orders themselves were not "ORIGINAL" orders generated by the Algo, but "MODIFIED" orders for both quantity (based on unfilled quantities) as well as price (based on market movement). Intentional self trading on the other hand will attempt to match "ORIGINAL" orders on both buy/sell legs, which shall also be of same quantity as well as price.*

Similar facts are applicable in the instant matter too.

xix. *Your kind attention is drawn to our submissions on facts in the matter of Servalakshmi Papers Limited. The same trading pattern and characteristics apply to this matter as well.*

xx. *Further, we are enclosing hourly-position summary of our trading in the scrip of Wockhardt Ltd. The data reveals that the positions on NSE/BSE largely offset each other at all points of the day. Thus, we did not gain any benefit from intraday price movement of the stock.*

xxi. *It may kindly be noted that on the basis of all the above submissions the below mentioned SCNs in self-trade matters have been disposed of in our favour. The list of the SCNs are as follows-*

Table No 6

Sr. No	***Details of Show Cause Notice***	***Exoneration order***	***Adjudication Officer***
1.	*SCN no. E&AO/RA/JP/22160/2015 dated **August 06, 2015** in the matter of United Sprit Ltd.*	*AO order no. RA/JP/166-171/2017 dated September 29, 2017*	*Ms. Rachna Anand*
2.	*SCN dated **May 02, 2016** in the matter of Multi Commodity Exchange of India Ltd.*	*AO order no. RA/JP/184-188/2017 dated September 29, 2017*	*Ms. Rachna Anand*
3.	*SCN no. E&AO/RA/JP/14678/2016 **dated May 02, 2016 in the matter of** Apollo Tyres Ltd.*	*AO order no. RA/JP/ 172- **181 /2017** dated September 29, 2017*	*Ms. Rachna Anand*
4.	*SCN no. EAD-2/DSR/RG/12470/2015 dated May 06, 2016 in the matter of Aster Silicates Ltd*	*AO order no. EAD/AO-NP/SJ/50/2017 dated June 22, 2017*	*Shri Nagendraa Parakh*

5.	*SCN no. EAD-5/ADJ/SVKM/HKS/OW/31023/1/2016 dated November 15, 2016 in the matter of Bedmutha Industries Ltd.*	*AO order no. EAD/AO/BJD/VS/96/201 8 dated July 26, 2018*	*Shri B.J. Dilip*
6.	*SCN no. EAD-5/ ADJ/SVKM/HKS/OW/33577/1/ 2016 dated December 14, 2016 in the matter of Rushil Decor Ltd*	*AO order no. EAD- 5/BS/ AO/01/ 2017-18 dated October 13, 2017*	*Shri Biju S*
7.	*SCN SEBI/HO/EAD/EAD6/OW/P/2017/12 458/7 dated May 31, 2017 in the matter of Timbor Home Limited*	*AO order no. EAD-2/SS/GSS/2018 -19/792 dated June 29, 2018*	*Shri Santosh Shukla*
8.	*SCN dated **April 05,** 2016 in the matter of SRS Limited*	*AO order no. PM/NK/2018-19/203 dated May 21, 2018*	*Shri Prasanta Mahapatra*
9.	*SCN dated October 31, 2017 in the matter of Inventure Growth & Securities Limited*	*AO order no. EAD-7/BJD/BKM/ 95 /2018-19 dated July 20, 2018*	*Shri B.J. Dilip*
10.	*SCN dated June 05, 2013in the matter of Servalakshmi Papers Limited.*	*AO order no. EAD-2/DSR/RG/07/2013 dated November 27, 2013*	*Shri D. Sura Reddy*
11.	*SCN dated September11, 2017 in the matter of Orissa Minerals Development Company Limited*	*AO order no. WTM/AB/EFD-1/DRA- 1/11/ 2018-19 dated December 28, 2018*	*Shri Ananta Barua*

xxii. *Kindly refer to the Adjudication Order no. EAD-2/DSR/RG/07/2013 in respect of Crosseas Capital Services Pvt. in the matter of trading activities in the scrip of Servalakshmi Papers Limited. The Order states that "I find merit in the submissions made by the Noticee with respect to the matching of trades due to the Algo trading software system used by the Noticee and that if the self-trades are counted and examined at the terminal / trader id level then the number of internal matching is much lower than the one alleged in the SCN."*

<u>The same is applicable in this matter too.</u>

xxiii. *Kindly refer to the Adjudication Order no. EAD/AO/NP/SJ/50/2017 in respect of Crosseas Capital Services Pvt. in the matter of trading activities in the scrip of Aster Silicates Limited. Kindly note that the Show Cause Notice has been disposed of by Adjudicating Officer Shri Nagendra Parekh on the basis of the above said Enforcement Action Policy. The order records that, "There is no evidence to suggest any intention behind execution of self-trades* *by the notice. Therefore, in compliance of SEBI policy, I am inclined to drop the adjudication proceedings initiated against the Noticee vide SCN dated May 06, 2015."*

a) We have used the same strategy Algo in this case as it was used in Aster Silicate Ltd and all our other matters mentioned above.

b) Methodology adopted for selection of scrip of Wockhardt Ltd. is same as that used for selection of Aster Silicate Ltd.

xxiv. *We draw your Honour's attention to WTM order no. WTM/MPB/EFD-1-DRA-3/102/2017 dated November 30, 2017 in respect of AKG Securities and Consultancy Limited in the matter of M/s Rushil Decor Limited, where the show cause notice was disposed of in favour of the Noticee. The WTM,* ***inter-alia,*** *considered the fact that "The day to day trading pattern of the Noticee in the scrip of* ***RDL*** *was same as of other scrips". In this regard, it may kindly be noted that our trading pattern in the scrip of Wockhardt Ltd. was same as that of other scrips traded by us in the same time period.* ***<u>On a daily basis, before, during and after the said time period, we traded in the many scrips apart from Wockhardt Ltd. with the same ALGO displaying the same trading pattern.</u>*** *In this regard, please note the following-*

<u>Table No. 7</u>

Sr. No	***Date***	***NSE PRO SCRIP COUNT***	***BSE PRO SCRIP COUNT***
1	*17-02-2012*	*359*	*356*
2	*24-05-2013*	*411*	*412*
3	*30-05-2013*	*400*	*401*
4	*22-07-2013*	*363*	*362*
5	*24-07-2013*	*349*	*350*

xxv. *We state that the proceedings need to be dropped in view of the Enforcement Action Policy and series of precedents as stated above. The Hon'ble Securities Appellate Tribunal has held in numerous cases that in an adjudicating proceedings, if a party relies on adjudication order passed in another case, then judicial discipline demands that the Adjudicating Officer considers that order and thereafter passes an order either to follow or distinguish the earlier order or disagree with the order by recording reasons as to how that ought not to be followed. [One such order of Hon'ble SAT was in the matter of R1v1 Shares Trading Private Limited vs. SEB1 (dated August 7, 2014)].*

xxvi. *Your Honour's attention is also drawn to order dated April 20, 2016 of Hon'ble SAT in the matter of Krishna Enterprises v SEBI, wherein it was held that passing conflicting orders would not promote the development of securities market and would not he in the interest of the securities market.*

xxvii. *It is pertinent to note the content of the Enforcement Policy dated May 16, 2017 (EFD/ DRA-3/ON/332/ 2017) which states that "while considering the policy view on the issue of self trades the specific legal provisions applicable to self trade i.e 4(2)(a), (h) and (g) of PFUTP Regulations, 2003 were examined and based on the examination done by EFD, it is observed that intention is a sine quo non for establishing manipulation in case of self trade and accidentals /unintentional self-trades are not covered under the said regulations... Therefore, in all the matters of self-trades, 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".*

xxviii. *We refer to the, AO order dated September 28, 2017 in Crosseas Capital Services Private Limited, wherein Ms. Rachna Anand referred to the matter of Krupa Soni & Ors. v/s SEBI (Appeal No. 32/2013) decided on January 24, 2014 and pointed out that in case of Krupa Soni & Ors., the total executed self-trades by the appellant was 3.26% of the total market volume in the scrip. In other words, self-trades which are greater than 3% of the total market volumes in a particular scrip has been considered as substantial having impact upon volumes in the scrip. In this regard we most humbly submit that, the AO in its penalty order dated September 28, 2017 wrongly calculated the volume percentage of self trades in total market and had come to an incorrect percentage of 4%, SEBI's counsel admitted as much during the SAT proceedings that our trading volumes percentage was in fact only 1.95%. The only deciding factor used by AO in levying the penalty vide its order dated September 28, 2017 was the benchmark of 3% set in the matter of Krupa Soni & Ors, which was prior to adoption of Enforcement Action Policy & dated May 16, 2017 and hence not even applicable as a benchmark. Nevertheless, even if this benchmark is considered our volumes at approximately 0.41% is considerably below the 3% benchmark as set by the AO.*

xxix. *It is to be noted that SEBI's own committee (SMAC) that comprised of eminent IIM Ahmedabad professor and head of SMAC Shri Jayant Varma, CEO's of all exchanges, and other high ranking officials, had noted in its meeting held on Jan 30, 2014 that "It was felt that self-trades could be possible in the scenario wherein multiple traders in a broking house may be placing buy and sell orders in same scrip for different clients or multiple ALGO orders of the same broker get matched, without any intent of self-execution, creation of artificial volume, manipulation etc." It is submitted that expert opinion corroborates our submissions that in our case HFT/ALGO trading led to unintended self-trades.*

xxx. *In respect of the content of the SCN relating to the charge of PFUTP regulations, we would like to submit that if the charge of PFUTP violations in respect of our own proprietary trades is dropped, the charge of failure of due diligence as a broker will also have to be dropped as we cannot be accused of not carrying out due diligence about something which is not wrong / illegal. In this regard, we rely on the judgment of the Hon'ble Supreme Court in the matter of Rakhi Trading (Civil Appeal No. 1969 of 2011, dated February 08, 2018 Pg no.53 para 44) which clearly states that brokers cannot be held accountable in such matters.*

xxxi. *The sophisticated surveillance systems of SEBI and of the Exchanges never detected any abnormality or problem with Self Trades including our Self Trades. If the monitoring by exchanges and SEBI who have invested heavily in these systems and have deployed huge surveillance teams did not find anything abnormal in the course of their monitoring in the matters of self-trades obviously brokers cannot be accused of failure in the same matters.*

xxxii. *From the above explanation and also from the paragraphs above it is very clear that the intent of our Algo has already been decided to be non-manipulative and non-disruptive.*

xxxiii. *We have clearly demonstrated our genuine case and therefore we seek exoneration on the basis of our submissions and series of precedents. Your Honour attention is drawn to Order dated April 20, 2016 of Hon'ble SAT in the matter of Krishna Enterprises vs. SEBI, wherein it was held that passing conflicting Orders would not promote the development of securities market and would not be in the interest of the securities market.*

D. RELEVANT PROVISION

6. ***PFUTP Regulation***

3. Prohibition of certain dealings in securities

No person shall directly or indirectly—
(a) buy, sell or otherwise deal in securities in a fraudulent manner;
(b) use or employ, in connection with issue, purchase or sale of any security listed or proposed to be listed in a recognized stock exchange, any manipulative or deceptive device or contrivance in contravention of the provisions of the Act or the rules or the regulations made 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 [1][manipulative,] fraudulent or an unfair trade practice in securities [2] [markets].
[3][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 [4][manipulative] fraudulent or an unfair trade practice if it involves [5][any of the following]: —
(a) [6][knowingly] 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;

E. CONSIDERATION OF ISSUES AND FINDINGS

7. As the inquiry in the matter has been completed, I now proceed to decide the case on the basis of SCN issued, reply made by the Noticee and material available on record. The issues that arise for consideration in the present case are:

   Issue No I Whether Noticee is liable for the violation of section 15HA and 15HB of SEBI Act.

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[1] 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.
[2] Ibid
[3] 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.
[4] Ibid
[5] 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".
[6] 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.

Issue No. II If yes, whether the failure, on the part of the Noticee would attract monetary penalty under Section 15HA and 15HB of the SEBI Act?

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

Issue No I Whether Noticee is liable for the violation of section 15HA and 15HB of SEBI Act.

8. I note that it is admitted position that Noticee has done the self-trades as alleged in the SCN. However, Noticee vehemently contended that trades in the present matter were purely unintentional/accidental and were executed due to algo trading software used by the Noticee. Further, Noticee submitted volume of such unintentional/accidental self-trades executed was only, approximately, 0.41% of total combined market volume of scrip of Wockhardt Ltd. on both NSE and BSE (refer table no. 3).

9. In support of above contentions, Noticee placed reliance on various orders passed by SEBI. (refer table no 4 and table no 6), wherein after considering SEBI's Policy on self-trades the Show Cause Notice issued to the Noticee has been disposed. I have gone through the orders submitted by the Noticee. I note that in the matter of Aster Silicates Limited the adjudication officer vide order dated June 22, 2017 dropped the proceedings against the Noticee. In the said matter, the Adjudication Officer relied upon the self-trade policy of SEBI and inter-alia observed that there is no evidence to suggest any fraudulent intention behind execution of self-trades by the Noticee.

10. Thus, I note that in case of algo trading, self-trades cannot be attributed to the broker unless there is allegation of price or volume manipulation or self-trades were executed as a part of some fraudulent scheme. I note from the records that SCN does not bring any fraudulent pattern / modus operandi of fraud regarding the impugned self-trades. In such a scenario, in the absence of allegation/circumstances indicating towards any manipulative intent of the Noticee

in execution of the impugned self-trades, such self-trades cannot be termed as intentional on the part of Noticee in the present case.

11. Further, Noticee placed reliance on the order dated June 19, 2023 passed by the WTM in the parallel proceeding under sections 11(1), 11(4), 11B of SEBI Act. The relevant para of the said order has been mentioned below:

9. In order to show that the self-trades alleged in the SCN were not intentional, the Noticees have contended that these trades were algo trades and hence, no intention could be imputed to them for the trades happened due to algo trading. In this regard, I note that SEBI, vide Circular no. CIR/MRD/DP/24/2013 dated August 19, 2013 on 'Testing of software used in or related to Trading and Risk Management', has inter alia mandated testing and approval of software used by stock brokers for algo trading by exchanges. In the present case, the Noticee has submitted that he was using algo trading software for executing the impugned trades. In case of algo trading, self-trades cannot be attributed to the broker unless there is allegation of price or volume manipulation or self-trades were executed as a part of some fraudulent scheme. I note that no allegation regarding, reversal trading, synchronized trading or executing orders away from Last Traded Price or creation of New High Price etc. is made in the SCN. Further, no fraudulent pattern / modus operandi of fraud is given in the SCN regarding the impugned self-trades. In such a scenario, in the absence of allegation/circumstances indicating towards any manipulative intent of the Noticee in executive of the impugned self-trades, such self-trades cannot be termed as intentional and thus, not hit by PFUTP Regulations, 2003.

10. The violation of Clause A (3) of the code of conduct under Schedule II of the Stock Brokers Regulations against the Noticee is solely based on the violations of the PFUTP Regulations alleged against the Noticee. In the previous paras, it has been found that violations of PFUTP Regulations are not made out against the Noticees, therefore, the violations of Clause A(3) of the Code of Conduct for Stock Brokers as specified under Schedule II read with Regulation 7 of Stock Brokers Regulations, 1992, are also not made out.

12. In this regard, I also note that Hon'ble Securities Appellate Tribunal in the matter of **Nirmal N. Kotecha v. Securities and Exchange Board of India** (dated June 08, 2021) held that

……………*We are of the opinion, that a consistent view is required to be taken by SEBI for the purpose of orderly development of the securities market and therefore the quasi-judicial bodies are required to maintain a discipline and ensure that divergent opinions on the same issue are not taken*……….

13. Thus, in view of the above, facts and circumstances of the case I find that in totality of circumstances and material available on record, the allegations against Noticee of executing self-trades in the scrip of Wockhardt Ltd is not established and thus, Noticee is not liable for the violation of the Regulations 3 (a), (b), (c) and (d), 4 (1), 4 (2) (a) and (g) of PFUTP Regulation and Clause A(3) of the Code of Conduct for Stock Brokers as specified under Schedule II read with Regulation 7 of Stock Brokers Regulations.

14. Further, in view of above paras, Issue II and Issue III do not merit any consideration.

F. Order

15. In view of the findings noted in the preceding paragraphs, the adjudication proceedings initiated against the Noticee, vide SCN bearing Ref. No. SEBI/HO/EAD-8/AS/GD/2022/48506/5 dated September 15, 2022 is disposed of.

16. Copy of this Adjudication Order is being sent to the Noticee and also to SEBI in terms of Rule 6 of the Adjudication Rules.

Date: July 31, 2023	**Vijayant Kumar Verma**
Place: Mumbai	**Adjudicating Officer**