BEFORE THE ADJUDICATING OFFICER

SECURITIES AND EXCHANGE BOARD OF INDIA

[ADJUDICATION ORDER: Order/MC/HP/2021-22/15704]

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

In respect of –

Sunil Purohit (**PAN: AHSPP9704F**) having address at - Flat No. 10, 4th Floor, Modi House, No. 10, Bora Masjid Street, Fort, Mumbai, Maharashtra - 400001 **and**
Laxmi Building, Ground Floor, Yadav Chawl, Behind Shanti Market, Near Bus Stop, Ulhasnagar, Thane, Maharashtra - 421001.

In the matter of Rajesh Exports Limited

BACKGROUND

1. Securities and Exchange Board of India (hereinafter referred to as, **'SEBI'**) initiated adjudication proceedings against Sunil Purohit (**Noticee**) under Section 15HA of the Securities and Exchange Board of India Act, 1992 (hereinafter referred to as, **'SEBI Act'**) for alleged violations of Regulations 4 (a), (b), (c) and (d) of SEBI (Prohibition of Fraudulent and Unfair Trading Practices relating to the Securities Market) Regulations, 1995 (hereinafter referred to as, **'PFUTP Regulations 1995'**) read with Regulations 4(1), 4(2) (a), (b), (g) and (n) of SEBI (Prohibition of Fraudulent and Unfair Trading Practices relating to the Securities Market) Regulations, 2003 (hereinafter referred to as, **'PFUTP Regulations 2003'**) pursuant to investigation in the matter of Rajesh Exports Limited (**Company/Scrip/REL**) for the period September, 2002 to February, 2003 (**First period of investigation**) and from June 02, 2003 to August 29, 2003 (**Second period of investigation**). Shri Piyoosh Gupta was appointed as Adjudicating

Officer (AO) under Rule 3 of the SEBI (Procedure for Holding Inquiry and Imposing Penalties) Rules, 1995 (hereinafter be referred to as, **'Adjudication Rules'**), vide order dated March 16, 2006 to inquire into, and adjudge under Section 15HA of the SEBI Act the aforesaid alleged violations of the Noticee. Order dated February 25, 2011 was passed by the AO imposing a penalty of Rs.3,00,000/- on the Noticee. This order was appealed before the Hon'ble Securities Appellate Tribunal (SAT) by the Noticee vide Appeal No. 147 of 2015. Hon'ble SAT vide Order dated March 07, 2016, remanded the matter to the file of the Adjudicating Officer for afresh consideration.

APPOINTMENT OF ADJUDICATING OFFICER

2. Subsequent to the aforesaid SAT order, Shri Amit Pradhan was appointed as Adjudicating Officer under Section 15-I of the SEBI Act read with Rule 3 of the Adjudication Rules vide order dated February 01, 2021 to inquire into and adjudge under section 15HA of the SEBI Act, the aforesaid alleged violations against the Noticee. Subsequently, the undersigned was appointed as Adjudicating Officer (hereinafter referred to as, **'AO'**) vide an order dated June 18, 2021.

SHOW CAUSE NOTICE, REPLY AND HEARING

3. Show Cause Notice (**'SCN'**) dated August 10, 2007 was issued to the Noticee for alleged violation of the PFUTP Regulations. The allegations levelled against the Noticee in the SCN are summarized as follows:-

4. SEBI conducted investigation into the dealings in the scrip, during the period September, 2002 to February, 2003 and from June 02, 2003 to August 29, 2003. It was alleged that, during the first period price of the scrip opened at Rs. 89 on September 02, 2002 and moved in a narrow range and closed at Rs.70 on January 09, 2003. In the month of September 2002 and October 2002, the scrip was traded for 14 days and 21 days. In the months of November and

December 2002, trading took place only on two days and four days respectively. Later in January 2003, except for one day, there was no trading in the scrip till January 15, 2003. From January 16, 2003 onwards, the price started rising from Rs.75.50 and increased to Rs.108.75 on January 30, 2003. Thereafter, the price decreased and closed at Rs.84.15 on February 25, 2003.

5. The volumes in the scrip were erratic with highest volumes of 40,000 shares on December 26, 2002 and lowest volume of 1 share on as many as eight trading days in February 2003. Similar pattern was observed at National Stock Exchange (NSE) also. Total volume executed at BSE and NSE was 2.43 lac and 1.32 lac shares respectively.

6. During second period, the price opened at Rs.70.50 on June 06, 2003 and closed at Rs.115.15 on August 29. 2003. Average daily volume in the scrip was around 25,000 shares during the said period. Total volume executed at BSE and NSE was 16.50 lacs and 11.18 lac shares respectively.

7. It was observed that during the period June 2003 to August 2003, the following group of clients through their brokers had executed circular transactions for 915670 shares. The details of clients of brokers who have executed major transactions are as given below:

Clients	**Broker / Member**	**Volume executed by clients**	**% of vol vis-a-via total vol in the market**
Kenneth Pinto	Adolf Pinto	131405	7.9
Jignesh Shah	DPS Shares & Securities Ltd	130025	7.8
Prem Prakash Thanvi	Bharab Thakkar	126962	7.6
Own Account	N C Jain	128732	7.7
Surul Purohit	**Ajmera Associates Pvt Ltd.**	**110095**	**6.66**
Mangaram Sharma	inventure Growth & Securities	57144	3.39

Alok Vyas Vasant Bissa	Harikishan Hiralal	36025 22925	3.57
Ramasudriakaran	Manoj Javen Stock Broking	56050	3.39
Own Account	Uttam Financial Services	55000	3.33
Madhusudan K Nair	Galaxy Brolung Ltd	5250	0.31
Deepak Vyas	Pilot Credit Capital Ltd.	2925	0.17

8. It was observed that one broker had sold shares to other broker who in turn sold to another broker and the ultimate broker sold shares to the first broker.

9. During the period from June 02, 2003 to August 29, 2003, it was observed that the above mentioned brokers have executed similar circular transactions on behalf of their clients.

10. From the day-wise trading among these 12 brokers vis-à-vis total volume in the exchanges in REL shares, it was observed that this group of 12 brokers contributed 57.4% of total volume in the market, generally 30-80% on day-to day basis.

11. Further, from the analysis of circular trading among these brokers, it was observed that entire volume of these brokers was created out of circular trading, the shares were rotated among themselves.

12. It was also observed that in many cases, the time difference between buy and sell order was zero seconds which indicates that such kind of operation, which continued for 55 days, could not be carried out without the knowledge of brokers and such matching of orders cannot be co-incidence. From the order log, it was observed that out of total 869 trades, in respect of 367 trades orders were so placed with a time difference of zero seconds between placement of buy and sell orders, 213 were with time difference of 1 second, 81 were With time difference of 2 seconds, 59 were with time difference of 3 seconds and remaining with time difference of more than 3 seconds.

13. In view of the above, it was alleged that Noticee (including other involved entities as aforesaid) violated Regulations 4 (a), (b), (c) and (d) of PFUTP Regulations 1995 read with Regulations 4(1), 4(2) (a), (b), (g) and (n) of PFUTP Regulations 2003.

14. The aforesaid alleged violations, if established, make the Noticee liable for monetary penalty under Section 15HA of the SEBI Act.

15. SCN was duly served to the Noticee. Noticee replied to the SCN vide letter dated February 27, 2022.

16. The key submissions of the Noticee are summarised below:

17. Noticee submitted that the data enclosed with the SCN are not legible, original trade and order log not available on record, copy of the investigation report and other relevant documents not provided and there is discrepancies in the data enclosed with the SCN, hence, no adverse Order can be passed against him. Otherwise, it will be in gross violation of principle of Natural Justice.

18. Noticee is presently unemployed and looks after his father who is suffering from several ailments. The mother of the Noticee died 4 years back. The Noticee does not have any active bank as well as demat account from last 13 years. Indeed, the Noticee is out of securities market from last 12 - 13 years. The Noticee is completely dependent on his friends and relatives for his day to day expenses.

19. Noticee submitted that the communication dated 19-03-2021 has been issued after an inordinate delay of more than 5 years from the date of passing of the Order dated 07-03-2016 by the Hon'ble Tribunal. In the said Order, the Hon'ble Tribunal has not given any liberty to SEBI that SEBI may issue the Notice of hearing/communication after a delay of 5 years. This highly prejudices the case of the Noticee as justice delayed is justice denied. Recently, the Hon'ble

Supreme Court of India and the Hon'ble Tribunal took a tough stand against inordinate delay and latches in quasi-judicial proceedings. Noticee relied upon several Judgements/Orders passed by the Hon'ble Tribunal and Hon'ble Supreme Court of India. The alleged trades belong to the year 2003. SEBI took more than 5 years to issue Notice of Hearing/Communication from the date of passing of the Order of Hon'ble Tribunal.

20. Noticee denied that he had executed any trade in the scrip of Rajesh Export Limited. Indeed, he is not recollecting that he had ever opened any trading accounts with Ajmera Associates Private Limited. He requested to enquire the KYC documents and Ledger Accounts with the Member Broker so that it can be ascertained that he had executed any trades in any scrip including Company with the said Brokers. In the year 2015, when he came to know about passing of several Orders against him by SEBI, he had lodged a Police Complaint before the Senior Inspector, MRA Marg Police Station against the Brokers. However, the Police Authorities did nothing on his complaint.

21. Noticee submitted that in the present matter, SEBI don't have original Order / Trade Log data. The pages containing the compilation of Trade Log data enclosed with the SCN are not legible and also having glaring discrepancies. Further, several columns are missing in the Compilation Sheet enclosed with the SCN which should be in the ideal Trade Log data for analysis. Further, no allegation of connection with any other Noticees has been made against him in the SCN. Since, SEBI don't have the original Trade and Order Log data on record, no adverse order should be passed against him. In this connection, Noticee placed reliance on 3 Adjudication Orders passed by Ld. Adjudicating Officers, SEBI in 3 different scrips in the matters relating to him. In all these cases, SEBI on the ground of incomplete data had not passed any adverse Order against him.

22. Opportunity of hearing was provided to the Noticee through video conferencing and Authorized Representative (AR), Mr. Vikas Bengani, attended the hearing on behalf of Noticee on March 03, 2022. AR of the Noticee reiterated the submissions made in his reply dated February 27, 2022.

23. As the inquiry in the matter has been completed, I now proceed to decide the case on the basis of SCN issued, replies made by the Noticee and material available on record.

CONSIDERATION OF ISSUES AND FINDINGS

24. The issues that arise for consideration in the instant matter are:

Issue No. I	Whether, the Noticee is in violation of Regulations 4 (a), (b), (c) and (d) of PFUTP Regulations 1995 read with Regulations 4(1), 4(2) (a), (b), (g) and (n) of PFUTP Regulations 2003
Issue No. II	If yes, whether the failure on the part of the Noticee would attract monetary penalty under Section 15HA of the SEBI Act?
Issue No. III	If yes, what would be the monetary penalty that can be imposed upon the Noticee taking into consideration the factors stipulated in Section 15J of the SEBI Act read with Rule 5(2) of the Adjudication Rules?

Issue No. I **Whether, the Noticee is in violation of Regulations 4 (a), (b), (c) and (d) of PFUTP Regulations 1995 read with Regulations 4(1), 4(2) (a), (b), (g) and (n) of PFUTP Regulations 2003**

25. Before considering the issue on merits, there is a preliminary issue of delay and laches raised by the Noticee. It is a matter of fact that the matter has arisen at present subsequent to the order of Hon'ble SAT dated March 7, 2016. While the impugned trades took place in the year 2003, an order was passed by SEBI on

February 25, 2011. This was subsequently remanded to SEBI on March 7, 2016.

26. I note that the time taken from the period of 2003 to 2016 is attributable to proceedings culminating in an order and the legal process of appeal before Hon'ble SAT. It is a matter of fact that the present hearing notice has been issued after 5 years from the date of remand of SEBI order by Hon'ble SAT. As seen from material before me, this delay is attributable to procedural issues.

27. It is alleged in the SCN that Noticee as part of a group of brokers and clients, transacted for the volume of 1,10,095 shares (6.66% of total market volume) during the period June 2003 to August 2003. It has been alleged that brokers have executed circular transactions on behalf of their clients and entire volume of these brokers was created out of circular trading, and that the shares were rotated among themselves.

28. I note that while the impugned circular trades took place in 2003, a copy of the trade and order logs for the relevant period was sought from BSE in the context of similar matters concerning the Noticee. BSE has informed vide its e-mail dated 01.09.2021 that trade and order books prior to 01.01.2006 are not available in their system. The findings in this order are based on the trade and order details tabulated in the Annexures to the SCN.

29. I note that while the allegation of artificial volume creation through circular trades with group entities has been levelled on the Noticee, details of connection amongst the group entities (Noticee and its counterparty brokers/clients) are not available in the material on record. I have perused the Annexures to the SCN and find that the data contained in some of the Annexures is not legible. Client level details of circular trades are not available on record. While the allegation is that Noticee indulged in circular trades of 1,10,095 shares, details of trading by the Noticee are not available on record.

The data on circular trades contains details with only the broker code, without specifying the client code alongside the traded quantities.

30. Noticee has denied that he had ever opened any trading accounts with Ajmera Associates Private Limited and requested to enquire the KYC documents and Ledger Accounts with the Member Broker so that it can be ascertained that he had executed any trades in any scrip including Company with the said Brokers. However, the KYC documents of the Noticee are not available on record.

31. In the absence of specific information of the alleged transactions undertaken by the Noticee, it is difficult to arrive at a conclusion as to how many shares were traded individually by Noticee and how much volume was generated by Noticee which was alleged to have contributed to circular trades. Further, in the absence of KYC documents, it is not possible to ascertain whether Noticee was client of Ajmera Associates Private Limited. Therefore, it is not possible to state with certainty that the Noticee, as client of Ajmera Associates, had executed circular trades to create artificial volume in the scrip. In view of the same and considering the fact that there is insufficient material on record to establish a connection between the Noticee and other brokers and clients, I find that material on record is not sufficient to conclude that the impugned trades of Noticee were carried out to create artificial volumes.

32. In view of the above, I find that the allegation of violation of Regulations 4 (a), (b), (c) and (d) of PFUTP Regulations 1995 read with Regulations 4(1), 4(2) (a), (b), (g) and (n) of PFUTP Regulations 2003 by the Noticee does not stand established.

33. As the alleged violations by the Noticee are not established, Issues II and III do not merit consideration.

ORDER

34. In the light of the findings noted hereinabove, the adjudication proceedings initiated against the Noticee vide SCN dated August 10, 2007 are disposed of.

35. Copies of this Adjudication Order are being sent to the Noticee and also to SEBI in terms of Rule 6 of the Adjudication Rules.

DATE: March 30, 2022	**MANINDER CHEEMA**
PLACE: MUMBAI	**ADJUDICATING OFFICER**