BEFORE THE ADJUDICATING OFFICER

SECURITIES AND EXCHANGE BOARD OF INDIA

[ADJUDICATION ORDER NO. Order/PM/NK/2018-19/573]

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

In respect of

AKG Securities and Consultancy Limited (PAN: AAACA7549K)

In the matter of

IPO of SRS Limited and the trading pattern in the scrip of SRS Limited on the day of listing of the scrip of SRS Limited

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FACTS OF THE CASE IN BRIEF

1. Securities and Exchange Board of India (hereinafter referred to as "SEBI") conducted an investigation in the matter relating to the IPO of SRS Limited and the trading pattern in the scrip of SRS Limited (herein after referred to as 'SRS' or 'the Company') on the day of listing of the scrip (SRS Limited) i.e. September 16, 2011 (hereinafter referred to as 'investigation period'/'period of investigation).

2. It was observed that AKG Securities & Consultancy Limited (hereinafter referred to as Noticee), one of the top 10 clients trading during the investigation period had bought approximately 10.62% (3531875 shares) on BSE Limited (BSE) of the traded (Buy) volume. It was further observed that the Noticee had repeatedly indulged into self-trades on the exchange, BSE.

3. It is alleged that the Noticee, had repeatedly entered into self-trades in the scrip during the investigation period. It may be noted that self-trades are trades, in which both the buyer and the seller are the same entity. Self-trades create false or misleading appearance of trading in the securities market and such transactions are carried out without intention of change of ownership of the security and may or may not result into

price manipulation. The details of self-trades of the entities mentioned above are as per the table below:

On BSE:

Client Name	Broker Name	Self Trade Qty.	No. of Self Trades	% of Self Traded Qty. to Market Vol.	LTP diff. (INR)	% of Self Traded Qty. to Clients Buy Vol.	% of Self Traded Qty. to Clients Sell Vol.
A K G Securities And Consultancy Limited	Adroit Financial Services Private Limited	191889	241	0.577	-1.2	5.433	5.433

4. The Noticee had executed 241 self-trades for 191889 shares in the scrip of SRS on BSE during the investigation period. In view of the above, it was alleged that the Noticee had violated the provisions of Regulations 3(a), 3(b), 3(c), 3(d), 4 (1), 4 (2) (a) and 4 (2) (g) of SEBI (Prohibition of Fraudulent and Unfair Trade Practices Relating to Securities Market) Regulations, 2003 (hereinafter referred to as the SEBI (**PFUTP) Regulations, 2003**).

APPOINTMENT OF ADJUDICATING OFFICER

5. The undersigned was appointed as the Adjudicating Officer under section 15I of the Securities and Exchange Board of India Act, 1992 (hereinafter referred to as **"SEBI Act"**) read with rule 3 of SEBI (Procedure for Holding Inquiry and Imposing Penalty by Adjudicating Officer) Rules, 1995 (hereinafter referred to as the **'Adjudication Rules'**) to inquire into and adjudge under section 15HA of the SEBI Act, 1992, the alleged violations of provisions of Regulations 3(a), 3(b), 3(c), 3(d), 4(1), 4(2)(a) and 4(2)(g) of SEBI (PFUTP) Regulations, 2003 by the Noticee.

SHOW CAUSE NOTICE, REPLY AND PERSONAL HEARING

6. A Show Cause Notice A&E/EAD/PM-NK/18645/2017 dated August 7, 2017 (hereinafter referred to as "**SCN**") was issued to the Noticee under Rule 4 of the

Adjudication Rules to show cause as to why an inquiry should not be initiated and penalty be not imposed under section 15HA of the SEBI Act, 1992 for the alleged violations of provisions of Regulations 3(a), 3(b), 3(c), 3(d), 4(1), 4(2)(a) and 4(2)(g) SEBI (PFUTP) Regulations, 2003 as specified in the SCN. Copies of the documents relied upon in the SCN were provided to the Noticee along with the SCN.

7. Vide letter dated November 27, 2017 the Noticee, filed reply to the SCN. The summary of submissions are as follows:

   - *The Noticee submits that, they do not accept or admit anything stated in the Notice except where the same is expressly admitted by them in this reply. Nothing stated herein shall be deemed to be admitted by them merely on account of non-traverse and unless the same is specifically admitted by them hereunder. The major allegations levied in the captioned Notice is that it has entered into 241 self-trades for 1,91,889 shares and so has created artificial volume in the scrip of SRS and gave a false and misleading appearance of trading in the scrip of SRS at the Exchanges.*
   - *The Noticee submits that although there may be some quite infrequent, random and insignificant instances of self-trade while doing jobbing activities, but those were purely accidental/incidental in the ordinary course of business and not planned to be executed to manipulate trading in the scrip. The random nature of timing, quantity, dealers and partial matching with other market participants substantiates this contention. The orders are placed at the individual terminal ID level and the orders of small quantities are placed and the average life cycle from the time of placing the order to getting converted into a trade is less than 2 seconds. The human involvement is very less for putting the parameters of orders for the day and the trading takes place through the server/CTCL ID and the orders are passed on to the BSE/NSE and the same are matched at the Exchange level. The self-trades happen on account of latency in the leased lines or the satellite link to the Exchanges. The person putting the orders works on closed mechanism where he cannot know the orders which are put by the other traders, whether in the same branch or other. These self-trades cannot be treated as fictitious as the same are done on the Exchange approved terminals and in the normal course of business. Balance trades are not self-trades as they are mistakenly matched on other individual terminal id's which is very normal trading/jobbing/arbitrage practice.*
   - *The Noticee submits that admittedly only those self-trades, which are meant to give a false/misleading appearance of trading in the Scrip at the Stock Exchange are illegal and not otherwise. In this context, attention is drawn to Regulation 4(2)(g), which as per the Notice is the main charging provision and which primarily needs to be violated out of the various other regulations alleged to have been violated, in order to hold guilty for violation of all the other*

Regulations as alleged in the Notice. The said Regulation 4(2)(g) reads as under:

*"**entering into a transaction in securities without any <u>intention</u> of performing it or without <u>intention</u> of change of ownership of such security**;" (emphasis supplied)*

- *A bare perusal of the aforesaid Regulation makes it clear that a self-trade can fit into the realm of Regulation 4(2)(g), only if it involves intention. Intention herein would mean that at the time of entering in transaction i.e. at the time of placing the order a person had deliberately with an intention to match it with the counter order placed the order, however the person at the time of placing the order did not actually wanted to buy/sell the quantity order. The plain reading of the Regulation therefore makes it clear that entering into a few orders without actual intent of carrying out self-trade would not amount to a trade in contravention of Regulation 4(2) (g). A transaction therefore could be termed to be in violation of Regulation 4(2)(g), only if the following criteria's are satisfied:*

  i). A person places an order for buying/selling without the intention of buying/selling of underlying shares. (for e.g.- an order is placed and thereafter cancelled subsequently and the same is done repeatedly)

  ii). A person places an order for buying/selling and arranges to place an opposite order for same number of shares at the same price either by himself or by another person acting on his/her instructions repeatedly. (Instance of self/synchronised trades)

  iii). In both the above cases, the intention of either not performing the transaction or performing the transaction without the change of beneficial ownership is necessary.

- *It is further submitted that not every self-trade is fraudulent or done with the intent to manipulate the market. There are many instances when they happen unintentionally, devoid of any fraudulent purpose. Foreign portfolio investors and mutual funds often use the secondary market route to transfer holdings from one scheme to another. In these cases, the custodian on both the sell and buy side would be same, resulting in self trades. Similarly, a dealer can place the buy and sell order for the same stock in one day to get the advantage of intra-day price movement but without knowing that the orders might get matched. It is not possible for traders to prevent self-trade from occurring altogether. Trades are executed in an exchange's order matching systems. Once an order is accepted by the trading system, it is not possible for the trader to have control over who the counter-party is at the time of matching of that trade, as the trading engine finds and matches orders based on price time priority.*

- *Further the Adjudicating Officer, SEBI in the matter of MIC Electronics Ltd. while proceeding against **Ajay Desai and Indira Securities Private Limited** (Adjudication Order No. EAD/NP/JS/AO/21/2017 dated February 22, 2017),* *__Vora Financial Services Private Limited and JMP Securities Private Limited__ (Adjudication Order No. EAD/NP/JS/AO/23/2017 dated February 27, 2017), __Samurai Securities Private Limited__ (Adjudication Order No. EAD/NP/JS/AO/26/2017 March 16, 2017) and against __M/s Milkyways Mercantiles Private Limited and M/s SPFL Securities Limited__ (Adjudication Order No. EAD/NP/AS/AO/27/2017 dated March 16, 2017) discussed the practicalities in execution of trades and distinguished between intentional and unintentional self-trades. It was observed "...However practically self-matches that can also occur unintentionally. Such trades can occur in the course of normal trading when orders of one broking firm from two independent trading strategies /terminal coincidentally interact with each other. Though completely legitimate, and without an intent to manipulate, the two buy-sell orders on Stock Exchange from two independent dealers/terminal can end up matching with each other. Self-trades are executed by jobbers or market maker. Based on the technical analysis, if certain price level is breached, it is perceived as a momentum is caught in direction of the price movement. In order to catch the momentum, jobbers put indicative orders of small quantity of shares near the trigger price on both sides and once any trade get executed, they put more orders in that direction and later at an appropriate opportunity they square off their positions to their advantage. Many times more than one jobber actively trades in same stock through same broker but different trading terminal and sometime jobbers' orders match with each other. Such trades though originated through different terminal IDs but end up at same broker so these are also counted as self-trades. Whereas, Arbitragers see opportunity in stocks traded at more than one exchange/ Segment to encash upon price differential in one exchange/ Segment vis- à-vis another by putting corrective orders.... Therefore, a distinction needs to be made between 'wilful self-trades' which is done with a motive to induce other to trade in that particular stock and 'unintentional self-trades' which are in the nature of jobbing and had occurred due to technicalities of the anonymous trading system..... Therefore, to decide whether, self-trades are fraudulent or not would depend upon case to case and no thumb rule shall apply. It would be necessary to see the intention behind such trades. Unintentional self-trade may not be manipulative whereas intentional self-trades would constitute wash trades. Further, Securities market are dynamic in nature and new trade patterns evolve from time to time.... Therefore, the necessity of 'Intent' the element of "fraud" should be examined as a pre-requisite in all the parts of Regulations 3 and 4 of the PFUTP Regulations. 'Fraud' has been principally defined under Regulation 2(c), though inclusively, to mean such trades which are entered into in order to 'induce others'."... (emphasis supplied)*

- *While making these observations the Adjudicating Officer, SEBI, taking into consideration the factors mentioned in Section 15 J of the SEBI Act, and in exercise of the powers conferred under Section 15-I of the SEBI Act read with Rule 5 of the Adjudication Rules, disposed of the Show Cause Notices issued to both the Noticees.*

- *As per the ruling in the above matters, the self-trades executed comes into the definition of unintentional self-trade as there are no Same Id self-trades at all.*
- *The Noticee submitted that as aforesaid, it is a jobber/arbitrageur who regularly undertakes jobbing transactions of crores of rupees on any given day in multiple scrips depending on the market conditions and availability of jobbing/arbitrage conditions. Their representatives give instructions based on different strategies to multiple dealers who trade through multiple terminals and therefore there is a high probability that the orders originating from these strategies interact with each other without any malicious intention. As aforesaid, the same happened in the present case. Therefore, the allegations of fraud and manipulation resulting from self-trades cannot be levied unless they are supplemented by strong evidences/documents/information establishing intention to defraud or manipulate the market by means of self-trades, which in the present case are not supplemented.*
- *The Noticee submits that it is important to mention here that on May 16, 2017, SEBI came out with its new policy (Approved Policy Number EFD/DRA-3/ON332/2017) (hereinafter referred to as "Policy") which was approved by WTM (GM) by which it was observed that intention is a sine quo non for establishing manipulation in case of self-trades and accidental/unintentional self-trades are not covered under the said regulations. Further it was observed that in all matters of self-trade an assessment has to be made regarding whether the said trade was intentional or unintentional on the basis of supporting evidence and the manipulation caused by indulging in self trades should be clearly brought out. Hence it was decided in the policy that the quasi-judicial body may assess the ongoing cases involving allegations of self-trade by analysing whether any manipulation is arising out of self-trade or any intention to enter into is evident from the material on record. If the manipulation or intent can be established the same may be proceeded with as approved, however, if no intention or manipulation is evident from the case and the only charge is mere occurrence of self-trades then the entity may be exonerated by the quasi-judicial authority. Further, while assessing the manipulative intents, the volume transacted may also be considered in addition to the other factors.*
- *The Noticee submitted that, thus, it can be seen that SEBI itself has made its stand that intention is a prerequisite for violation of Regulation 3 and 4 of PFUTP Regulations and unintentional self-trades are not violative of Regulations 3 and 4 of PFUTP Regulations.*
- *The Noticee therefore submitted that the burden of proof to prove its innocence is to just to prove that the trades executed in the scrip of SRS, resulting into self-trades, were not manipulative and this claim has to be corroborated with other factors such as impact of trades on market volume, nature of the transactions, in-depth analysis of self-trades, and other such factors.*
- *The Adjudicating Officer, SEBI in the matter of Aster Silicates Ltd. while proceeding against Crosseas Capital Services Private Limited (Adjudication*

Order No. EAD/AO-NP/SJ/AO/50/2017 dated June 22, 2017), after analysing the policy of SEBI dated May 16, 2017 with respect to ongoing cases dealing with non-manipulative self-trades observed "...I find that though the Noticee has entered into self-trades on multiple occasion, yet the volume of self-trades vis-a-vis total volume in the shares of Aster Silicates Limited is miniscule. No mala fide intention behind self-trades executed by the Noticee has been bought out in investigation report. ... There is no evidence in the investigation report to suggest any fraudulent intention behind execution of self-trades by the Noticee. The volume of self-trades is less than 1% of the total volume in shares of Aster Silicates Limited. The impact of self-trades on LTP is also not significant on daily basis. Therefore, in compliance of SEBI policy, I am inclined to drop the adjudication proceedings initiated against the Noticee vide SCN dated May 06, 2015."

- *While making these observations the Adjudicating Officer, SEBI, in exercise of the powers conferred under Section 15-I of the SEBI Act read with Rule 5 of the Adjudication Rules, disposed off the Show Cause Notice*.
- *In another matter of Unitech Limited (Adjudication Order No. EAD/ AO-NP/ JR/47/2017 dated June 19, 2017), the Adjudicating Officer, SEBI passed the order after doing the analysis of the Policy and stated* "*...Though the Noticees have entered into self-trades on multiple occasion, yet the volume of self-trades vis-a-vis total volume in the shares of Unitech Limited is miniscule. No mala fide intention behind self-trades executed by the Noticees have been brought out in investigation. Self-trades occurred when multiple jobbers are engaged by a broker for day trading.... There is no evidence in the investigation report to suggest any fraudulent intention behind execution of self-trades by the Noticees. Self-trades occurred because of trading in same shares by multiple trades/ jobbers in brokers' own account. The volume of self-trade is less than 1% of the total volume in shares of Unitech Limited. The impact of self-trades on LTP is also not significant on daily basis. Therefore, in compliance of SEBI policy, I am inclined to drop the adjudication proceedings initiated against the Noticees vide SCN dated April 21, 2017.*"
- *While* making these observations the Adjudicating Officer, SEBI, in exercise of the powers conferred under Section 15-I of the SEBI Act read with Rule 5 of the Adjudication Rules, disposed of the Show Cause Notice.
- *If applied, the reasoning of these cases in the instant case then the Notice issued must be disposed of, as in the instant case also the volume of self-trades to market volume is less than 1% and is only 0.577% on BSE as per the SCN itself. Further, there is no evidence in the investigation report to suggest any fraudulent intention behind execution of self-trades.*
- *Recently the Adjudicating Officer has exonerated in the matter of Multi Commodity Exchange of India Limited (Adjudication Order No. RA/JP/ 184 – 188/2017 dated September 29, 2017), United Spirits Limited (Adjudication Order No. RA/JP/ 166 - 171/2017 dated September 29, 2017),* ***Rushil Decor***

***Limited** (Adjudication Order No. EAD-5/BS/AO/06-07/2017-18 dated October 13, 2017) and **Prakash Constrowell Ltd.** (Adjudication Order No. EAD/PM-AA/AO/2/2017-18 dated October 30, 2017) from the charge of violation of provisions of PFUTP Regulations as the percentage of self-trades executed were comparatively very less than the percentage of self-trades carried out in the matter of Aster Silicates Ltd.**,** which is also the case in the instant matter.*

- *In Para 7 of the Notice it has been observed that Self Trades are those trades in which both buyer and seller are same entity. Self-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 this the Noticee humbly submits that the observation of your good self that Self Trades create artificial/fictitious volume in the market and give false and misleading appearance of trading in the scrip at exchange is wrong and arbitrary. The same may have been the position before May 16, 2017 when SEBI formulated the Policy. But because of this Policy, which can also be termed as a revolutionary act by SEBI, the position has now been settled once and for all that Self Trades per se does not create market volume and manipulate the price of scrip, but those self-trades which creates market volume and manipulate the price of the scrip will be treated as fraudulent. The Policy of SEBI marks a beginning of a new Jurisprudence of fraudulent self-trades in India*.
- *Further in Para 7 of the Notice, the summary of total self-trades on BSE and NSE is stated, with regard to which it is submitted that it is nowhere stated in the SCN that all the Noticees are connected to each other and in order to manipulate the price of the scrip, has collectively engaged in intentional self-trades. Hence the self-trades has to be analysed independently and not with the trades of other Noticees as it is not connected with others.*
- *In Para 8 of the Notice it has been alleged that a total of 241 self-trades for 1,91,889 shares were executed leading to creation of artificial volume in the scrip of SRS in the market and giving false and misleading appearance in the scrip of SRS at the exchange. With regard to this it is submitted that the trades executed in the present case were result of thousands of orders and out of the said 30,887 trades at BSE, only 241 trades resulted into the alleged self-trades.*
- *The Noticee submitted that it is engaged into the business of jobbing/arbitrage in the securities market. The arbitrageurs and jobbers regularly visit Adroit's office and undertake jobbing transactions looking into the available opportunities. At this stage, it is pertinent to mention that jobbers regularly carry out transactions of more than Rs. 100 Crores on any given day in multiple scrips depending on the market conditions and availability of arbitrage conditions. Your good self would appreciate that in typical jobbing transactions, the number of trades carried out per day is very large, in effect series of buy/sell trades are carried out by Our Client's jobbers within seconds and the individual decisions of buy/sell are taken by Our Client's dealers themselves.*

- *It may be pointed out here that it appointed 8 persons as its authorised representatives who were entitled to trade on its behalf in the scrip of SRS. Looking at the sheer size and the volume of the trades carried out, it (Noticee) was allotted multiple terminals with Adroit's dealer to assist the authorised representatives to carry out their jobbing transactions. Their representatives formulated their own strategies and instructed Adroit's dealers to trade in the scrips selected by them in their own permutation and combination (the no. of dealers to be dealt by one representative was decided by the representatives among themselves). It (Noticee) had at all times, maintained sufficient margin with Adroit. The trading pattern followed by it (Noticee) in the scrip of SRS was not different from the day to d*ay trading pattern followed in any other scrip.
- *Before dealing with detailed submissions in relation to the self-trades executed by Our Client, it is pertinent to note that:*

  (a) *It (Noticee) was trading and executing numerous jobbing transactions on daily basis during the investigation period in scrips ranging from 100 to 120, available for trading on NSE & BSE and SRS was not the only scrip in which transactions were done. As these transactions were being executed through multiple traders, it was practically impossible for any dealer to detect orders of other dealers before entering any order.*

  (b) *SRS is a company which at that point of time had reputed promoters, the company's financial position was also good and therefore there was no reason for any prudent jobber/arbitrageur to have doubt about any foul play in such a scrip. It may also be pointed out that even though the price of the scrip had moved manyfold during a short span of time there were no alerts from either the primary level regulators or the secondary regulators for possibility of any kind of mischief being carried out in the scrip.*

  (c) *The day on which self-trades were executed was the day which witnessed high volatility in the scrip. It is submitted that the nature of the trades executed were jobbing transactions and the same were executed looking at the jobbing opportunities due to higher volatility in the scrip of SRS. The same is evident from the price movement of the scrip during the Investigation Period.*

  (d) *It is to be noted that for taking an advantage of this volatility It (Noticee) had authorised a total of 8 representatives to place orders on its behalf. These 8 representatives in turn were placing orders with multiple dealers on different terminals at Adroit's office based on their understanding. The alleged 241 self-trades were executed through multiple dealers.*

  (e) *The aforesaid document and evidence clearly show that numerous orders were being placed simultaneously by its representatives in the system through various dealers on the basis of their understanding and assessment of the market conditions.*

Detailed analysis of Self Trades executed in the account of AKG

- *The only ground for alleging the Noticee of acting in a fraudulent and manipulative manner to artificially inflate the volume is the execution of meagre self-trades involving a quantity of 1,91,889 shares which constituted 0.577% of the total market volume during the Investigation Period on BSE. It is submitted that the impact of trading is on the market as a whole and it does not mean that if one is doing trading at BSE it will have impact only at the market volume of BSE. The impact will be there on NSE as well and by taking into account the number of shares traded in both BSE and NSE on the day of the alleged self-trade in the scrip of SCTL then the Percentage of Self-Traded Quantity to Market Volume will be meagre 0.213% which, by no stretch of imagination, could have influenced the price of the scrip. This leads to the deduction that there was no mens rea at all to engage in the self-trades. It is humbly submitted that the volume transacted in self trades is a factor to analyse the manipulative intention of a person as per the Policy. As the same in the instant case is only 0.213%, it cannot be said that there was any manipulative intent to engage in intentional self-trades. In the matter of* ***Prakash Constrowell*** *mentioned above, the Adjudicating Officer took into consideration the combined market volume on BSE and NSE and exonerated.*
- It *(Noticee) fails to understand the possible impact which these self-trades could have had on the entire market when the quantity for the same was quite less and negligible to draw any negative inference. It is to be noted that if It (Noticee) would have been actually interested in artificially inflating the volumes of the scrip of SRS, then in such a case, its contribution to artificial/false trades would have been quite high so that the same could have an impact on the total traded quantity of SRS shares and thus could have increased the profit being earned. The fact that no such activity was carried out, clearly shows that It (Noticee) had no wrong intentions and all the trades were carried out in the normal course of the business.*
- *There are two types of self-trades which are evident (a) Self-trade from same terminal (b) self-trade from different terminals. There is a very important distinction between the two, which goes to the root of identifying whether a particular self-trade is intentional or it has happened merely due to co-incidence. A self-trade from the same terminal or same ID self-trade is one in which buy and sell order are both put in from the same computer terminal from the same id, meaning thereby the person who is executing the buy and the sell trade is the same. However, when a self-trade occurs from different terminals or different id's, although the client account in which the trade is put in is the same but the terminals from which the buy and sell orders are put for the same client are different. The difference clearly suggests a huge possibility of lack of mens rea for executing a self-trade. If the trades are mistaken trade, it can be easily understood if two different individuals are putting in two different orders for the same client, however mistake for cases wherein the buy and sell trades are put in by same individual for same client would be rare. In the instant case,*

there are no Same Id self-trades and hence it is apparent that there was no intention to manipulate the market while trading in the scrip of SRS.

- *Further, a detailed analysis of all the self-trades shows that the same were executed devoid of any manipulative intent. In order to substantiate the claim given below are certain facts:*

  (a) *During the Investigation Period It (Noticee) had carried out 30,887 trades for 35,31,875 shares of SRS on buying side on BSE generating a total turnover of 14.37 crores. There are 241 self-trades in the present case among which all the trades are Inter ID self-trades as there are no Same ID self-trade.*

  (b) *From the total 241 alleged Self Trades during investigation period, there is only one self-trade for 2000 shares, which was a complete matching trade i.e. there was a perfect matching amongst the trade meaning thereby the ordered quantity and the traded quantity matched completely. However the rest of the 240 trades were partially matched trades which means that they were result of split of a single order where a single order given for higher quantity matched with the counter order of low quantity. For e.g. Order No. 16000080010938 of 2000 shares split into 11 trades and matched with Order No. 22000091009463 of just 5 shares, and the balance shares got matched with different entities in the exchange.*

  (c) *Not only this, but there are instances where two orders of higher quantity got matched with each other for lower quantity. For e.g. Order No. 20000093005980 for 2000 shares split into 31 trades and order no. 22000091004400 for 900 shares split into 9 trades and both matched for meagre 9 shares, and the balance shares got matched with different entities in the exchange.*

  (d) *It may also be pointed out that 241 alleged self-trades referred hereinbefore were not only the cases arising out of split of one single order but also in some instances 2 self or more self-trades have arisen out of 1 single order. For e.g. Order No. 12000095033748 of 3600 shares split into 36 trades out of which 22 shares and 700 shares got matched with counter orders of No. 12000094031990 and 20000093040610, and the balance shares got matched with different entities in the exchange.*

  (e) *Further it is a common market practice under Arbitrage/Jobbing activity for the dealers to place orders of 1 (one) share or small quantity at a fixed price differential of say, 10 paise, 25 paise, 50 paise etc. This is done to get the real time status of the ruling market price as sometimes the bid and offer rate prices on the Market watch window do not get refreshed on a real time basis due to connectivity and software problems. By giving the order for the quantity of one share or two shares, arbitrager or jobber are able to know in which direction the price of the*

particular script has moved or will be likely to move. Based on this information, arbitrager or jobber is able to take the opportunity of price difference between two exchanges and thereby do the arbitrage / jobbing business. This one share sometimes gets matched with a counter order given by the dealer and results into self-trades. It (Noticee) humbly submits that the instant case covers such types of instances. For e.g. the Order No. 14000093000062 was given by dealers for just one share to get the real time status of the ruling market price and this one share got matched with the counter order of 12000095000163 which was of 5000 shares, and the balance shares got matched with different entities in the exchange. Besides this, there are 5 more instances (viz. Order No. 18000087017475, 18000087077279, 14000095050584, 14000095050590 and 22000091052683) like the one cited above. These types of instances increase the count of self-trades in the account of a person even when it is for just one or two shares.

(f) *It may be noted here that the intention of putting order of a dealer is the only measure to decipher his intention. The abovementioned facts clearly show that the intention was not to match the trades but to execute trades in normal course of business however incidentally/accidently during the course of execution of trades inadvertently orders got partly matched with counter orders.*

(g) *Its (Noticee) total number of trades executed in the scrip of SRS was 30,887 out of which only 241 resulted in self trades. In these 241 self-trades, there is no Same ID self-trades and all the trades are inter ID self-trades. This clearly shows that the intention was not to match the trades but to genuinely execute the trades in the market. It may also be pointed out that even the alleged self-trades were at prevailing market price and there is no allegation of either increasing or decreasing the price of the scrip.*

(h) *In the instant case, the manner in which the orders have been put in and resulted into trades it clearly shows that there was no intention to manipulate the scrip of SRS. It may also be clarified that in cases of securities law violation the intention of parties is immaterial, however in cases of alleged fraud the intention needs to be deciphered from the actions/circumstances.*

(i) *It is pertinent to note that in spite of having different dealers having different terminals at BSE, there are no shares which got matched during the Investigation Period on the same terminal, the same clearly shows that its (Noticee) jobbers were always aware of the individual positions and always ensured that trades do not match in any manner, resulting into self-trades. The same shows the high level of expertise and caution exercised by jobbers in executing the transactions of the company. However, owing to the frequency and speed at which the orders were being placed by the jobbers, no co-ordination was possible to examine* *if any other jobber has put in a counter order or that a part of their unexecuted trade, still remains pending and that it would match with their own trade. It can further be seen from the order quantity that each dealer was placing orders independently as the quantities in these trades had huge difference.*

(j) *It is to be noted that such high level of expertise was ensured despite the fact that during the Investigation Period, It (Noticee) was dealing in multiple scrip, in range of 100 to 120, on NSE and BSE, during the investigation period.*

(k) *That at the time of execution of the self-trades it (Noticee) had no mechanism or software to ascertain whether their trades were getting matched. Had there been any process to make aware of such matching of trades, they wouldn't have executed any self-trade in the scrip of SRS.*

(l) *That the alleged self-trades constituted only 0.213% of BSE & NSE total market volume in the scrip of SRS during the Investigation Period*.

- It *is vehemently submitted that trading in the scrip of SRS was harmless even though certain self-trades were executed, since these trades were not capable of causing any harm leaving aside manipulating the market. Therefore on this ground alone the charges levelled needs to be dropped. It is submitted that merely because there is no change in beneficial ownership of shares in case of self-trade, the same independently does not cause any harm to anyone including the market at large. Meaning thereby if one buys and sell among one's own self it cannot impact anyone else, in fact it is not even a contract since there are no two parties, which is quite essential condition of any contract.*
- *The impact which a self-trade can cause can be negative only if it involves (a) large volumes, which gives a false representation of liquidity in the scrip or on the market as a whole (b) the trade is done to change the prevailing price of the scrip. In the instant case both of the negatives have not happened and therefore no negative inference can be drawn owing to the alleged few self-trades carried out by it (Noticee). It may be appreciated that its (Noticees) total self-trade volume was a meagre of 1,91,889 shares, which admittedly was 0.213% of the total market volume at NSE & BSE. It is submitted that the impact of the volume of self-trade in order to become negative or violative of any law would entail the test that whether the volume remaining after the volume of the self-trade is removed would be non-sufficient to induce any person to trade in the scrip in question.*
- *It is submitted that aforesaid alleged self-trades should be appreciated in the context of heavy trading (in the nature of jobbing) done on the relevant occasions and that the said alleged self-trades constitute extremely negligible part of total trading.*
- *It is submitted that the Notice does not demonstrate the manner in which its (Noticee's) actions led to the creation of a false market and the basis on which*

the Noticee has been condemned for the commission of fraud. No evidence has been brought on record to establish the charge.

- *Moreover it is to be noted that Noticee has enjoyed no unfair advantage or benefit of any nature owing to the execution of the trades in question, nor has the same resulted in any kind of loss suffered by investors in the scrip of SRS.*
- *Most importantly it has to be appreciated that Our Client could not have manipulated the market with such negligible volume and could not have disturbed the market equilibrium because the alleged manipulative trades were miniscule in quantity as compared to the total trading. Considering the volume of the transactions in the scrip and price fluctuation in the exchanges during the period, it is clear that the said alleged self-trades neither led to price fluctuation nor created a false appearance of trading or were tending to mislead the gullible investors. By no stretch of imagination in the instant case it can be concluded that the said self-trades ensured consistent matching of the orders purely for the purpose of projection of the volumes of the shares of SRS in a way that was not the market determined volumes, possibly to induce other persons to invest in the said scrip. The manner in which the said alleged self-trades were executed is the most important factor to be considered in these circumstances. The said alleged self-trades were bonafide normal trades which got executed in ordinary course and were not designed self-trades and in no manner manipulative.*
- *Even in the opinion of Hon'ble Securities Appellate Tribunal, if one or few of the orders result in self trade, it would not suffice for establishing the charge of manipulation unless the trades are exceptionally huge. The Hon'ble SAT in the case of N.M. Lohia vs. SEBI (Appeal no. 108 of 2009, Decided on January 13, 2010), while holding the appellant liable for manipulation stated that in case of one or few trades, the outcome would be different. The Hon'ble tribunal observed* ***"2. We have heard the learned counsel for the parties who have taken us through the record and the impugned order. A show cause notice dated October 20, 2008 had been issued to the appellant making the aforesaid allegations against him. Details of the trades executed by the appellant were also furnished along with the show cause notice which were annexures attached thereto. A mere look at the trades executed by the appellant would show that they are on the face of it fictitious in as much as he executed trades as a broker in which he himself is the buyer and also the seller. It is not that he executed a solitary trade or only a few of them. He executed a large number of trades for over a year in this fashion. ..."***
- *Further, it is important to bring your kind attention to the view taken by the Hon'ble Securities Appellate Tribunal in relation to the self-trades, wherein the Hon'ble Tribunal, vide its order dated January 24, 2014 in the case of Smt. Krupa Sanjay Soni vs. SEBI (Appeal No. 32 of 2013), has observed "****This Tribunal has taken a consistent view that a few instances of self-trades in themselves would not, ipso facto, amount to an objectionable trades."***

- *The Adjudicating Officer, SEBI in the matter of Gayatri Projects Limited (Adjudication Order No. EAD-2/DSR/KM/108-115/2014 dated April 30, 2014) observed "Therefore, I find that, in the instant case, the evidence and material available on record is insufficient to hold that the trades executed by the Noticees no. 1 to 4 had created artificial volume in the scrip (leading to a false and misleading appearance of trading) in as much as there were very few and negligible instances of self-trades as evident from above."*

  After *making these observations the Adjudicating Officer, SEBI dropped the charges against the Noticees levelled in the Notice.*

- *Further the Adjudicating Officer, SEBI in the matter of Servalakshmi Papers Limited (Adjudication Order No. EAD-2/DSR/RG/08/2013 dated November 27, 2013), where the proceedings were being initiated against Our Client, observed "I note from the submission of the Noticee that it executes arbitrage trades so as to benefit from the price difference on the stock exchanges and due to the nature of trading there is high volume Page 11 of 12 involved and the turnover is very high. I find merit in the submissions of the Noticee that in such market situations the matching of trades from different terminals is inevitable and there may not be any meeting of minds."*

  While making these observations the Hon'ble Adjudicating Officer disposed of the matter by giving benefit of doubt to the Noticee and concluded that the violation of provisions of Section 12A (a), (b) and (c) of the Act read with Regulation 3(a), (b), (c), (d) and 4(1) & 4(2)(a) and (g) of the PFUTP Regulations do not stand established.

- *Thus, it can be seen that the frequency, the time period and the state of market has to be considered before declaring a person guilty of manipulation by self-trades. The trades in the present case cannot be considered huge and further, these trades did not happen due to design but merely due to the huge volume of orders and trading occurring in the scrip on the said occasions.*

- *Now, considering the aforesaid and taking into account the nature of self-trades and the fact that there is a high possibility of it happening as a result of bonafide mistake devoid of any fraudulent intention, it is submitted that establishing intention/fraudulent motive in commission of self-trades is absolutely imperative to allege anyone with fraudulent and unfair trade practice, which is also mentioned in the approved policy of SEBI. In the present case, there is no such document/information/evidence provided which establishes any such fraudulent intention. Further, as aforesaid, Our Client's self-trades contributed a very meagre and negligible percentage to the total volume of the trading in the scrip of SRS during the Investigation Period. Therefore, no such allegations, as levelled in the Notice, would stand against Our Client.*

- *Further, it is submitted that the Notice has failed to consider that it is not within Our Client's control to introduce any system or mechanism to prevent/avoid the occurrence of self-trades and such an obligation cannot be imposed on Our Client as it would be that of the respective stock exchanges. It is submitted that* *the matching of the trades occurs at level of the exchange and therefore it would be open to the exchange to introduce a mechanism to ensure that no self-trades are allowed to occur. Stock exchanges in India have implemented facilities and mechanisms to prevent self-trades. NSE has implemented "Self-Trade Prevention" mechanism w.e.f October 12, 2015 vide circular dated October 01, 2015 and BSE has also implemented a Self-trade Prevention Check (STPC) Mechanism w.e.f March 16, 2015 vide circular dated February 11, 2015. Hereto annexed and marked as "Annexure C" and "Annexure D" are the aforesaid NSE & BSE Circulars dated October 1, 2015 and February 11, 2015 respectively. Therefore, it has always been the responsibility of Stock Exchanges to ensure and implement appropriate mechanisms to prevent Self Trades given their statistical & technical expertise and thus Our Client should not be penalised for not able to prevent self-trades from occurring, the responsibility of whose prevention has always been on the Stock Exchanges.*

Very serious allegations of fraud, price manipulations, etc. have been raised against Our Client. These allegations require a high level of proof and establishment of mens rea. Other than pointing out the fact that Our Client has carried out self-trades, no further proof has been provided of any wrong doing to establish that they were carried out intentionally. The Notice has not stated about any profit which has been made by Our Client by engaging in these self-trades or any loss which has incurred by others because of self-trades.

Attention is invited to the decision of the Supreme Court in Union of India vs. Chaturbhai M. Patel (AIR 1976 SC 712) which holds that fraud, even in civil proceedings, must be established beyond reasonable doubt. Thus the Order against Our Client does not meet the well settled standards of law and evidence in such a case and needs to be withdrawn. According to the decision of the Securities Appellate Tribunal in Parsoli Corporation vs. SEBI (Appeal No 146/2011 order dated 12th August 2011) where the Hon'ble SAT observed:- "...a serious charge like fraud has to be established on preponderance of probabilities and since this charge is serious, higher has to be the degree of probability to establish the same." The SAT also held in Sterlite Industries vs. SEBI (Appeal No. 20/2001 dated 22nd October 2001) that "...in the absence of reasonably strong evidence, even in a civil proceeding, a person cannot be held guilty and awarded punishment. Mere surmise, conjuncture or suspicion cannot sustain the finding of fault". It is seen that in the present case, the Notice is admittedly based on low preponderance of probabilities Thus, the Notice is bad in law and so must be withdrawn and the proceedings must be dropped.

- *It is submitted that serious allegation of violation of PFUTP Regulations cannot be alleged on the basis of mere surmises and conjectures and based on the erroneous interpretation of data, as has been done in the instant case. The same is also clear from the decisions given by various courts in numerous cases.*
- *The SAT in its order in case of KSL & Industries Ltd vs. SEBI (SAT Appeal no. 9/2003 decided on 30.09.2009) has held* ***"I do not find any material on***

record in support of the said charge. A wild allegation of market manipulation, in particular the charge of fraudulent action unsupported with convincing evidence are not sustained. Fraud cannot survive on mere conjecture and surmises."

- *In Union **of India vs. H.C. Geol (AIR 1964 SC 364)** the Hon'ble Court has inter alia held "the principle that in punishing the guilty scrupulous care must be taken to see that the innocent are not punished, applies as much to regular criminal trials as to disciplinary inquiries held under the statutory rules".*
- *In **L.D. Jaisinghani vs. Naraindas N Punjabi (1976) 1 SCC 354: AIR 1976 SC 373 at P. 376** – wherein Ray, CJ speaking for the Court has observed "In any case we are left in doubt whether the complainants version with which he had come forward with considerable delay was really truthful. We think that in a case of this nature, involving possible debarring of the advocate concerned the evidence should be of a character which should leave no reasonable doubt about guilt. The Disciplinary Committee had not only found the Appellant guilty but had disbarred him permanently. (In Re An advocate AIR 1989 SC 245)"*
- *About the test of evidence in a civil proceeding, the following observations made by the Hon'ble Court **(Razikram vs. J.S. Chauhan - AIR 1975 SC 667: (1975) 4 SCC 769)** is to be noted "It is true that there is no difference between the general rules of evidence in civil and criminal cases and the definition provided in section 3 of the Evidence Act does not draw a distinction between civil and criminal cases. Nor does this definition insist on perfect proof because absolute certainty amounting to demonstration is rarely to be had in the affairs of life. Nevertheless, the standard of measuring proof prescribed by the definition is that of a person of prudence and practical good sense… The same is equally true about proof of a charge of corrupt practice which cannot be established by a mere balance of probabilities".*
- *The Hon'ble Supreme Court in yet another case with reference to adjudication under the Sea Customs Act and Land Customs Act (**Ambalal vs. Union of India AIR 1961 SC 264**) relating to imposition of penalty on the person concerned had held: "To such a situation though the provisions of the Code of Criminal Procedure or the Evidence Act may not apply, except in so far as they are statutorily made applicable, the fundamental principles of criminal jurisprudence and of natural justice must necessarily apply. If so, the burden of proof is on the customs authorities and they have to bring home the guilt to the person alleged to have committed a particular offence under the said Acts by adducing evidence"*
- *Further in the case of **Seth Gulabchand vs. Seth Kudilal (AIR 1966 SC 1734)**, the Hon'ble Court has inter alia held: "the Indian Evidence Act applies the same standard of proof in civil cases. It makes no difference between cases in which charges of a fraudulent or criminal character are made and cases in which such charges are not made. But this is not to say that the courts will not, while striking*

the balance of probability keep in mind the presumption of honesty or innocence or the nature of the crime or fraud charged."

- *It is further submitted that while taking a decision under the impugned provision, the Learned Adjudicating Officer has to take in to account Section 15J of the SEBI Act, 1992 which specifies the factors to be considered before levying any penalty, which are as under*:

  "(a) the amount of disproportionate gain or unfair advantage, whether 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."

- *With regard to Clause (a):- **"the amount of disproportionate gain or unfair advantage, whether quantifiable, made as a result of the default":** it is submitted that the findings does not lead to the conclusion that there has been disproportionate gain or unfair advantage of Our Client as all the shares were bought and sold by us in normal course of our business. Further, Our Client has not made any profit by executing the alleged self-trades.*

- *With regard to Clause (b);- **"the amount of loss caused to an investor or group of investors as a result of the default"** : it is submitted that there are no investor complaints filed at any Stock Exchange or SEBI in respect of the trades executed by Our client in the scrip. Further, the same has also not been alleged in the notice. It is also submitted that your good self was unable to prove any loss caused to other investors as a result of Our Client's trading in the scrip of SRS. In absence of such direct information, the allegation of causing loss to other investors is baseless. Therefore it is submitted that there is no amount of loss caused to any investor or group of investors as result of self-trades*.

- *With regard to Clause (c):- **"the repetitive nature of the default."** it is stated that Our Client has never been held guilty of carrying out self-trades or manipulating the scrip of SRS and therefore the issue of repetition does not arise at all. It is submitted that the instances pointed out in the notice are isolated instances and hence there is no question of repetitive nature of default.*

- *Having stated the factors of Section 15J, Our Client would like to draw the attention of your good self to a few case laws, wherein the respective courts have dealt into the aspect of penalty and factors for levying any penalty on any delinquent. In this regard your kind attention is drawn to Hon'ble Supreme Court's decision in the case of **Hindustan Steel vs. State of Orissa (AIR 1970 SC 253)** where it was held as follows: "An order imposing penalty for failure to carry out a statutory obligation is the result of a quasi-criminal proceeding and penalty will not be ordinarily imposed unless the party obliged either acted deliberately in defiance of law or was guilty of conduct contumacious or dishonest, or acted in conscious disregard of its obligation. Penalty will not also be imposed merely because it is lawful to do so. Whether penalty should be* *imposed for failure to perform a statutory obligation is a matter of discretion of the authority to be exercised judicially and on a consideration of all the relevant circumstances. Even if a minimum penalty is prescribed, the authority competent to impose the penalty will be justified in refusing to impose penalty, when there is a technical or venial breach of the provisions of the Act or where the breach flows from a bonafide belief that the offender is not liable to act in the manner prescribed by the statute."*

- *Again, the Hon'ble Apex Court in the case of **Ex-Naik Sardar Singh vs. Union of India (1991) 3 SCC 212)** inter alia held that "the penalty imposed must be commensurate with the gravity of the misconduct and that any penalty disproportionate to the gravity of the misconduct would be violative of Article 14 of the Constitution."*
- *Further in the matter of **Ranjit Thakur vs. Union of India (AIR 1987 SC 2386)** it was held that*: *"The Sentence has to suit the offence and the offender. It should not be vindictive or unduly harsh. It should not be so disproportionate to the offence as to shock the conscience and amount in itself to conclusive evidence of bias. The doctrine of proportionality, as part of the concept of judicial review would ensure that even on an aspect which is, otherwise, within the exclusive province of Court Martial, if the decision of the Court even as to sentence is an outrageous defiance of logic then the sentence would not be immune from correction. Irrationality and perversity are recognized ground of judicial review. The penalty imposed must be commensurate with the gravity of the misconduct and that any penalty disproportionate to the gravity of the misconduct would be violative of Art. 14 of the Constitution. The point to note and emphasis is that all powers have legal limits."*
- *The Noticee submits that in the instant case since no primary violation against it has been made out and as it has also explained the genuineness of the case, the question of imposition of any penalty does not arise. Therefore it submits that it has not committed any wrong and no charge has been established against it even prima facie, to warrant any action.*

8. Considering the facts and circumstances of the case, reply of Noticee and the SEBI Policy on self-trades dated May 16, 2017 the undersigned is of the opinion that the present matter can be decided on the basis of facts/materials available on record without personally hearing the Noticee.

CONSIDERATION OF ISSUES AND FINDINGS

9. I have perused the written submissions of the Noticee and the documents available on record. The issues that arise for consideration in the present case are :
   a. Whether Noticee, by indulging in self-trades, had violated Regulations 3(a), 3(b), 3(c), 3(d), 4(1), 4(2)(a) and 4(2)(g) of PFUTP Regulations, 2003? and

b. Does the violation, if any, attract monetary penalty under section 15HA of SEBI Act, 1992?

Violation of SEBI (PFUTP) Regulations, 2003

10. Upon perusal of the reply of the Noticee and documents available on record, I find that it is not in dispute that there were 241 self-trades in the scrip of SRS on BSE involving a total quantity of 191889 shares during the investigation period. It is also a matter of record now that the 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), 4(2)(b) and 4(2)(g) of SEBI (PFUTP) Regulations, 2003 which are the specific legal provisions applicable to self-trades.

11. In view of the aforesaid policy of SEBI, the relevant issue to decide herein is whether any manipulation is arising out of self-trades executed by the Noticee or any intention to enter into self-trades is evident from the material on record. The proof of fraudulent/manipulative transactions in the circumstances always depends on inferences drawn from a mass of factual details, the nature of transactions, conduct of the parties etc. It is difficult to prove intent by direct evidence in these types of manipulation and, therefore, circumstantial evidence has to be taken into consideration. Further, the circumstantial evidence should be sufficient to raise a presumption in its favour with regard to the existence of a fact sought to be proved. Since it is exceedingly difficult to prove facts which are especially within the knowledge of parties concerned, the legal proof in such circumstances partakes the character of a prudent man's estimate as to the probabilities of the case.

12. The Hon'ble Securities Appellate Tribunal ("**SAT**") in the matter of *Ketan Parekh Vs. SEBI* (Appeal No. 2 of 2004 decided on 14.07.2006) observed that, "............*Any transaction executed with the intention to defeat the market mechanism whether negotiated or not would be illegal. Whether a transaction has been executed with the intention to manipulate the market or defeat its mechanism will depend upon the intention of the parties which could be inferred from the attending circumstances*

because direct evidence in such cases may not be available. The nature of the transaction executed, the frequency with which such transactions are undertaken, the value of the transactions, whether they involve circular trading and whether there is real change of beneficial ownership, the conditions then prevailing in the market are some of the factors which go to show the intention of the parties. This list of factors, in the very nature of things, cannot be exhaustive. Any one factor may or may not be decisive and it is from the cumulative effect of these that an inference will have to be drawn."

13. Hon'ble Supreme Court of India in the matter of *SEBI v Kishore Ajmera* (order dated February 23, 2016), observed the following with respect to synchronized trades and market manipulations:

    "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…

14. I find that the Noticee, as a client trading through Trading Member Adroit Financial Services Private Limited had traded for 7063750 shares (10.62%) on BSE in the scrip of SRS during the investigation period of which the self-traded quantity was for 191889 shares (0.577% of market volume on BSE) spread over 241 trades on BSE.

15. 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 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 to engage in intentional self-trades as the self-traded quantity of the Noticee to that of the market volume on BSE was 0.577%. Such percentage / volume of self-trades (0.577%) of the Noticee in the scrip of SRS is miniscule as compared to the total trading in the said scrip during the investigation period.

16. It is important to note here that the motive behind executing fraudulent self-trades can either be to artificially raise the volume in a scrip / or to manipulate the price of a scrip by way of creating misleading appearance of trading so as to induce others to deal in the particular scrip. I note that the Investigation Report has not brought out any allegation of price manipulation attributed to the Noticee's self-trades nor is there any evidence suggesting any fraudulent intention behind execution of such self-trades by the noticee.

17. I also note that there are no adverse observations regarding other forms of market manipulation i.e. synchronized trading, reversal trading or executing orders away from last traded price or creation of new high prices by way of first trades etc. against the Noticee in the Investigation Report.

18. After taking into account aforesaid observations, 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 SRS during the investigation period were non-intentional and non-manipulative. That being the case and after taking into account, the SEBI policy dated May 16, 2017 on self-trades, I am inclined to conclude that violations of provisions of Regulations 3(a), 3(b), 3(c), 3(d), 4(1), 4(2)(a) and 4(2)(g) of SEBI (PFUTP) Regulations, 2003 by the Noticee do not stand established. Since the alleged violations are not established against the Noticee, Issue b. of Para-9, requires no consideration.

<u>ORDER</u>

19. For the aforesaid reasons, Show Cause Notice A&E/EAD/PM-NK/18645/ 2017 dated August 7, 2017 alleging violations of provisions of Regulations 3(a), 3(b), 3(c), 3(d),

4(1), 4(2)(a) and 4(2)(g) of SEBI (PFUTP) Regulations, 2003 by the Noticee i.e. AKG Securities and Consultancy Limited, is disposed of without imposition of any penalty.

20. In terms of rule 6 of the Adjudication Rules, copies of this order are sent to Noticee and also to the Securities and Exchange Board of India.

Date: May 28, 2018 **Prasanta Mahapatra**
Place: Mumbai **Adjudicating Officer**