**BEFORE THE ADJUDICATING OFFICER**
**SECURITIES AND EXCHANGE BOARD OF INDIA**
**[ADJUDICATION ORDER NO. EAD/SR/AO/ 83 /2018-19]**

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

In respect of
**Ms. Shabnam Uppal Kapoor**
(Address: 18, Savita Vihar, Master Somnath Marg, Delhi- 110092.)
PAN No: AAAPU3842L

In the matter of
**BGIL Films &Technologies Limited**
(CIN: L65993DL1989PLC035572)

## BACKGROUND

1. A Department (OD) of Securities and Exchange Board of India (hereinafter, referred to as "**SEBI**") conducted investigation in the scrip of BGIL Films & Technologies Ltd. (hereinafter, referred to as "**BFTL**"/"**Company**") for the period June 19, 2008 to March 20, 2009 (hereinafter, referred to as the **"Investigation period"**) on receiving information that the share price of the scrip shot up from below par to Rs.100/- on account of the company's merger announcements. The company was listed on Bombay Stock Exchange Limited (hereinafter referred to as **"BSE"**) during the investigation period. The Investigating Authority (hereinafter referred to as "**IA**") identified a group of 22 connected entities i.e. (1) Prarthana Tarunkumar Brahmbhatt (Prarthana), (2)Tarunkumar Brahmbhatt (Tarun), (3) Krushnakumar Guruvachan Brahmbhatt (Krushna), (4) Jinesh Devendra Bhatt (Jinesh), (5) Zakirbhai Habibbhai Motani (Zakir), (6) Deendayal Atmaram Patodia (Deendayal), (7) Milan H Deliwala (Milan), (8) Jasu Joitalal Doshi (Jasu), (9) Prakash J Shah (Prakash), (10) Nilesh Kanakrai Vakharia (Nilesh), (11) Bipin Bhogilal Rawal (Bipin), (12) Tanuja Singh (Tanuja) (13) Jitendra Kumar Bhatia (Jitendra, (14) Rajiv Kumar Agarwal (Rajiv), (15) Yogeswari Gupta (Yogeshwari), (16) Kartik Share Traders Private Limited (Kartik), (17) Shabnam Uppal Kapoor (hereinafter referred to as **"Noticee"/ "Shabnam"**), (18) Chetan Dogra (Chetan), (19) Vishal Thapar (Vishal), (20) Chhaya Mitesh Mehta (Chhaya), (21) Puran

Chand Choudhary (Puran) and (22) Kishor Mitesh Mehta (Kishor) hereinafter collectively referred to as "**Brahmbhatt Group**". IA observed that the Brahmbhatt Group had traded to the extent of buying 51.82% of the market volume and selling 44.96% of the market volume during the investigation period. IA also observed that Kartik which has Rajiv-the key managerial person of BFTL's group company BGIL, had transferred 1.80 lakh share of the BFTL through off-market to Prarthana, Tarun and Krushna who thereafter manipulated the price and volume of the scrip of BFTL and created misleading appearance of trading in the securities market. IA also observed that Rs. 33.25 lakh worth of shares were transferred to Chetan by Kartik and subsequently six of the promoter/director connected group entities i.e. Kartik, Rajiv, Yogeshwari, Jitendra, Tanuja and Shabnam, offloaded shares at the increased price for a profit of Rs. 71 Lakh. The Noticee is the wife of Mr. Sanjay Kapoor, one of the directors of BFTL during the Investigation Period. The Noticee being connected to the promoters/directors of BFTL and its group companies, was a part of the Brahmbhatt Group, which was involved in market and price manipulation of the scrip of BFTL, is alleged to have taken advantage of the rise in the price of the scrip of BFTL, by selling the shares of BFTL at increased prices in market thereby violating regulations 3(a), 3(b), 3(c), 3(d), 4(1) and 4(2)(a) of SEBI (Prohibition of Fraudulent and Unfair Trade Practices Relating to Securities Market) Regulations, 2003 (hereinafter, referred to as "**PFUTP Regulations, 2003**").

## APPOINTMENT OF ADJUDICATING OFFICER

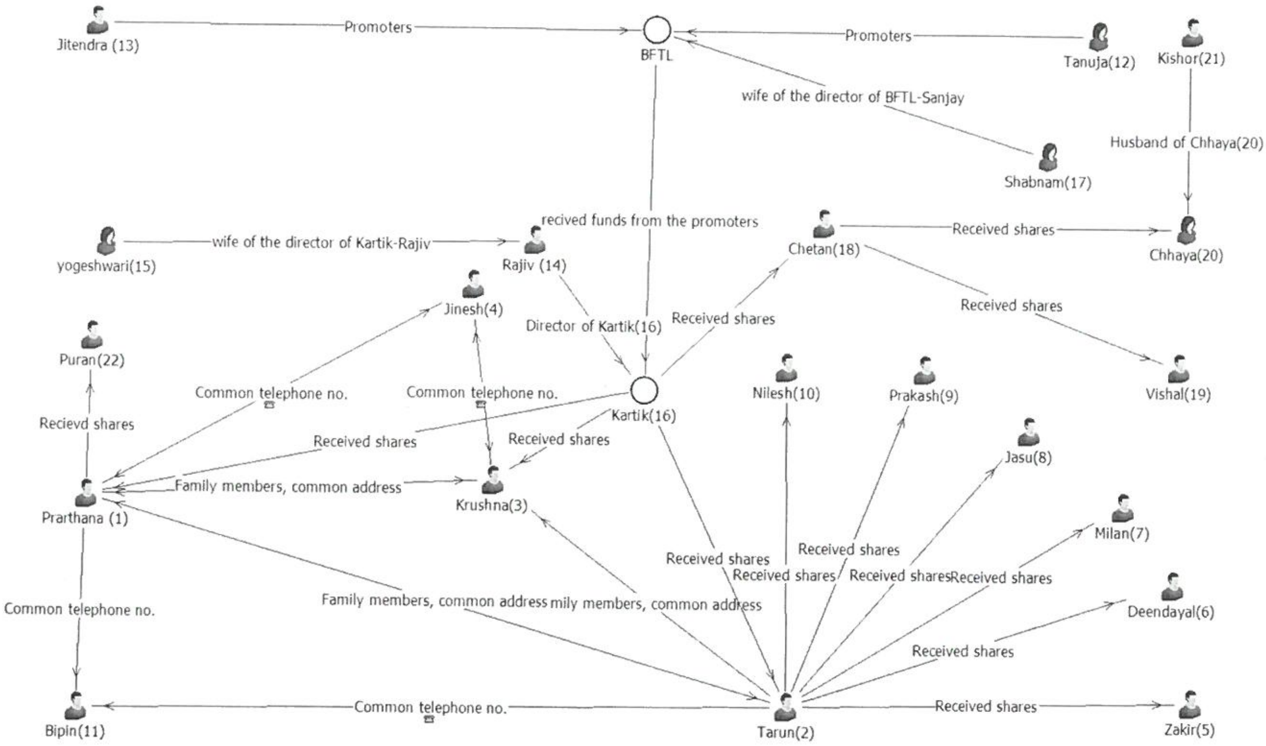
2. As per communique dated July 26, 2016, Shri. Nagendraa Parakh was appointed as Adjudicating Officer (hereinafter, referred to as "AO") to inquire into and adjudge under section 15HA of the Securities and Exchange Board of India Regulations, 1992 (hereinafter, referred to as the SEBI Act, 1992) and rule 3 of SEBI (Procedure for Holding Inquiry and Imposing Penalties by Adjudicating Officer) Rules, 1995 (hereinafter, referred to as "**Adjudication Rules, 1995**") for the alleged violation of provisions of regulations 3(a), 3(b), 3(c), 3(d), 4(1) and 4(2)(a) of PFUTP Regulations, 2003 by the Noticee. Subsequently, the matter was transferred to me and I was appointed as AO vide order dated July 10, 2017.

## SHOW CAUSE NOTICE, REPLY AND PERSONAL HEARING

3. A Show Cause Notice no. EAD/NP/AS/OW/4041/1/2017 dated February 20, 2017 (hereinafter, referred to as the "SCN") was issued to the Noticee through speed post with acknowledgement due (hereinafter, referred to as the "**SPAD**") in terms of the rule 4 of the Adjudication Rules, 1995 requiring the Noticee to show cause as to why an inquiry should not be held against the Noticee and why penalty be not imposed against the Noticee 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) and 4(2)(a) of PFUTP Regulations, 2003 by the Noticee, at the available address of the Noticee ie. 18, Savita Vihar, Master Somnath Marg, Delhi- 110092. The allegations levelled against the Noticee in SCN are briefly given below:

   - *IA noted that during the Investigation period, BFTL made three corporate announcements on February 04, 12 and 24, 2009 respectively on proposal of the merger of certain divisions of Bhartiya Global Infomedia Ltd.,(BGIL) a company under the same management with BFTL. BFTL informed BSE that the Board of Directors had considered and approved the merger of certain divisions of BGIL during the month of February, 2009. Thereafter, it was stated in the Annual Report of BFTL for the year 2009-2010 that the merger of digital post production division from its group company BGIL could not take place due to disagreement on the pricing and equity ratio. However, the said development was not intimated to the Stock Exchange.*

   - *IA identified 22 entities (Brahmbhatt Group) who have traded in the scrip of BFTL during investigation period and were connected to each other through common address, telephone number, off-market transfers of shares and family members. The connection chart is given below:*




- *IA observed that Brahmbhatt Group had bought 21,98,073 shares (i.e. 51.82% of the market volume) and sold 19,07,165 shares (i.e. 44.96 % of the market volume) during the investigation period. The entity-wise trading details are provided to the Noticee in the following tabular format:*

| S.N. | Client Name | Gross Buy | Gross Sell | Net (=Buy-Sell) | Gross Buy % to Market Buy volume | Gross Sell % to Market Sell volume | Net Trade % to Market trade volume |
|---|---|---|---|---|---|---|---|
| 1. | Chetan | 5,42,401 | 6,43,334 | -100,933 | 12.79 | 15.17 | -2.38 |
| 2. | Tarunkumar | 4,51,107 | 3,44,082 | 107,025 | 10.64 | 8.11 | 2.52 |
| 3. | Prarthana | 4,26,377 | 2,99,810 | 126,567 | 10.05 | 7.07 | 2.98 |
| 4. | Jinesh | 2,83,853 | 1,67,652 | 116,201 | 6.69 | 3.95 | 2.74 |
| 5. | Krushnakumar | 1,70,805 | 96,100 | 74,705 | 4.03 | 2.27 | 1.76 |
| 6. | Puran | 1,26,998 | 68,682 | 58,316 | 2.99 | 1.62 | 1.38 |
| 7. | Kishor | 86,234 | 86,134 | 100 | 2.03 | 2.03 | 0.00 |
| 8. | Vishal | 33,198 | 14,800 | 18,398 | 0.78 | 0.35 | 0.43 |
| 9. | Zakir | 30,787 | 15,318 | 15,469 | 0.73 | 0.36 | 0.37 |
| 10. | Chhaya | 20,000 | 20,419 | -419 | 0.47 | 0.48 | -0.01 |
| 11. | Deendayal | 10,254 | 8,254 | 2,000 | 0.24 | 0.20 | 0.05 |
| 12. | Milan | 8,629 | 4,705 | 3,924 | 0.20 | 0.11 | 0.09 |
| 13. | Bipin | 3,605 | 3,175 | 430 | 0.09 | 0.08 | 0.01 |
| 14. | Jasu | 3,000 | 0 | 3,000 | 0.07 | 0.00 | 0.07 |
| 15. | Prakash | 750 | 750 | 0 | 0.02 | 0.02 | 0.00 |
| 16. | Nilesh | 75 | 75 | 0 | 0.00 | 0.00 | 0.00 |
| 17. | Jitendra | 0 | 14,000 | -14,000 | 0.00 | 0.33 | -0.33 |
| 18. | Shabnam | 0 | 8,650 | -8,650 | 0.00 | 0.20 | -0.20 |
| 19. | Kartik | 0 | 19,871 | -19,871 | 0.00 | 0.47 | -0.47 |
| 20. | Rajiv | 0 | 20,370 | -20,370 | 0.00 | 0.48 | -0.48 |

| S.N. | Client Name | Gross Buy | Gross Sell | Net (=Buy-Sell) | Gross Buy % to Market Buy volume | Gross Sell % to Market Sell volume | Net Trade % to Market trade volume |
|---|---|---|---|---|---|---|---|
| 21. | Yogeshwari | 0 | 33,284 | -33,284 | 0.00 | 0.79 | -0.79 |
| 22. | Tanuja | 0 | 37,700 | -37,700 | 0.00 | 0.89 | -0.89 |

- *IA observed that during the investigation period one of the Brahmbhatt group entities i.e Kartik (which has Rajiv – key managerial person of BGIL as its director) transferred 1.80 lakh shares through off-market to three Brahmbhatt group entities viz., Prarthana, Tarun and Krushna (who are inter-related as they are from the same family) who thereafter were alleged to have manipulated the price in the scrip of BFTL, created the misleading appearance in the securities market.*

- *IA observed that on enquiry about the nature of transaction with Kartik, vide letter dated March 25, 2014, Kartik replied stating that, as Kartik was in need of funds, it had taken Rs.15 lakh loan at interest rate of 24% p.a. from Chetan, against security of 3,50,000 shares of the company at prevailing market rate of Rs.9.50 (with 55% margin). As per MoU, 1,00,000 shares were transferred to Chetan on June 18, 2008 and a signed blank delivery instruction slips (DIS) were given for remaining shares. Since the interest was not paid for a period of 5 months, the shares were transferred to Chetan's associates using the signed blank DIS given to Chetan.*

- *IA observed that Kartik had however given Rs. 33.25 lakh worth of shares of BFTL to Chetan as a security against a loan of Rs 15 lakh i.e., with 55% margin. Further investigation revealed that Chetan started trading in the scrip in the month of June only after receipt of the one lakh shares from Kartik on June 18, 2008. It is further observed that Kartik allowed transferring of the remaining 2.5 lakh shares (valued Rs 75 lakh, when the price of scrip was at Rs.30 on Dec 08, 2008) to group entities, instead of clearing the loan along with interest by liquidating a fraction of 2.5 lakh shares already given to Chetan. Chetan and its group entities which received shares from Kartik thereafter were indulged in volume and price manipulation in the scrip subsequent to the receipt of the shares. Hence, it is alleged that shares were transferred to the Group to manipulate the price and volume of the scrip.*

- *IA observed that subsequent to the share transfer to Chetan by Kartik, six of the promoter/director connected Brahmbhatt group entities namely Kartik, Rajiv, Yogeshwari, Jitendra, Tanuja and Shabnam had offloaded their shares at increased price at a profit of Rs.71 lakh. IA observed that Jitendra is brother of Rakesh, the promoter and CMD of BFTL, Tanuja is wife of Jitendra, Rajiv is the key managerial person of BFTL's group company BGIL and Yogeshwari is wife of Rajiv, Rajiv is also one of the directors of Kartik and Kartik had fund transactions with Rakesh and Arti Bhatia, Directors of BFTL and its Group companies and lastly, Shabnam is the wife of Sanjay Kapoor, one of the Directors of BFTL.*

- *IA observed that the aforesaid six Brahmbhatt Group entities connected to the promoters/director of BFTL and its group companies had together sold 1,22,705 shares at an average price of Rs 67.40 i.e., at the increased price subsequent to the share transfer to Chetan by the Kartik. The profit, based on the average sell* *price of the shares and market price when the shares were transferred to Chetan is Rs. 71,04,620 [i.e., (Rs 67.40- Rs 9.50)*1,22,705]. The details of shares sold by these six group entities as given below were conveyed to the Noticee in the SCN:*

| *Sell PAN_NO* | *Sell Client Name* | *Sell Trade* | *Sell Trade Volume* | *Sell Average Rate(SAR)* |
|---|---|---|---|---|
| *AOIPS9379C* | *TANUJA* | *37,700* | *30,58,549* | *81.13* |
| *ACKPB5820* | *JITENDRA* | *14,000* | *11,25,659* | *80.40* |
| *AETPG3131* | *YOGESWARI* | *22,164* | *7,54,993* | *34.06* |
| *AGGPA0436* | *RAJIV* | *20,320* | *8,02,756* | *39.51* |
| *AABCK7306* | *KARTIK* | *19,871* | *19,45,352* | *97.90* |
| *AAAPU3842* | *SHABNAM* | *8,650* | *5,82,870* | *67.38* |
| *Grand Total* | | *1,22,705* | *82,70,179* | *67.40* |

- *In view of the above, it is alleged that the Noticee being connected to the promoters/directors of BFTL and its group companies, were a part of the Brahmbhatt Group which was involved in market and price manipulation of BGIL and Noticee took advantage of the rise in the price of BFTL and sold shares at increased price by offloading them in market and is in violation of regulations 3(a), 3(b), 3(c), 3(d), 4(1) and 4(2)(a) of PFUTP Regulations, 2003.*

4. Upon my appointment as AO, vide Hearing Notice no. SEBI/HO/A&E/EAD/SR/31985/2 dated December 18, 2017 sent by SPAD, I granted an opportunity of personal hearing to the Noticee on March 08, 2018. A copy of the SCN dated February 20, 2017 was also sent along with the Hearing Notice issued to the Noticee, to submit her reply to the said SCN. Delivery of the said Hearing Notice was attempted through the Northern Regional Office (NRO) of SEBI by affixture, however the same was delivered on December 30, 2017 to the Noticee by 'Hand Delivery' when affixture was attempted at the aforementioned address of the Noticee. Proof of delivery by NRO of the said Notice and SCN sent alongwith is available on record. The Noticee vide letter dated January 18, 2018 replied to the Hearing Notice and stated that her husband has been suffering from severe illness from 2015 -17 and for undergoing medical treatments was out of town due to which she had not received the SCN issued initially. Further, as the Noticee was now receipt of the SCN, the Noticee sought further time of 45 days to submit her reply with documents.

5. Another opportunity of personal hearing scheduled on August 30, 2018 was granted to Noticee vide Hearing Notice no. SEBI/HO/A&E/EAD/SR/VV/22962/1 dated August 14, 2018. The Hearing Notice was delivered to the Noticee by SPAD and vide email dated August 16, 2018. The Noticee replied vide email dated August 28, 2018 (sender email

id: sanjaykapoor.ca@gmail.com) stating that she had received the Hearing Notices dated August 14, 2018 and December 18, 2018. The Noticee stated that she had submitted a detailed reply in the year 2013-14 and enclosed the same documents for consideration in the instant matter such as bank account statement, address proof, identity proof, etc. The Noticee further requested that she may be exempt from appearing for the hearing on August 30, 2018 due to her poor health condition.

6. After taking into account, the allegations levelled in the SCN, the replies and documents submitted by the Noticee and other material available on record, I hereby proceed to decide the case on merit.

## CONSIDERATION OF ISSUES

7. I have carefully perused the documents/evidences available on record and the issues that merit consideration in the said case are:
   - **(a) Whether the Noticee has violated regulations 3(a), 3(b), 3(c), 3(d), 4(1) and 4(2)(a) of PFUTP Regulations, 2003?**
   - **(b) Do the violations, if any, on the part of the Noticee attract monetary penalty under section 15HA of the SEBI Act, 1992?**
   - **(c) If yes, then what should be the quantum of such monetary penalty to be imposed upon the Noticee?**

### PFUTP Regulations, 2003

Before proceeding with the consideration of issues, the text of the provisions of 3(a), 3(b), 3(c), 3(d), 4(1) and 4(2)(a) of PFUTP Regulations, 2003 read as given below:-

***3. Prohibition of certain dealings in securities***

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

*4. Prohibition of manipulative, fraudulent and unfair trade practices*

*(1) Without prejudice to the provisions of regulation 3, no person shall indulge in a fraudulent or an unfair trade practice in securities.*
*(2) Dealing in securities shall be deemed to be a fraudulent or an unfair trade practice if it involves fraud and may include all or any of the following, namely:—*
*(a) indulging in an act which creates false or misleading appearance of trading in the securities market;*

8. On perusal of the material available on record and after giving regard to the facts and circumstances of the case, I record my findings for every issue under consideration hereunder.

## EVIDENCES AND FINDINGS

9. **Issue (a): Whether the Noticee has violated Regulations 3(a), 3(b), 3(c), 3(d), 4(1) and 4(2)(a) of PFUTP Regulations, 2003?**

    a) I note that SCN alleges that the Noticee being connected to the promoters/director of BFTL and its group companies, was a part of the Brahmbhatt Group which was involved in market and price manipulation of BFTL, took advantage of the price rise of BFTL by selling the shares of BFTL held by the Noticee at increased prices in the market. The Noticee is alleged to have violated provisions of regulations 3(a), 3(b), 3(c), 3(d), 4(1) and 4(2)(a) of PFUTP Regulations, 2003.

    b) As per the SCN, the Brahmbhatt Group comprises of 22 entities for whom connection is based on common addresses, telephone numbers, off-market transfer of shares and family ties. Connection of the Noticee is established through her husband, namely Sanjay Kapoor, who is the director of BFTL during the investigation period. I note that Sanjay Kapoor is not shown as promoter, but a director of BFTL during the investigation period. I further note from the investigation report and the SCN that there is no allegation against Sanjay Kapoor, through whom Noticee is connected to the group. I also note from investigation report and the SCN that the said sale by Noticee is not alleged to have contributed to new high price, last traded price, synchronous trades, self-trades etc in the scrip of BFTL. In this regard, I am inclined to give a benefit of doubt to the Noticee for the sale of her shares and conclude that the charges levelled against her as per the SCN dated February 20, 2017 for being connected to the promoter/director of BFTL and taking advantage of the price rise by off-loading her shares, do not get established.

c) Therefore, the present adjudication proceedings initiated against the Noticee vide SCN dated February 20, 2017 is disposed off without imposing any monetary penalty and issues (b) and (c) do not require consideration.

**ORDER**

10. In view of the above paragraph, I hereby dispose of the adjudication proceedings initiated against Ms. Shabnam Uppal Kapoor vide SCN dated February 20, 2017, without imposing any penalty.

11. In terms of the provisions of rule 6 of the Adjudication Rules 1995, a copy of this Order is being sent to the Noticee at her last known address and to Securities and Exchange Board of India.

**Date: November 30, 2018**
**Place: Mumbai**

**SANGEETA RATHOD**
**ADJUDICATING OFFICER**

भारतीय प्रतिभूति और विनिमय बोर्ड अधिनियम, 1992 के अधीन न्यायनिर्णायक अधिकारी
Adjudicating Officer under Securities and Exchange Board of India Act, 1992