BEFORE THE ADJUDICATING OFFICER

SECURITIES AND EXCHANGE BOARD OF INDIA

[ADJUDICATION ORDER NO. Order/SM/S./2022-23/20852-20856]

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) RULES, 1995

In respect of

Noticee No.	Name of Noticees	PAN
1.	Anil Finature Pvt. Ltd.(AFPL)	AACCA5377K
2.	Jashmin Ramesh Bhayani	AIXPB6480G
3.	Deepak Khimji Darad	ADOPD3959J
4.	Jayneel Securities Pvt. Ltd (JSPL)	AACCJ3163C
5.	Nilesh N. Seth	AGYPS1051P

(“*hereinafter referred to as Noticees*”)

In the matter of Omnitech Infosolutions Limited

FACTS OF THE CASE IN BRIEF

1. Securities and Exchange Board of India (hereinafter referred to as **'SEBI')** received a complaint alleging manipulations in scrip of Omnitech Infosolutions Limited (hereinafter referred to as **'Omnitech/by name/the Company’**) by its promoters and their associates. Thereafter, SEBI conducted investigation in the matter of Omnitech for the period January 01, 2012 to December 31, 2014 (hereinafter referred to as **'Investigation Period/IP'**). The Company was listed on BSE Ltd **(‘BSE’)** and National Stock Exchange of India Ltd **(‘NSE’)** during the IP. Based on the findings of investigation, SEBI observed certain violations of provisions of Securities and Exchange Board of India Act, 1992 (hereinafter referred to as ‘**SEBI Act’**) and SEBI (Prohibition of Fraudulent and Unfair Trade Practices) Regulations,

2003 (hereinafter referred to as '**PFUTP Regulations**') in respect of trading by Noticees in the scrip of Omnitech.

APPOINTMENT OF ADJUDICATING OFFICER

2. Vide Order dated April 28, 2021, SEBI appointed the undersigned as the Adjudicating Officer under Section 15-I of **SEBI Act** and Rule 3 of SEBI (Procedure for Holding Inquiry and Imposing Penalties) Rules, 1995 (hereinafter referred to as **'Adjudication Rules'**) to inquire into and adjudge under the provisions of Section 15HA of SEBI Act, the alleged violation of Section 12A(a), (b), (c) of SEBI Act, read with Regulations 3(a), (b), (c), (d) and 4(1), 4(2)(a), 4(2)(e) of PFUTP Regulations by Noticees 1 to 5 (Noticees 1 to 5 are collectively referred to as '**Noticees**') in respect of trading in the scrip of Omnitech.

SHOW CAUSE NOTICE, REPLY AND PERSONAL HEARING

3. A Show Cause Notice dated October 29, 2021 (hereinafter referred to as '**SCN**') was issued to Noticees under Rule 4 of the Adjudication Rules to show-cause as to why an inquiry should not be initiated against Noticees and penalty, if any, not be imposed upon them under the provisions of 15HA of SEBI Act, as applicable, for the aforesaid violations alleged to have been committed by them.

4. The relevant extracts of the allegations levelled against Noticees 1 to 5 in the SCN are as under:

ALLEGED VIOLATION OF SECTION 12A(a), (b), (c) OF SEBI ACT, READ WITH REGULATIONS 3(a), (b), (c), (d) and 4(1), 4(2)(a) and 4(2)(e) OF PFUTP REGULATIONS BY NOTICEES

a) *"During the investigation, it was observed that there was increase in price during the IP from Rs 110.60 (closing price) on 03/09/2012 to Rs 196.05 (closing price) on 01/01/2013 as compared to previous period. From 02/01/2013 the price of the scrip continuously fell and reached Rs 8.89 on 31/12/2014."*

b) *"It was observed that the price of the scrip on BSE during investigation period opened at Rs 131 on 1/1/2012, reached a high of Rs 204 on 1/1/2013 after which* *the price started falling and reached Rs 8.89 on 31/12/2014. The scrip was last traded on 04/09/2017 and the closing price was Rs 1.07. Face value of the scrip was Rs 10."*

c) *"Based on the UCC data from both exchanges (BSE & NSE), Know Your Client (KYC) records from brokers, bank statements, off market transactions from depositories, i.e., CDSL & NSDL, MCA data and statement recordings, a group of 63 entities (hereinafter referred to as '**Connected entities'**) including 17 promoters of Omnitech, directly or indirectly, connected to the company were identified. The connection between these entities was established based on the above documents and information submitted by the entities and during the recording of statements. The list of these connected entities and details of connection among themselves and with the company is given at **Annexure-1**."*

d) *"It was observed that Noticee 1 had placed total 278 buy orders (for 341 trades) with miniscule quantities viz. 1,2,3,4….10 shares **(**details of trades at **Annexure-3)**. On further analysis of the afore mentioned 278 buy orders , it was observed that 175 buy orders (for 175 buy trades) contributed positive LTP of Rs. 135.60 i.e. 5.57% to the market positive LTP. The remaining 37 buy orders (40 buy trades) and 85 buy orders (126 buy trades) contributed negative LTP of Rs. -13.20 and 0 LTP respectively."*

e) *"It was also observed that out of the above 148 buy orders, 116 buy orders were placed by Noticee 1 for 1 share each which resulted in 116 trades and contributed to the positive LTP of Rs. 147.80 i.e. 7.62% of the market positive LTP and the remaining 32 buy orders for 2,3,4…10 shares each resulted in 32 trades and contributed to the positive LTP of Rs. 27.45 i.e. 1.42% of the market positive LTP."*

f) *"It was observed that Noticee 1 executed 19 buy trades of miniscule quantity with Noticee 4 **(**details of trades at **Annexure-4).** On perusal of trading pattern between Noticee 1 and Noticee 4, it was observed that they facilitated each other in increasing the positive LTP by Rs. 39.15 (2.02% of total market positive LTP) in the scrip. Few instances of meeting of mind between Noticee 1 and Noticee 4 to manipulate the price of the scrip are brought out below:*

i. *On December 11, 2012, on BSE the first trade executed was for one share at the rate of Rs. 200 which was Rs. 22.25 higher than the last traded price of Rs. 177.75 on the previous day i.e. December 10, 2012. Further, this trade was executed between Noticee 1 as the buyer and Noticee 4 as seller. Noticee 1 had placed the buy order for one share at the rate of Rs. 200, and Noticee 4 placed the sell order for 300 shares at the rate of Rs. 189.9. It was also observed that after execution of this trade, Noticee 4 deleted the remaining sell order of 299 shares"*

ii. *"On December 12, 2012, on BSE the first trade executed was for one share at the rate of Rs. 189.95 which was Rs. 11.50 higher than the last traded price of Rs. 178.45 on the previous day i.e. December 11, 2012. Further, this trade was executed between Noticee 1 as the buyer and Noticee 4 as seller. Noticee 1 had placed the buy order for one share at the rate of Rs. 201, and Noticee 4 placed the sell order for 500 shares at the rate of Rs. 189.95. It was observed that after execution of this trade, Noticee 4 deleted the remaining sell order of 499 shares."*

g) *In view of the above findings, it is alleged that Noticee 1 and its directors viz. Noticees 2 and 3 and Noticee 4 and its director, Noticee 5 violated Sections 12A(a),(b),(c) of SEBI Act, and Regulations 3(a), (b), (c), (d) and Regulations 4(1), 4(2)(a) and 4(2)(e) of PFUTP Regulations."*

5. The SCN was despatched to the Noticees 1 to 5 by Speed Post Acknowledgement Due ('**SPAD**'), and through Digitally Signed Email dated November 02, 2021, and duly served on them. Subsequently, vide letter dated November 12, 2021 by Noticees 4 and 5 and letter dated November 15, 2021 by Noticees 1, 2 and 3, Noticees requested for an opportunity of inspection of documents in the matter. Thereafter, vide email dated July 18, 2022, Noticees were granted an opportunity of inspection on July 22, 2022. Noticees 1, 2 and 3 attended the inspection on July 22, 2022, through their Authorised Representatives (**ARs**), Adv. Wagh Vikas Jalinder and Mr. Milan Panchamia, and Noticees 4 and 5 attended the inspection on July 22, 2022 through their ARs, Parinam Law Associates. As requested by the said Noticees, the following documents, were provided to them:

No.	Noticees	Documents provided
1.	Anil Finature Pvt. Ltd.	All annexures to the SCN and Investigation Report.
2.	Jashmin Ramesh Bhayani	
3.	Deepak Khimji Darad	
4.	Jayneel Securities Pvt. Ltd	
5.	Nilesh N. Seth	

6. During the inspection, Noticees 4 and 5 requested for further copies of certain annexures which was also provided to them vide letter dated July 26, 2022. The ARs requested for additional time to make written submissions in the matter and the said request was acceded to. Accordingly, ARs were granted further time till August 08, 2022 to furnish their written submissions. Thereafter, vide email dated August 09, 2022, Noticees 4 and 5 submitted their reply dated August 08, 2022 to the SCN. Subsequently, Noticees 1-3 submitted their reply dated August 16, 2022 vide email dated August 16, 2022.

7. In the interest of natural justice, vide email dated August 19, 2022, an opportunity of hearing was granted to Noticees 1-3 as well as Noticees 4 and 5 before the undersigned on August 23, 2022. Noticees 4 and 5 appeared for the hearing on hearing on August 23, 2022 through Adv. Ravichandra Hegde and Adv. Parinaz Bharucha, the Authorised Representatives ('**ARs**') for Noticees 4 and 5. During the hearing, the ARs reiterated the earlier submissions made by the Noticees vide letter dated August 08, 2022. Vide email dated August 19, 2022, Noticees 1-3, requested for an adjournment of hearing scheduled on August 23, 2022. The said request was acceded to and another opportunity of hearing was provided to Noticees 1-3 before the undersigned on August 29, 2022. In view of certain administrative exigencies, the aforesaid hearing was rescheduled and another opportunity of hearing was provided to Noticees 1-3 before the undersigned on September 15, 2022. Noticees 1-3 appeared for the hearing through their ARs, Adv. Pramod Kathane and Adv. Ashish Venugopal. During the course of hearing, Noticees reiterated the contents of their earlier reply dated November 15, 2021 and August 16, 2022. Noticees 1-3 also submitted their additional written submissions vide letter dated September 21, 2022.

8. The submissions made by Noticees 1-3 in their replies dated November 15, 2021 and August 16, 2022 and additional written submissions vide letter dated September 21, 2022 are as follows:

i. "*We deny the allegations and adverse observations made against us in the SCN. It should be pointed out that nothing contained in the SCN shall be deemed to be admitted for the lack of traverse. We respectfully submit that there is no violation of breach of any provisions of law, as alleged in the SCN, or otherwise*".

ii. "*The strategy of the company has always been that of a trader, and investor, and the company has been into arbitrage at both the exchanges*."

iii. "*The SCN in relation to the captioned matter was served on 29th October 2021, while the investigation period is 1st January 2012 to 31st December 2014* ***("Investigation Period").*** *This indicates there exists an undue delay in the issuance of the SCN, which has gravely prejudiced us*. *This principle is evidenced in the matter of Garware Polyester Limited vs. SEBI. Ashlesh Gunvantbhai Shah vs. SEBI.*"

iv. "*It is submitted that there is no connection whatsoever between Anil Finature and Jayneel Securities. It is clarified that the two are independent entities, with no common directorship, ownership or control*. *In Jagruti Securities Limited v. Securities and Exchange Board of India (Appeal No. 102 of 2006) vide order dated 27th October 2008, the Securities Appellate Tribunal held that the charge of raising price artificially has to be established and the element of collusion between the buyer and the seller is a sine qua non. We submit that in the absence of any finding of collusion between the buyer and the seller, the charge cannot be sustained*."

v. "*We have been trading intra-day in the scrip of Omnitech for a long time since 2010*. *Therefore, to understand the veracity, sometimes we place a single share order to see the real reaction of such orders which will help in taking a decision for further trades. When we have such positions taken, it does not make any sense for us to increase or decrease the price of the scrip as it would adversely affect our positions and proposed trades*."

vi. *"The trades in question were conducted with due compliance, in normal course of business and more importantly on the floor of the Stock Exchange. Keeping in mind, the state-of-the-art surveillance system at the Stock Exchange, it would be nearly impossible to identity or cherry-pick which entity they would like to match trades with."*

vii. "*At the outset, we clarify that while we had earlier noticed that the scrip was liquid and regularly traded based on the available records, the documents now provided to us by SEBI clearly demonstrates that the scrip was illiquid. While this does not change our position nor alters our submission, we are pointing out only to show how prejudicial it is to initiate proceedings after 12 years with no clarity on the matter nor any observations on the trades and volumes in the scrip.*"

viii. "*…it is stated that the percentage of trade between the two entities was 0.06% of the overall trades in the scrip during the Investigation Period, which shows that the trading quantity was miniscule. Further, it is also important to submit that today Omnitech is under liquidation and the scrip can have no impact on the retail investors. Therefore, there is no per se protection of the securities market presently*."

ix. *"By the time we punch in the orders on the system depending the price on the screen, there will be a different price at which the trades get executed. Therefore, to understand the veracity, sometimes we place a single share order to see the real reaction of such orders which will help in taking a decision for further trades. When we have such positions taken, it does not make any sense for us to increase or decrease the price of the scrip as it would adversely affect our positions and proposed trades.*"

x. "*It is humbly submitted that that the trades executed by AFPL in the scrip of Omnitech amounted to less than 1% of the total overall trades executed by AFPL during the Investigation Period, showcasing that the impugned trades form miniscule percentage of the overall trading portfolio of AFPL*."

xi. "*In conclusion, it is most humbly submitted that we have not violated any provisions of law. We submit that SEBI has not established any manipulative role on our behalf and the findings in the SCN regarding violation of the PFUTP Regulations are unjustified*."

9. The submissions made by Noticees 4-5 in their reply dated August 08, 2022 are summarized as follows:

i. "*There is a considerable delay (over 9 years) in the issuance of the Show Cause Notice on part of SEBI. The trades pertain to the period 2012-13 and the SCN has been issued on October 29, 2021*."

ii. "*The ingredients of the charging provision (Regulations 3 and 4 of the PFUTP Regulations) are not attracted nor applicable in the present case. There is no fraud* *to begin with. For the transaction to be termed ''fraudulent', as per the definition of ''fraud'' there has to an ''inducement'' which is missing in the present case entirely*."

iii. "*We submit that the Company is in the business of proprietary trading and engages jobbers/ arbitragers to execute trades on behalf of the Company. The trading volume of the Company is extremely large and the Company deals in a variety of scrips, across all segments of both the exchanges NSE and BSE*."

iv. "*There is no relationship between our Company and the Counter Party and/ or its directors..*"

v. "*It is reiterated that the Company has incurred loss of Rs. 24.65 Lakhs in the trades of Omnitech during the Investigation Period, i.e., FY 2011-12 to FY 2014-15 in addition to the SIT and transaction charges which were incurred on Omnitech's share trades..*"

vi. "*It is submitted that while there is no period of limitation prescribed in the Act or Regulations for issuance of a show cause notice, however, in the matter of Ashok Shivlal Rupani & Ors. vs. SEBI (Appeal No. 417 of 2018 decided on August 22, 2019), the Hon'ble Securities Appellate Tribunal (SAT) observed that, there is a duty cast upon the Authority to ''exercise its powers within a reasonable period of time.*"

vii. "*It is stated that the pre-requisite of prior meeting of minds is essential when an allegation such as fraudulent trading is levied upon an entity. The Supreme Court has ruled in the Kishore Aimera's Case that volume of trades effected, period of persistent trading, particulars of buy and sell orders and proximity of trades are some of the facts that can point to prior meeting of minds. Based on this, a glimpse of the trading pattern displays that there have not been any preceding trades between the entities. It is further submitted that the Noticees' trading pattern showcases that they are in the business of proprietary trading and all the trades were conducted in an ordinary course of business.*"

viii. "It is submitted that there is lack of investigation in the present matter, and the investigation has failed to observe that the scrip of Omnitech is illiquid/ infrequently traded. Therefore, even a miniscule quantity/ amount of trading in an illiquid scrip will create significant impact on the price, and the Noticees cannot be held liable for the same. The Show Cause Notice and the Investigation Report do not present the scrip of Omnitech as illiquid in nature, which, the Noticees humbly submit, is a lacuna in the investigation. The Noticees submit that due to the nature of the scrip, *even small quantities would have tended to alter the volume and the price of the Omnitech shares as happened in other illiquid scrips"*

ix. *In the case of Kapil Chatrabhuj v. SEBI, the Hon'ble Tribunal observed that,*

"7. Therefore, in our considered opinion simple trading by the appellant in a particular scrip without any proved nexus between the trades with the other so-called group of brokers and clients is not per se punishable. Undoubtedly, the appellant has traded in the scrip for about 64 days which is admittedly minor, comprising onlv 0.89% of the total trades in the scrip but in absence of some satisfactory evidence, the appellant cannot be held guilty of violation of Regulation 4(1) and 4(2)(a) and (2) of the Securities and Exchange Board of lndia (Prohibition o[Fraudulent and Unfair Trade Practices relating to Securities Market) Regulations, 2003. Such an insignificant percentage of the total trading executed during the period of investigation in this case does not seem to indicate anv prior meeting of minds as alleged bv the respondent."

x. *"It is submitted that Company is engaged in the business of arbitrage and jobbing since several years and does the same in the professional and legitimate way of trading. The Company has dealt with more than 600 scrips year on year, every year since long time even current period also. The same has been done during the Investigation period and details of the same are already marked and attached as Annexure A which also contains the details of Omnitech's shares trades) for your records The Company has always appointed jobbers/ dealers to execute the trades on behalf of the Company. We hereby reiterate that the jobbers/ dealers perform their functions from 3 locations. Therefore, it is evident that the Company is engaged in proprietary trading and all the trades conducted were in the regular course of business."*

xi. *"Based on the aforesaid submissions, it is apparent that we were not involved in any manipulation while dealing in the scrip of Omnitech. There is enough material on record to suggest that no further enquiry is required in the matter."*

CONSIDERATION OF ISSUES, EVIDENCE AND FINDINGS

10. I have carefully perused the charges levelled against the Noticees, replies filed by Noticees, and other documents/evidence available on record. The issues that arise for consideration in the present case are:

I) Whether Noticees have violated Section 12A(a), (b), (c) of SEBI Act, Regulations 3(a), (b), (c), (d), 4(1), 4(2)(a) and 4(2)(e) of PFUTP Regulations?

II) Does the violation, if any, attract a monetary penalty under Section 15HA of SEBI Act?

III) If the answer to the aforesaid issues is in the affirmative, then what should be the quantum of monetary penalty?

11. The relevant applicable provisions of the SEBI Act and PFUTP Regulations, are reproduced as under:

Relevant provisions of SEBI Act:

CHAPTER VA
PROHIBITION OF MANIPULATIVE AND DECEPTIVE DEVICES, INSIDER TRADING AND SUBSTANTIAL ACQUISITION OF SECURITIES OR CONTROL

Prohibition of manipulative and deceptive devices, insider trading and substantial acquisition of securities or control.

12A. *No person shall directly or indirectly—*

(a) use or employ, in connection with the issue, purchase or sale of any securities listed or proposed to be listed on a recognized stock exchange, any manipulative or deceptive device or contrivance in contravention of the provisions of this Act or the rules or the regulations made thereunder;

(b) employ any device, scheme or artifice to defraud in connection with issue or dealing in securities which are listed or proposed to be listed on a recognised stock exchange;

(c) engage in any act, practice, course of business which operates or would operate as fraud or deceit upon any person, in connection with the issue, dealing in securities which are listed or proposed to be listed on a recognised stock exchange, in contravention of the provisions of this Act or the rules or the regulations made thereunder;

Relevant provisions of PFUTP Regulation:

3. *Prohibition of certain dealings in securities No person shall directly or indirectly—*

(a) buy, sell or otherwise deal in securities in a fraudulent manner;

(b) use or employ, in connection with issue, purchase or sale of any security listed or proposed to be listed in a recognized stock exchange, any manipulative or deceptive device or contrivance in contravention of the provisions of the Act or the rules or the regulations made there under;

(c) employ any device, scheme or artifice to defraud in connection with dealing in or issue of securities which are listed or proposed to be listed on a recognized stock exchange;

(d) engage in any act, practice, course of business which operates or would operate as fraud or deceit upon any person in connection with any dealing in or issue of securities which are listed or proposed to be listed on a recognized stock exchange in contravention of the provisions of the Act or the rules and the regulations made there under.

4. Prohibition of manipulative, fraudulent and unfair trade practices

(1) Without prejudice to the provisions of regulation 3, no person shall indulge in a 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;

…

(e) any act or omission amounting to manipulation of the price of a security;

<u>Issue No. I - Whether Noticees have violated Section 12A(a), (b), (c) of SEBI Act, Regulations 3(a), (b), (c), (d), 4(1), 4(2)(a) and 4(2)(e) of PFUTP Regulations?</u>

12. Before going into the merits, I note that the Noticees 1 to 5, have made a preliminary objection that there has been an inordinate delay in the issuance of SCN, which has prejudiced them and, on this ground, the SCN ought to be dropped. In support of their contention the Noticees have relied upon the judgement of Hon'ble SAT in the matter of Ashok Shivlal Rupani vs. SEBI. In this regard, I note that the investigation in the matter pertained to the period from January 01, 2012 to December 31, 2014 and it was initiated on December 06, 2016. The investigation involved analysis of transactions in the scrip of the Company covering complex and detailed trade Analysis, LTP analysis, Broker and Client Concentration Analysis, and discovery and establishment of connection in respect of 63 suspected entities. The investigation was completed on February 22, 2021 and adjudication proceedings in the matter were approved on the same date. Subsequently, vide Order dated April 28, 2021, the undersigned was appointed Adjudicating Officer for commencing adjudication proceeding against the Noticees. During the adjudication proceeding, certain documents which were necessary as evidence in the matter were sought in reference to the investigation report. Thereafter, on receipt of the aforesaid documents, the SCN in the matter was issued on October 29, 2021. Thus, in view of the

above, I find that the proceedings against Noticees have been initiated within a reasonable period of time.

13. In view of the aforesaid chronology of events, I find that SCN in the present proceeding has been issued within a reasonable period of time and there has been no delay in issuance of SCN. After issuance of SCN, adequate opportunities were granted to Noticees to represent their cases and replies were also received from Noticees with regard to the allegations against them in the SCN. Further, looking at the material available at the disposal of the Noticees, I note that Noticees were provided with all the relevant material with respect to the charges levelled in the SCN, to form a definite defense to the charges in the SCN, which the Noticees have provided through their respective replies. Hence, I note that Noticees have failed to show that, how delay, if any, in the instant matter has prejudiced their interest. Therefore, I do not find any merit in the contention raised by Noticees that there has been inordinate delay in issuance of SCN due to which prejudice has been caused to them. In this regard I find it pertinent to refer to the observations of the Hon'ble Supreme Court in the case of Adjudicating Officer, SEBI vs. Bhavesh Pabari (decided on February 28, 2019) in which it was held that-"*There are judgments which hold that when the period of limitation is not prescribed, such power must be exercised within a reasonable time. What would be reasonable time would depend upon the facts and circumstances of the case, nature of the default/statute, prejudice caused, whether the third party rights had been created etc*." In this regard, I also place reliance on the judgement of Hon'ble Securities Appellate Tribunal (SAT) in the matter of Girrajkumar Gupta HUF (Appeal No. 424/2019; Decided on August 11, 2021), wherein Hon'ble SAT held that, "*We find that the investigation started in the year 2015 which involved examining several entities in the order logs, trade logs, off market transactions and gathering evidence from the Stock Exchange. The show cause notice was issued in the October, 2017 and accordingly we find that there is no inordinate delay in the initiation of the proceedings. The contention raised is, thus, erroneous and cannot be accepted."*

14. Thus, in view of aforesaid judgments, I note that instant adjudication proceeding has been initiated within a reasonable period of time and no prejudice has been caused to the Noticees. I also note that the facts and circumstances of the present proceedings are not similar to those in the judgments quoted by Noticees because there has been no delay in the initiation of the present proceeding as already stated above. Therefore, I do not find

any merit in the contention raised by Noticees that there has been inordinate delay in issuance of SCN due to which prejudice has been caused to them.

15. I now proceed to deal with the merits of the case in respect of the alleged violations by Noticees.

16. It has been alleged in the SCN that Noticees 1 to 5 created a misleading appearance of trading in the scrip of Omnitech through small trades and manipulated the price of the scrip upwards from September 3, 2012 to January 1, 2013 ("**Patch 2 of the IP**") in BSE and that Noticee 1 created a misleading appearance of trading through small trades and manipulated the price of the scrip upwards during Patch 2 of the IP in NSE. In this regard, from the BSE Price-Volume data pertaining to the scrip of Omnitech, I observe the following movement in the Price and Volume of the said scrip at BSE before, during and after the IP:

Period	**Dates**		**Opening Price (volume) on first day of the period(Rs)**	**Closing Price (volume) on last day of the period (Rs.)**	**Low Price (volume) during the period (Rs.)**	**High Price (volume) during the period (Rs.)**	**Avg. no. of (shares) traded daily during the period**
Before Investigation period	**(01/11/2011-31/12/2011)**	**Price**	151.95	131.70	126.10 (20/12/2011)	151.95 (1/11/2011)	9693
		Vol	9336	31119	1697 (23/12/2011)	31119 (30/12/2011)	
During Investigation Period	**(01/01/2012-31/12/2014)**	**Price**	131	8.89	7.75 (25/11/2014)	204 (1/1/2013)	18698
		Vol	1660	4559	51 (7/1/2012)	369264 (9/10/2014)	
Patch -1	**(1/01/2012 - 2/09/2012)**	**Price**	131	106.75	105 (31/12/2012)	144.9 (3/2/2012)	7564
		Vol	1660	7413	51 (7/1/2012)	86034 (11/6/2012)	
Patch -2	**(03/09/2012 - 1/01/2013)**	**Price**	109.35	196.05	108.5 (3/9/2012)	204 (1/1/2013)	17479
		Vol	839	6271	301 (20/9/2012)	111726 (28/12/2012)	
Patch -3	**(02/01/2013 - 02/09/2013)**	**Price**	197	13.97	13.97 (2/9/2013)	203 (7/1/2013)	19537
		Vol	28306	36723	135	348576	
Patch -4	**(03/09/2013 - 31/12/2014)**	**Price**	13.28	8.89	7.75 (25/11/2014)	29.02 (26/9/2013)	24397
		Vol	249531	4559	115 (5/8/2014)	369264 (9/10/2014)	
After Investigation period	**(01/01/2015-31/3/2015)**	**Price**	8.90	6.40	5.51 (27/3/2015)	9.69 (5/1/2015)	14857
		Vol	15664	1613	1 (10/3/2015)	209371 (6/1/2015)	

17. I note that during the IP, the price of scrip of the company in BSE opened at Rs. 131 on January 01, 2012, reached a high of Rs. 204 on January 01, 2013 i.e. a rise of 56% and fell to Rs. 8.89 on December 31, 2014.

18. From the NSE Price-Volume data pertaining to the scrip of Omnitech, I observe the following movement in the Price and Volume of the said scrip at NSE before, during and after the IP:

Period	Dates		Opening Price (volume) on first day of the period(Rs)	Closing Price (volume) on last day of the period (Rs.)	Low Price (volume) during the period (Rs.)	High Price (volume) during the period (Rs.)	Avg. no. of (shares) traded daily during the period
Before Investigation period	**(01/11/2011-31/12/2011)**	**Price**	149	130.05	126.1 (23/12/2011)	150 (15/11/2011)	15117
		Vol	6640	45720	1805 (8/12/2011)	56155 (16/11/2011)	
During Investigation Period	**(01/01/2012-31/12/2014)**	**Price**	129 (2/1/2012)	8.9 (31-12-2014)	8.3 (20/2/2014)	208.85 (1/1/2013)	22300
		Vol	1205	22427	6 (6/8/2013)	465052 (11/12/2014)	
Patch -1	**(1/01/2012 - 2/09/2012)**	**Price**	129 (2/1/2012)	111.7 (31-8-2012)	104.3 (28/8/2012)	145.5 (23/1/2012)	9218
		Vol	1205	5538	46 (3/3/2012)	974333 (1/6/2012)	
Patch -2	**(03/09/2012 - 1/01/2013)**	**Price**	112.5	196.35	109.1 (3/9/2012)	208.85 1/1/2013	20937
		Vol	456	9779	456 (3/9/2012)	144758 (28/12/2012)	
Patch -3	**(02/01/2013 - 02/09/2013)**	Price	196	14	14 (2/9/2013)	203.5 (2/1/2013)	19501
		Vol	29143	7762	6 (6/8/2013)	294511 (13/8/2013)	

19. I note that during the IP, the price of scrip of the company in NSE opened at Rs. 129 on January 01, 2012, reached a high of Rs. 208.85 on January 01, 2013 i.e. a rise of 62% and fell to Rs. 8.9 on December 31, 2014.

20. I have perused the Unique Client Code ('**UCC'**) details from BSE and NSE, Know Your Client ('**KYC**') records from brokers, bank statements, data pertaining to off-market transactions received from Central Depository Services (India) Limited ('**CDSL**') and National Securities Depositories Limited ('**NSDL**') and Ministry of Corporate Affairs ('**MCA**') database in respect of the Noticees and several other entities ("**other trading entities**") which had traded in the scrip of Omnitech during the IP. From the aforesaid records, I observe the following connection amongst the Noticees 1 to 5 and between Noticees and the other trading entities:-

Noticee No.	Name	PAN	Connection
1.	**Anil Finature Pvt Ltd**	AACCA5377K	Connection with other entities

			• **Anil Finature Pvt Ltd (AFPL)** is connected to **Ajay Natavarlal Commodities Pvt Ltd** on the basis of following: - AFPL is sub-broker of ANS Pvt Ltd which is managed by Jayesh Sheth brother of Nilesh Sheth (director of **Ajay Natavarlal Commodities Pvt Ltd**) - Vide mail dated 5/8/2019, director of AFPL stated that **Ajay Natavarlal Commodities Pvt Ltd** is their broker on the Commodity exchanges since 2006 • **AFPL is** connected to **Alfa Fiscal Services Pvt Ltd** as **AFPL is** sub broker of **ANS Pvt Ltd** which is group company of **Alfa Fiscal Services Pvt Ltd.** • **AFPL** is connected to **Nikhil Shashikant Udani** on basis of: - common address- C-9, Satyam Shopping Centre, M.G Road, Ghatkopar, Mumbai Maharastra 400077 - Fund transfers (HDFC statement of **AFPL**) - As per financial statement of AFPL for yr 31-3-2014, related parties include Nikhil Shashikant Udani - Opened a joint account with Canara Bank (Afc no-0236201002322) - Off market transfer of securities • **AFPL** is connected to **Hemali Nikhil Udani** as - **Hemali Nikhil Udani** is shareholder of **AFPL** as per financial statement of AFPL for yr ended 31-3-2012 - As per the KYC submitted by ANS pvt Ltd, **Hemali Nikhil Udani** is the director/partner of AFPL. • AFPL is connected to Anil Jamnadas Bhayani and Usha Anil Bhayani on the basis of following:- - As per financial statement of AFPL for Financial Year ending 31-3-2014, related parties Include Anil Jamnadas Bhayani and Usha Anil Bhayani. - As per KYC submitted by ANS pvt Ltd, Usha Anil Bhayani is the director/partner of **AFPL.** - Fund transfers (HDFC Bank statement of **AFPL**) - Off market transfers of securities • **AFPL** is connected to Suyog securities on the basis - of fund transfers (From HDFC bank statement of **AFPL** & Suyog securities) **<u>Connection with company</u>** • **AFPL** is connected to Wintel computers Pvt Ltd (Jayneel Securities Private Limited) on the basis of following:-

			- AFPL has taken unsecured loan from Wintel computers Pvt Ltd (as per the balance sheet of Wintel computers Pvt Ltd) - Fund transfers (observed from the Axis bank statement Wintel computers Pvt Ltd)
2.	Jashmin Ramesh Bhayani	AIXPB6480G	Jashmin Ramesh Bhayani is the Director of Anil Finature Pvt. Ltd.
3.	Deepak Khimji Darad	ADOPD3959J	Deepak Khimji Darad is the Director of Anil Finature Pvt. Ltd.
4.	Jayneel Securities Private Limited (Promoter-Director of Nilesh Sheth)	AACCJ3163C	**Connection with suspected entities** • **Jayneel Securities Private Limited** is connected to **ANS Pvt ltd** on the basis of following:- - Common email anspl405@yahoo.com - As per the financial statement of **Jayneel Securities Private Limited** for the year ended 31-3-2017, ANS Pvt ltd is related party of Jayneel Securties Private Limited. - **ANS Pvt ltd** is managed by Jayesh Sheth who is the brother-in-law of Jigna Sheth director of **Jayneel Securities Private Limited.** - **Jayneel Securities Private Limited is** the sub-broker of **ANS Pvt ltd**. • **Jayneel Securities Private Limited is** connected to **Ajay Natavarlal Commodities Pvt limited** on the **basis** of following:- - As per the financial statements, **Ajay Natavarlal Commodities Pvt limited** is related party. · fund transfers (BOI bank statement of **Ajay Natavarlal Commodities Pvt limited)** · Off-market transfers of securities - Promoter-Director of **Ajay Natavarlal Commodities Pvt limited** (Mr Nilesh Sheth) and Promoter-Director of **Jayneel Securities Private Limited** are husband and wife. • **Jayneel Securities Private Limited** is connected to **Alfa Fiscal Services Pvt Ltd** on the basis of following:- - **Alfa Fiscal Services Pvt Ltd and Jayneel Securities** are related companies as per financial statement Fund transfers (bank statement (BOI) of **Alfa Fiscal Services Pvt Ltd**) - Director of **Alfa Fiscal Services Pvt Ltd** is Bhavesh

			Sheth who is the brother-in-law of Jigna Sheth, director of **Jayneel Securities Private Limited** · **Jayneel Securities Private Limited** is a group company of **Alfa Fiscal Services Pvt Ltd.** • **Jayneel Securities Private Limited** is connected to Nilesh Natvarlal Sheth (Nilesh N. Seth) on basis of following:- - common email id nsheth1973@yahoo.in - **Nilesh N. Seth** is the promoter-director of **Jayneel Securities Private Limited** • **Jayneel Securities Private Limited** is connected to **Dishaben Jayeshbhai Sheth** as **Dishaben Jayeshbhai Sheth** is the promoter of **Jayneel Securities Private Limited** (as per MCA details) • **Jayneel Securities Private Limited** is connected to **Jigna Nilesh Sheth** as **Jigna Nilesh Sheth** is the director and promoter of **Jayneel Securities Private Limited** (as per MCA details) • **Jayneel Securities Private Limited** is connected to **Kashmira B Sheth** as **Kashmira B Sheth** is the promoter of **Jayneel Securities Private Limited** (as per MCA details) **Connection with the Company** Wintel Computers Pvt. Ltd. (one of the promoters of Omnitech) is connected to Jayneel Securities Pvt Ltd as Wintel Computers Pvt. Ltd. borrowed 3000000 from Jayneel Securities Pvt Ltd (as per the balance sheet of Wintel Computers Pvt. Ltd. for Financial Year ended March 31, 2012).
5.	Nilesh N. Seth	AGYPS1051P	Connection with other entities • **Nilesh N. Seth** is connected to ANS Pvt Ltd as director of ANS Pvt Ltd, Mr Jayesh Sheth is brother of **Nilesh N. Seth.** • **Nilesh N. Seth** is connected to **Ajay Natavarlal commodities private Limited** on basis of following: - **Nilesh N. Seth** is promoter-director of **Ajay Natavarlal**

			commodities private Limited. - Offmarket transfers of securities • **Nilesh N. Seth** is connected to **Jayneel Securities Pvt Ltd** on basis of · **Nilesh N. Seth** is the promoter and director of **Jayneel Securities Private Limited** · common email id nsheth1973@yahoo.in • **Nilesh N. Seth** is connected to **Alfa Fiscal Services Pvt Ltd** on the basis of the following: - Nilesh Natvarlal Sheth is the promoter of Alfa Fiscal Services Pvt. Ltd. - Fund transfers (Federal bank) • **Nilesh N. Seth** is connected to **Nilesh N Sheth** (Huf) and **Natwarlal Harjivan Sheth** on basis of common address which **is A** – 301 Sadguru Vatika - 2, maruti Nagar, airport Road, Rajkot, Gujarat, India, 360003 and **Natwarlal Harjivan Sheth** is father of **Nilesh N. Seth.** • **Nilesh N. Seth is** connected to **Jigna Nilesh Sheth** on basis of the following: - **Jigna Nilesh Sheth is** the wife of **Nilesh N. Seth** - common address which is A - 301, Sadguru Vatika - 2, maruti Nagar, - airport Road, Rajkot, Gujarat, India, 360003 - Common address A-4, Panchshil Apartment, 8 Old Jagnath Plot, 8/h Jagnathn Temple, Rajkot-360001.

21. I note that Noticees have contended that SEBI has failed to establish any connection between Noticees 1-3 and Noticees 4-5 and in support of their contention they have placed reliance upon the judgement of Hon'ble SAT in Jagruti Securities Pvt. Limited vs. SEBI (Appeal No. 102 of 2006; decided on October 27, 2008) and SPJ Stock Brokers Private Limited v. SEBI (2013 SCC online SAT 67). In this regard, from the aforesaid facts and records as presented in the table above, I observe that the Noticees are connected entities on account of their off-market share transfers, common directorships, family connection, fund transfers, common email ID and address as well as business ties. I also observe that Noticees had connections with other trading entities in the scrip of Omnitech during the IP. At this juncture, I find it pertinent to refer to the judgement of the Hon'ble SAT in the matter

of Sanjay Kumar Poddar HUF vs. SEBI (Appeal No. 326 of 2020; Decided on August 24, 2021), in which it was held that- "…*it would be necessary to find out what is meant by the term 'connection'. This term is not a term of art. Respondent SEBI often use this term in order to explain a link between entities. The link can be anything like personal relationship, off-market transaction, financial relationship or even a location proximity etc. In view of the fact that on the stock exchanges platform numerous faceless transactions in large numbers within a fraction of a second take place between the parties across the globe unknown to each others, any link between a set of entities trading in similar manner or with each other or the company etc. if found, cannot be easily brushed aside as a mere coincidence. The issue therefore will be whether the link would be a factor indicating that there is a high probability of the alleged group working in tandem to achieve a certain goal i.e. to increase the price of the shares…*" In this regard, as noted above, an analysis of UCC details from BSE and NSE, KYC records from brokers, bank statements, data pertaining to off-market transactions received from CDSL, NSDL and MCA database in respect of the Noticees and several other entities, clearly establishes that Noticees were connected to each other in various layers. Hence, based on the aforesaid records and placing reliance on the aforesaid judgement of Hon'ble SAT in the matter of Sanjay Kumar Poddar HUF vs. SEBI (*Supra*), I hold that the Noticees are connected entities and accordingly I do not find any merit in the contention of Noticees in this regard.

22. From the NSE price volume data, NSE order log and trade log, I note that during Patch 2 of the IP, the price of the scrip at NSE opened at Rs. 112.5, reached a high of Rs. 208.85 and closed at Rs. 196.35. I have also perused the details of the buy trades at NSE executed by Noticees 1 and 4 as well as other trading entities, and the analysis of their respective contribution to Last Traded Price ("**LTP**") of the scrip during Patch 2 of the IP which is as under:-

TABLE- A

Buyer PAN	Buyer Name	All trades				LTP diff > 0				LTP diff < 0				LTP diff = 0			% of Positive LTP to Total Market Positive LTP
		LTP impact in Rs.	QTY traded	No. of trading days	No of trades	LTP impact in Rs.	QTY traded	No. of trading days	No of trades	LTP impact in Rs.	QTY traded	No. of trading days	No of trades	QTY traded	No. of trading days	No of trades	
AACCA5377K	Anil Finature Pvt Ltd.	249.60	145635	61	2292	319.05	41611	55	719	-69.45	15567	49	251	88457	57	1322	13.10
AAGPD0846D	Pallavi M Desai	32.95	271468	33	1835	96.30	51484	26	324	-63.35	45672	31	302	174312	32	1209	3.95
AKGPD7283C	Desai Jay Manoj	3.45	41019	5	119	7.55	9406	4	22	-4.10	4219	5	22	27394	4	75	0.31
AADCP8387P	Perpetual Infotech Pvt. Ltd.	2.95	24245	3	27	4.05	4052	2	15	-1.10	10279	1	4	9914	2	8	0.17
AAKHM7352K	Manoj Maganlal Desai (Huf)	2.20	17884	4	180	8.70	4973	2	24	-6.50	4605	4	43	8306	4	113	0.36
AAACM9718L	Multiventure Infotech Pvt. Ltd.	2.00	97985	4	23	2.00	41498	3	7	0.00	0	0	0	56487	4	16	0.08
AAFCA7070C	Aklvya Realities Pvt. Ltd.	1.90	74220	5	374	12.70	10648	5	51	-10.80	16359	4	71	47213	5	252	0.52
AAECA9700G	Aklvya Builders & Developers Pvt.Ltd.	1.75	61065	11	547	23.80	6491	10	93	-22.05	9340	10	96	45234	11	358	0.98
AKGPD7293N	Desai Vatsal Manoj	1.35	3500	3	34	2.40	1045	2	7	-1.05	589	2	6	1866	3	21	0.10

AABCA8192K	Alfa Fiscal Services Pvt Ltd	0.90	25000	2	9	0.90	19882	2	7	0.00	0	0	0	5118	2	2	0.04
AHLPP0269Q	Parekh Payal Mahendra	0.65	34569	5	39	2.35	330	2	5	-1.70	12340	4	10	21899	5	24	0.10
AAHCS8788D	Someshwar Trading Pvt Ltd.	0.20	38000	1	23	0.20	35025	1	3	0.00	0	0	0	2975	1	20	0.01
AAQPS0412G	Indu Mahesh Shah	-0.35	20738	3	72	1.90	223	2	15	-2.25	20020	3	8	495	2	49	0.08
AAHPS5248M	Parag Kishore Shah	-0.90	35000	1	1	0.00	0	0	0	-0.90	35000	1	1	0	0	0	0.00
AAHPP6610N	Smita M Parekh	-1.35	50358	3	59	3.15	676	2	11	-4.50	281	1	6	49401	3	42	0.13
ABBPD2066K	Desai Manoj m	-3.85	40947	13	479	16.50	10616	6	51	-20.35	6006	13	59	24325	13	369	0.68
AACCJ3163C	Jayneel Securities Pvt Ltd.	-4.90	107516	60	1602	99.55	13208	51	317	-104.45	30619	50	333	63689	55	952	4.09
AAIHK4798P	Ketan Maganlal Desai (Huf)	-7.35	27050	9	339	17.60	2212	7	49	-24.95	4948	9	76	19890	9	214	0.72
AACPD7795B	Desai Ketan Maganlal	-15.35	43252	10	436	12.60	4190	6	40	-27.95	12031	10	104	27031	9	292	0.52
Total Suspected entities		**265.85**	**1159451**	**236**	**8490**	**631.30**	**257570**	**188**	**1760**	**-365.45**	**227875**	**197**	**1392**	**674006**	**221**	**5338**	**25.92**
Remaining entities		**-182.00**	**557366**	**2844**	**21745**	**1803.40**	**120338**	**1567**	**4882**	**-1985.40**	**127532**	**1663**	**5207**	**309496**	**1983**	**11656**	**74.08**
Market total		**83.85**	**1716817**	**3080**	**30235**	**2434.7**	**377908**	**1755**	**6642**	**-2350.85**	**355407**	**1860**	**6599**	**983502**	**2204**	**16994**	**100.00**

23. From the aforesaid table, I note that Noticee 1 had placed total 278 buy orders (which led to 341 buy trades) for miniscule quantities between 1 to 10 shares at NSE. I note that Noticee 1 placed 108 buy orders for 1 share each which resulted in 108 buy trades and contributed positive LTP of Rs. 106 i.e. 4.35% of the market positive LTP. I further note that Noticee 1 placed 66 buy orders for 2 to 10 shares each which resulted in 67 trades and contributed positive LTP of Rs. 29.60 i.e. 1.22 % of the market positive LTP. Thus, I observe that out of 278 buy orders, 175 buy orders (which led to 175 buy trades) of Noticee 1 contributed positive LTP of Rs. 135.60 i.e. 5.57% to the market positive LTP of the scrip.

24. From the BSE price volume data, BSE order log and trade log, I note that during Patch 2 of the IP, the price of the scrip at BSE opened at Rs. 109.35, reached a high of Rs. 204 and closed at Rs. 196.05. I have also perused the details of the buy trades at BSE executed by Noticees 1 and 4 as well as other trading entities, and the analysis of their respective contribution to LTP during Patch 2 of the IP in the scrip of Omnitech is as follows:

TABLE - B

Buyer PAN	Buyer Name	All trades				LTP diff > 0				LTP diff < 0				LTP diff = 0			% of Positive LTP to Total Market Positive LTP
		LTP impact in Rs.	QTY traded	No. of trading days	No of trades	LTP impact in Rs.	QTY traded	No. of trading days	No of trades	LTP impact in Rs.	QTY traded	No. of trading days	No of trades	QTY traded	No. of trading days	No of trades	
AACCA5377K	Anil Finature Pvt Ltd	214.65	103194	63	1526	281.45	19340	52	372	-66.80	19840	46	195	64014	50	959	14.52
AAGPD0846D	Pallavi Manoj Desai	9.70	217694	33	1683	103.40	40977	25	295	-93.70	78906	32	278	97811	31	1110	5.34
AKGPD7283C	Jay Manoj Desai	8.35	60417	7	300	21.85	16574	7	64	-13.50	14423	7	55	29420	7	181	1.13
AAQPS0412G	Indu Mahesh Shah	6.65	25063	3	40	7.65	548	2	21	-1.00	53	1	3	24462	3	16	0.39
AKGPD7293N	Vatsal Manoj Desai	5.15	2806	3	31	5.40	503	3	9	-0.25	950	2	4	1353	3	18	0.28

AAACM9718L	Multi Venture Infotech Pvt Ltd	2.75	91754	4	19	4.15	37485	2	11	-1.40	27500	2	2	26769	2	6	0.21
AABCA8192K	Alfa Fiscal Services Pvt Ltd	2.25	25000	2	7	2.30	24977	2	6	-0.05	23	1	1	0	0	0	0.12
AACCA4841J	ANS private limited	2.00	50	1	1	2.00	50	1	1	0.00	0	0	0	0	0	0	0.10
AACPD7795B	Ketan Maganlal Desai	1.80	92316	13	547	26.15	14316	10	77	-24.35	31692	12	102	46308	13	368	1.35
AAHCS8788D	Someshwar Trading Pvt Ltd	1.55	18000	1	18	1.55	15341	1	7	0.00	0	0	0	2659	1	11	0.08
AADCP8387P	Perpetual Infotech Pvt. Ltd.	1.50	355	1	6	1.50	331	1	4	0.00	0	0	0	24	1	2	0.08
AAECA9700G	Aklvya Builders and Developers Pvt Ltd	1.25	62680	9	403	23.05	12963	7	69	-21.80	17787	9	79	31930	8	255	1.19
AGYPS0829B	Natwarlal Harjivan Sheth	0.90	3000	1	2	0.95	1	1	1	-0.05	2999	1	1	0	0	0	0.05
AAHPS5248M	Parag Kishor Shah	0.50	40000	1	1	0.50	40000	1	1	0.00	0	0	0	0	0	0	0.03
AHLPP0269Q	Payal Mahendra Parekh	-0.20	66431	5	57	3.20	20352	3	11	-3.40	183	3	11	45896	4	35	0.17
AAHPP6610N	Smita Mahendra Parekh	-0.95	49642	3	67	5.20	13760	2	14	-6.15	381	1	13	35501	3	40	0.27
ABBPD2066K	Manojkumar Maganlal Desai	-1.95	32327	12	571	16.55	4512	6	51	-18.50	11235	12	59	16580	11	461	0.85
AAGPD0847C	Manisha Ketan Desai	-2.85	729	2	6	0.00	0	0	0	-2.85	629	2	5	100	1	1	0.00
AAKHM7352K	Manoj Maganlal Desai Huf	-4.15	26404	4	245	20.50	2755	2	44	-24.65	9061	4	51	14588	4	150	1.06
AAFCA7070C	Aklvya Realities Pvt. Ltd.	-6.55	40934	5	465	19.90	6041	4	71	-26.45	16617	5	102	18276	5	292	1.03
AACCJ3163C	Jayneel Securities Pvt. Ltd.	-13.70	111076	60	1328	100.35	16718	46	264	-114.05	14108	52	293	80250	53	771	5.18
AAIHK4798P	Ketan Maganlal Desai Huf	-23.70	34161	10	337	25.35	6934	7	52	-49.05	8968	10	88	18259	10	197	1.31
Total Suspected entities		**204.95**	**1104033**	**243**	**7660**	**672.95**	**294478**	**185**	**1445**	**-468.00**	**255355**	**202**	**1342**	**554200**	**210**	**4873**	**34.72**
Remaining entities		**-118.25**	**329231**	**1597**	**13150**	**1264.95**	**71342**	**916**	**2774**	**-1383.20**	**74102**	**941**	**2733**	**183787**	**1121**	**7643**	**65.28**
Market total		**86.70**	**1433264**	**1840**	**20810**	**1937.90**	**365820**	**1101**	**4219**	**-1851.20**	**329457**	**1143**	**4075**	**737987**	**1331**	**12516**	**100.00**

25. From the aforesaid table, I note that during patch 2 of the IP, Noticee 1 had placed total 202 buy orders (which led to 255 buy trades) in 39 trading days at BSE for varied quantities between 1 to 10 shares. I note that out of the aforesaid 202 buy orders, Noticee 1 placed 116 buy orders for 1 share each which resulted in 116 buy trades and contributed positive LTP of Rs. 147.80 i.e. 7.62% of the market positive LTP. I also note that Noticee 1 placed 32 buy orders for 2 to 10 shares each which resulted in 32 trades and contributed positive LTP of Rs. 27.45 i.e. 1.42 % of the market positive LTP. Thus, I observe that out of 202

buy orders placed by Noticee 1, 148 buy orders (which led to 148 buy trades) of Noticee 1 contributed positive LTP of Rs. 175.25 i.e. 9.05% to the market positive LTP of the scrip. Thus, I observe that over a period of 39 days during Patch 2 of the IP, Noticee 1 placed 202 buy orders at BSE for miniscule quantities, out of which 148 buy orders contributed 9.05% to the market positive LTP of the scrip. Therefore, I observe that Noticee 1 had repeatedly placed buy orders for miniscule quantities of shares at price above the LTP at both the exchanges. I also observe that the aforesaid buy orders were placed by Noticee 1 without any real intention of buying shares, and hence such buy orders were not genuine and were intended to execute trades which would contribute to LTP of the scrip and create a misleading appearance of trade.

26. I further note from the BSE order log and trade log that during Patch 2 of the IP, Noticee 1 executed 19 buy trades with Noticee 4 for miniscule quantities in the scrip of Omnitech. I note that on December 11, 2012, Noticee 1 had placed its buy order in the scrip of Omnitech on BSE for one share at the rate of Rs. 200, and Noticee 4 placed its sell orders for 300 shares at the rate of Rs. 189.9. Thereafter, the first buy trade of Noticee 1 (in which Noticee 4 was the counter-party seller) was executed for one share at the rate of Rs. 200 which was Rs. 22.25 higher than the LTP of Rs. 177.75 on the previous day i.e. December 10, 2012. It was also observed that after execution of the aforesaid first buy trade of Noticee 1, Noticee 4 deleted the remaining sell orders of 299 shares. Similarly, on December 12, 2012, Noticee 1 had placed its first buy order in the scrip for one share at the rate of Rs. 201, and Noticee 4 placed its sell orders for 500 shares at the rate of Rs. 189.95. Thereafter, the first buy trade of Noticee 1 was executed (in which Noticee 4 was the counter-party seller) for one share at the rate of Rs. 189.95 which was Rs. 11.50 higher than the LTP of Rs. 178.45 on the previous day i.e. December 11, 2012. It was observed that after execution of this trade, Noticee 4 deleted the remaining sell orders of 499 shares. I further observe from the aforesaid order log and trade log that the aforesaid trading pattern was repeated by Noticees 1 and 4 at BSE during the course of 39 days in Patch 2 of the IP, which led to a positive LTP contribution of Rs. 39.15, which was 2.02% of total market positive LTP of the scrip. Thus, from the foregoing analysis, I find that Noticee 4 placed a high number of sell orders in the scrip at BSE without any intention to execute the same and hence, such orders were not genuine and were placed by Noticee 4 only for creating a misleading appearance of high volume of trade in the scrip. I also note that the aforesaid trading pattern in which Noticee 4 deleted all remaining pending sell orders immediately or shortly after order matching with sell order placed by Noticee 1 (placed at

a price above the LTP) demonstrates that there was collusion between Noticees 1 and 4 with the intention to create a misleading appearance of trading and manipulate the price of the scrip upwards during Patch 2 of the IP in BSE. I am of the view that such a trading pattern was not a mere coincidence but was the outcome of meeting of minds between Noticees 1 and 4 and deliberate conduct on the part of Noticees 1 and 4, which was a part of a common strategy to manipulate the price of the scrip upwards during Patch 2 of the IP as well as to create a misleading appearance of trading in the scrip of Omnitech.

27. As already noted above, Noticee 1 repeatedly placed orders for miniscule quantities at a price above the LTP at NSE and BSE which led to significant LTP contribution in the price of the scrip at both exchanges. I also note that that Noticees 1 and 4 had together adopted a manipulative pattern of trading as well as order placement and deletion at BSE, wherein Noticee 1 placed numerous buy orders at price above the LTP, and after one such buy order of Noticee 1 matched with one of the sell orders of Noticee 4, Noticee 4 deleted all the remaining number of sell orders. Therefore, the aforesaid buy/sell orders placed by Noticees 1 and 4 were intended to execute non-genuine trades which would contribute to LTP of the scrip and create a misleading appearance of high volume of trade in the scrip. I am of the view that as a result of the aforesaid trading pattern of Noticees 1 and 4, investors were induced into trading in the scrip, based on a false impression of high liquidity, trading volume and price rise in the scrip. The pattern of price fluctuation shows that the price of the scrip on NSE during Patch 2 of investigation period opened at Rs. 112.5 on September 03, 2012, reached a high of Rs. 208.85 on January 01, 2013 and reached a closing price of Rs. 196.35 on January 01, 2013. Similarly, the change in volume of the scrip during the relevant time shows that the traded volume at NSE in the scrip increased from 456 shares on September 03, 2012 to 1,44,758 shares on December 28, 2012 and reached a trading volume of 9,779 shares on closing of January 01, 2013. I also note that the price of the scrip on BSE during Patch 2 of investigation period opened at Rs. 109.35 on September 03, 2012, reached a high of Rs. 204 on January 01, 2013 and reached a closing price of Rs. 196.05 on January 01, 2013. I further note that the traded volume at BSE in the scrip increased from 839 shares on September 03, 2012 to 1,11,726 shares on December 28, 2012 and reached a trading volume of 6,271 shares on closing of January 01, 2013. Thus, I find that during Patch 2 of the IP, there was a significant rise in the price and trading volume in the scrip at both the exchanges, as compared to the period before Patch 2 of the IP when there was less liquidity in the scrip, which is observed

in Table-A and Table-B above, which can be attributed to the manipulative trading pattern of Noticees 1 and 4 in the scrip of Omnitech during Patch 2 of the IP at both the exchanges.

28. In this regard, I find it pertinent to discuss the scope and ambit of PFUTP Regulations. I note that Regulations 3(a)–(d) of the PFUTP Regulations, *inter alia,* prohibit employment of any manipulative/deceptive device, scheme, or artifice to defraud in connection with dealing in securities; engaging in any act, practice, course of business which operates or would operate as fraud or deceit upon any person in connection with dealing in securities. Regulation 4(1) of the PFUTP Regulations provides for prohibition on indulging in fraudulent or unfair trade practices in securities. Regulations 4(2)(a) and (e) of the PFUTP Regulations provide that an act in the course of dealing in securities shall be deemed to be fraudulent or an unfair trade practice if it involves indulging in an act that creates a false or misleading appearance of trading in the securities market or any act or omission which amounts to manipulation of the price of a security. I also find it pertinent to note that in cases of market manipulation, where direct evidence may not be available, transactions, as stated above, are to be tested for any manipulative intent based on the conduct of parties and the abnormal nature of transactions. In other words, I find that the requirement under PFUTP Regulations is that fraud must be proved on a preponderance of probabilities. In this regard, I note the judgement of Hon'ble Supreme Court of India in SEBI vs. Kishore R. Ajmera (2016) 6 SCC 368 (Judgment dated February 23, 2016), wherein it had held that: *"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…The test, in our considered view, is one of preponderance of probabilities so far as adjudication of civil liability arising out of violation of the Act or the provisions of the Regulations framed thereunder is concerned… The conclusion has to be gathered from various circumstances like that volume of the trade effected; the period of persistence in trading in the particular scrip; the particulars of the buy and sell orders, namely, the volume thereof; the proximity of time between the two and such other relevant factors. "*

29. I further note the judgement of Hon’ble SAT in the matter of Shri Lakhi Prasad Kheradi vs. SEBI (Appeal No. 232 of 2017; Order dated June 21, 2018) wherein it was held that: “*As held by the Apex Court in the case of SEBI V/s Kishore R. Ajmera reported in (2016) 6 SCC 368, in the absence of direct evidence, by taking into account immediate and proximate facts and circumstances surrounding the events on which the charges/allegations are founded it is open to an AO to arrive at a reasonable conclusion that the trade executed were manipulated trades. In the facts of the present case, in our opinion, no fault can be found with the decision of the AO that the trades executed by the appellant were manipulative trades and hence, the appellant was guilty of violating the SEBI Act and the PFUTP Regulations*.”

30. At this juncture, I also find it pertinent to refer to decision of Hon’ble Supreme Court of India in the matter of SEBI vs. Shri Kanaiyalal Baldevbhai Patel (Civil Appeal No. 2595 of 2013; Decided on September 20, 2017). In the aforementioned judgment, the Hon’ble Supreme Court of India while discussing the ambit of fraud under PFUTP Regulations has held as under:

“*The difference between inducement in criminal law and the wider meaning thereof as in the present case, is that to make inducement an offence the intention behind the representation or misrepresentation of facts must be dishonest whereas in the latter category of cases like the present the element of dishonesty need not be present or proved and established to be present. In the latter category of cases, a mere inference, rather than proof, that the person induced would not have acted in the manner that he did but for the inducement is sufficient. No element of dishonesty or bad faith in the making of the inducement would be required… To attract the rigor of Regulations 3 and 4 of the 2003 Regulations, mens rea is not an indispensable requirement and the correct test is one of preponderance of probabilities… The inferential conclusion from the proved and admitted facts, so long the same are reasonable and can be legitimately arrived at on a consideration of the totality of the materials, would be permissible and legally justified.*”

31. Based on the foregoing analysis of connection and trading pattern as well as placing reliance on the aforesaid judgements, I find that by placing buy orders for small quantities of shares at price above the LTP and also placing and deleting orders without any significant execution of trade, Noticees 1 and 4 had collectively indulged in a common manipulative strategy, which led to creation of misleading appearance of trade in the scrip

as well as manipulation of the price of the scrip of Omnitech upwards at both the exchanges, which is tantamount to fraud and has induced investors to trade in the less liquid scrip of Omnitech.

32. I note that the Noticees 1-3 and Noticees 4-5 have contended in their separate replies, that their respective trades were not manipulative and were executed in the normal course of trading on the floor of the exchange based on a trading strategy of arbitrage between NSE and BSE. Noticee 1 has further contended that its trading pattern was intended to make trading decisions based on the real reaction in the market in response to the small orders placed by Noticees and thereafter place definite limit orders based on the market reaction, by placing different orders for different quantities, during the intraday trading session. In a similar vein, Noticees 4 and 5 have contended that trading pattern of Noticee 4 was intended to place a certain number of orders to gauge interest in the market and after an order is matched, delete the remaining orders in the system at the earliest possible time. Noticees 4 and 5 have further contended that they adopted such a strategy in order to focus on other scrips in the market and in order to utilize the margins which were otherwise blocked in respect of its unmatched orders. In this regard, Noticees have placed reliance upon the judgements of Hon'ble Securities Appellate Tribunal ("**Hon'ble SAT**") in the matter of Kapil Chaturbhuj Bhuptani vs. SEBI (Appeal No. 95 of 2013; decided on October 10, 2013), Nishit Shah HUF vs. SEBI (Appeal No. 97 of 2019; decided on January 16, 2020).

33. I have perused the contentions of the Noticees. I note that Noticees 1-3 and Noticees 4-5 have not made any specific contention regarding the price at which such orders were placed and have stated that all trades were executed at market determined rates. Thus, I note that Noticees have not disputed the trading pattern adopted by them. It has already been established earlier in the order that the Noticees were connected entities and further, the trading pattern of Noticees 1 and 4 demonstrated a common strategy to fraudulently increase the price and volume of the scrip of Omnitech during Patch 2 of the IP at NSE and BSE respectively. As regards the contention of Noticee 1 that such small orders were not manipulative or fraudulent and were placed with the intent of observing the market reaction and thereafter place definite limit orders based on such market reaction, it has already been established above that Noticee 1 repeatedly placed buy orders which were for miniscule quantities at a price above the LTP at NSE for 42 days and at BSE for 39 days during Patch 2 of the IP and thereby contributed 5.57% to the market positive LTP of

the scrip at NSE and 9.05% to the market positive LTP of the scrip at BSE during Patch 2 of the IP. I note that such small trades constituted the entire trading pattern of Noticee 1 during the aforesaid days of trading at NSE and BSE during Patch 2 of the IP, which would not have been the case if Noticee 1 had only intended to gauge the market reaction. I further note that if Noticee 1 had merely intended to gauge the market reaction, then it would not have repeatedly placed such small orders continuously for a period of 42 days at BSE and 39 days at NSE. Similarly, the pattern of placing and deleting orders as adopted by Noticee 4 during Patch 2 of IP also does not indicate any attempt to gauge the interest in the market as being claimed by it. Thus, I find that such repeated placing/deleting of such small orders by Noticee 1 and Noticee 4 respectively at NSE and BSE shows that Noticees 1 and 4 did not have any real intention of executing genuine trades and hence, such miniscule which were executed between them were not genuine and were only intended to execute trades which would contribute to LTP of the scrip.

34. As established earlier, Noticee 4 placed and deleted a substantial number of orders in tandem with the buy orders of Noticee 1 which were placed above LTP and Noticee 4 deleted a substantial number of sell orders immediately or shortly after execution of one trade with Noticee 1 and that such trading pattern was manipulative in nature. I am of the view that if Noticee 4 had placed orders with bona fide intent as is being claimed by Noticees 4 and 5, it should have waited for the closing of regular market trading hours for the auto-deletion mechanism to take effect in respect of unmatched orders which remained pending in the order book. However, the fact that Noticee 4 deleted most of its sell orders immediately after only one of its sell orders matched with one buy order placed by Noticee 1 at a price above the LTP, shows the manipulative intention of the Noticees 1 and 4 to create a misleading appearance of trading and manipulate the price of the scrip upwards during Patch 2 of the IP in BSE. In this regard, I place reliance upon the standard of proof w.r.t. PFUTP Regulations which was laid down in the judgement of Hon'ble Supreme Court, as already noted above, in which it was held that- *"…in the absence of direct proof of meeting of minds ..., the test should be one of preponderance of probabilities as far as adjudication of civil liability arising out of the violation of the Act or provision of the Regulations is concerned"*. Thus, I note that Noticees have failed to demonstrate that the trades of Noticees 1 and 4 were executed in the normal course of business for the purpose of arbitrage and also failed to demonstrate that such trades were not manipulative.

35. Therefore, based on the foregoing observations and considering preponderance of probabilities, I find the aforesaid contentions of Noticees to be devoid of merit.

36. I further note that Noticees 2 and 3 have contended that although Noticees 2 and 3 were directors of Noticee 1 when the impugned trades were executed by Noticee 1, they cannot be held liable for the trades which are attributable to AFPL. In support of their contention, they have placed reliance upon the judgement of Hon'ble Supreme Court in the matter of Shiv Kumar Jatia vs. State of NCT of Delhi. I find that Noticees 2 and 3 have not disputed that they were directors at the time of execution of trades by AFPL and have controverted the charge only on the point of law. As regards the aforesaid contention, I note that it is settled legal position that although a company is a separate legal entity, it can only act through its directors and therefore persons holding the position of a director cannot escape responsibility for the actions of the company. At this juncture, I find it pertinent to refer to the judgement of the Hon'ble SAT in the matter of Shri N. Narayanan vs. SEBI (Appeal No. 29 of 2012) wherein it was held that- "…*The role of a whole time director is very significant and material in running day to day affairs of a company. His role and responsibility are equivalent to that of a managing director in as much as he is expected to spend his whole time in the management of the company. This implies a high level of accountability and knowledge of the overall functioning of the company..."* I further note that the aforesaid judgement of Hon'ble SAT was upheld by Hon'ble Supreme Court in N. Narayanan vs. Adjudicating Officer, SEBI (Civil Appeal Nos. 4112-4113 of 2013; Decided on 26.04.2013), in which it was held that-"*Company though a legal entity cannot act by itself, it can act only through its Directors. They are expected to exercise their power on behalf of the company with utmost care, skill and diligence. This Court while describing what is the duty of a Director of a company held in Official Liquidator v. P.A. Tendolkar (1973) 1 SCC 602 that a Director may be shown to be placed and to have been so closely and so long associated personally with the management of the company that he will be deemed to be not merely cognizant of but liable for fraud in the conduct of business of the company even though no specific act of dishonesty is provide against him personally. He cannot shut his eyes to what must be obvious to everyone...*" Therefore, in view of the foregoing observation and placing reliance upon the aforesaid judgements of Hon'ble Supreme Court and Hon'ble SAT, I am of the view that Noticees 2 and 3, being directors of AFPL, would be liable for actions of Noticee 1 and similarly Noticee 5, being a director of JSPL, would be liable for actions of Noticee 4. Thus, I am not inclined to accept the aforesaid contentions of Noticees 2 and 3 in this regard.

37. I note that Noticees have further contended that the SCN fails to establish that the trades of Noticees were tantamount to fraud and therefore, the aforesaid provisions of PFUTP Regulations are not applicable to the trades of the Noticees. Noticees have also contended that the total trading volume and LTP contribution, if any, of the Noticees was negligible in comparison to the total quantity traded in the scrip as the said scrip was not illiquid in nature. In this regard, I note that it has already been established that Noticee 1 had indulged in the fraudulent strategy of placing orders for miniscule quantities of shares in the scrip of Omnitech at NSE and BSE so as to manipulate the price of the scrip, while Noticees 1 and 4 had collectively indulged in a fraudulent common strategy of order placement and deletion, to manipulate the price and volume of the scrip at BSE. I am of the view that the crucial factor in determining violation of PFUTP Regulations is the trading pattern and manipulative intent irrespective of the quantum of actual volume traded. In this regard, I find it pertinent to refer to the judgement of Hon'ble SAT in the matter of Neetu Gupta vs. SEBI (Appeal No. 423 of 2019; Order dated February 25, 2020) wherein it was held as follows:

"*"Having heard the learned counsel for the parties, we are of the considered view that the impugned transactions, in the facts and circumstances of the matter, would fall in the realm of violations of PFUTP Regulations. Individual argument that each entity's trade is miniscule and only on a few days alone etc. is not sufficient to rebut the findings in the impugned order… In such matters, the preponderance of probability based on the totality of circumstances, as held by the Apex Court in the matter of Kishore R. Ajmera (2016) 6 SCC 368 squarely applies. The orders in Jayprakash Bohra (Supra) and Shri Lakhi Prasad Kheradi (Supra) also apply the same ratio.*"

38. In this regard, I also place reliance on the judgement of Hon'ble SAT in the matter of Shreenath Finstock Private Limited vs. SEBI (Appeal No. 186 of 2020; Decided on March 22, 2021) wherein Hon'ble SAT, in the context of alleged price manipulation by means of a large number of small orders, has emphasised that the presence of manipulative trading pattern is crucial in determining liability under Regulations 3 and 4 of PFUTP Regulations, and thus held as follows:

"*Similarly, it was contended by the learned counsel for SEBI that the pattern of trading conducted by the appellants i.e. a large number of single share buy and sell, clearly establishes its manipulative nature even as regular traders or jobbers a genuine party does* *not put buy / sell order for one share on thousands of occasions when the system was showing much larger number of orders on the other side…Therefore, it is the stand of the learned counsel for SEBI that the impugned order clearly brings out the complete details; how the price of the scrip of Nutraplus was raised in Patch-1 and Patch-4 and how the appellants by placing large number of single share orders manipulated the price and created positive LTP… we are of the considered view that the pattern of trading conducted by the appellants clearly establishes an attempt to manipulate the price of the scrip of Nutraplus. While it can be argued that no law prevents a trader from placing orders for one share, placing such orders thousands of times repeatedly, as in the instant case, is clearly manipulative in nature… A few such trades occasionally may not fall within the ambit of such manipulation as under Section 12A(a), (b), (c) of SEBI Act, 1992 and the PFUTP Regulations. But by no stretch of imagination we can extend that benefit of doubt to the appellants herein who have indulged in such single share trades a large number of times during a limited period. Therefore, irrespective of the connection by the appellants and others. Therefore, irrespective of the connection by the appellants and others… these appeals do not have any merit. Nor these issues are very relevant when it is clear that the pattern of trading conducted by the appellants were clearly of manipulative nature squarely falling under the provisions of the PFUTP Regulations. Therefore, we have no doubt that the impugned order does not suffer from any deficiencies in this regard*."

39. I also note the judgement of Hon'ble SAT in Jayprakash Bohra vs. SEBI (Appeal No. 162 of 2019; Order dated November 05, 2019) wherein Hon'ble SAT has emphasised that the presence of manipulative trading pattern which was intended to manipulate the price of a scrip is sufficient to establish liability under Regulations 3 and 4 of PFUTP Regulations, and thus held as follows: *"We are in complete agreement with the contentions of the learned counsel for the respondent that the submission of the appellant that he was not in any way connected to Gromo or to the Kamalakshi Group is totally unfounded as the connection is writ large ex-facie in the matter… shares of Gromo obtained off-market in an inexplicable way by the appellant more than half of it was sold in small tranches; most of the time placing sell order at far away prices than LTP. The said trading pattern and the other connections as explained above is sufficient enough to prove that the appellant was part of the group that created the artifice/ scheme and therefore finding in the impugned order that the appellant has violated the stated provisions of the PFUTP Regulations cannot be faulted."* Thus, placing reliance upon the aforesaid judgements, I find that the common manipulative trading pattern of Noticees 1 and 4 in the scrip of Omnitech and the

inter se connection amongst Noticees as already established above, show that Noticees 1 and 4 in collusion had created a misleading appearance of trading in the scrip of Omnitech through small trades and manipulated the price of the scrip upwards during Patch 2 of the IP, and thereby violated PFUTP Regulations. Thus, I find no merit in the aforesaid contentions of Noticees.

40. In view of the foregoing findings and considering preponderance of probabilities, I find that the trades executed by Noticees 1 and 4 in the scrip of Omnitech were aimed at manipulating the price of the scrip and creating a misleading appearance of high trade volume in the said scrip. Thus, in view of the foregoing findings, the allegation that Noticees 1 and 4 violated Regulations 3(a), (b), (c), (d) and Regulations 4(1), 4(2)(a), and (e) of PFUTP Regulations stands established and therefore, the aforesaid allegation against Noticees 2 & 3 as directors of Noticee 1, and against Noticee 5 as director of Noticee 4 stands established.

Issue No. II- Does the violation, if any, attract a monetary penalty under Section 15HA of SEBI Act?

41. It has been established in the foregoing paragraphs that the Noticees 1 to 5, have violated Sections 12A(a), (b), (c) of SEBI Act, and Regulations 3(a), (b), (c), (d) and Regulations 4(1), 4(2)(a) and 4(2)(e) of PFUTP Regulations. In the context of the above, I refer to the observations of Hon'ble Supreme Court in the matter of Chairman, SEBI vs. Shriram Mutual Fund {[2006] 5 SCC 361} wherein the Hon'ble Court had held that: "*In our considered opinion, penalty is attracted as soon as the contravention of the statutory obligation as contemplated by the Act and the Regulations is established……*"

42. Therefore, in view of the foregoing findings and placing reliance on the above judgment of Hon'ble Supreme Court, I find that the aforesaid violations of Sections 12A(a), (b), (c) of SEBI Act, and Regulations 3(a), (b), (c), (d) and 4(1), 4(2)(a) and 4(2)(e) of PFUTP Regulations will attract monetary penalty under Section 15HA of SEBI Act. The respective provisions as applicable at the time of the violations are reproduced as under:

Penalty for fraudulent and unfair trade practices

***15HA**. If any person indulges in fraudulent and unfair trade practices relating to securities, he shall be liable to a penalty twenty-five crore rupees or three times the amount of profits made out of such failure, whichever is higher.*

Issue No. III - What should be the quantum of monetary penalty?

43. While determining the quantum of penalty under Section 15HA of SEBI Act, it is important to consider the factors as stipulated in Section 15J of SEBI Act, which reads as under:-

SEBI Act

Factors to be taken into account by the adjudicating officer.

Section 15J *- While adjudging quantum of penalty under section 15-I, the adjudicating officer shall have due regard to the following factors, namely:-*

(a) the amount of disproportionate gain or unfair advantage, wherever quantifiable, made as a result of the default;
(b) the amount of loss caused to an investor or group of investors as a result of the default;
(c) the repetitive nature of the default.

44. In view of the charges as established, the facts and circumstances of the case, the quantum of penalty would depend on the factors listed in Section 15J of SEBI Act. In the instant case, having regard to the factors listed in Section 15J of SEBI Act, it is noted that the material available on record does not demonstrate any quantifiable gain or unfair advantage accrued to the Noticees or the extent of loss suffered by the investors as a result of the default. I also observe that there are no other records to show repetitive defaults of a similar nature by Noticees. However, it has been established that the Noticees had indulged in price manipulation and created a misleading appearance of trading in the scrip of Omnitech. I am of the view that such manipulative acts of the Noticees have the potential to mislead and induce genuine investors to trade in the scrip and harm them and therefore such acts violate the fundamental tenets of market integrity. Such acts of Noticees, if dealt with lightly, could seriously undermine investors' confidence in the securities market and therefore, merit stringent penalty commensurate with such serious violations.

45. At this juncture, I find it pertinent to refer to the judgement of Hon'ble Supreme Court of India in the matter of N. Narayanan vs. SEBI [(2013) 12 SCC 152] in which it was held as follows:

"…if market abuse is not properly curbed, then it would result in defeating the very object and purpose of SEBI Act... Prevention of market abuse and preservation of market integrity is the hallmark of Securities Law…Market manipulation is normally regarded as the "unwarranted" interference in the operation of ordinary market forces of supply and demand and thus undermines the "integrity" and efficiency of the market... Section 12A read with Regulations 3 and 4 of the Regulations 2003 essentially intended to preserve 'market integrity' and to prevent 'Market abuse'."

46. In view of the foregoing findings and placing reliance on the aforesaid judgement, I find that an appropriate penalty should be imposed on the Noticees, so as to serve as a deterrent against the aforesaid violations, considering the interest of investors and integrity of securities market.

ORDER

47. Having considered all the facts and circumstances of the case, the material available on record, the submissions made by Noticees, and also the factors mentioned in Section 15J of SEBI Act, as enumerated above, I, in the exercise of the powers conferred upon me under Section 15-I of SEBI Act read with Rule 5 of the Adjudication Rules, hereby impose a penalty of Rs. 25,00,000 (Rupees Twenty Five Lakhs Only), jointly and severally, on Noticees under Section 15HA of SEBI Act for the aforementioned violations.

48. Noticees shall remit/pay the said amount of penalty within 45 days of receipt of this order either by way of Demand Draft in favour of "SEBI - Penalties Remittable to Government of India", payable at Mumbai, OR through online payment facility available on the website of SEBI, i.e., www.sebi.gov.in on the following path, by clicking on the payment link: ENFORCEMENT -> Orders -> Orders of AO -> PAY NOW. In case of any difficulties in payment of penalties, said Noticees may contact the support at portalhelp@sebi.gov.in.

49. The Noticees shall forward said Demand Draft or the said confirmation of e-payment made in the format as given in the table below which should be sent to "The Division Chief, EFD – DRA - 1, Securities and Exchange Board of India, SEBI Bhavan, Plot no. C- 7, "G" Block,

Bandra Kurla Complex, Bandra (E), Mumbai - 400 051" and also to e-mail id:- tad@sebi.gov.in

1. Case Name:	
2. Name of payee:	
3. Date of payment:	
4. Amount paid:	
5. Transaction no.:	
6. Bank details in which payment is made:	
7. Payment is made for: (like penalties/ disgorgement/ recovery/ settlement amount and legal charges along with order details)	

50. In the event of failure to pay the said amount of penalty within 45 days of the receipt of this Order, recovery proceedings may be initiated under Section 28A of SEBI Act for the realisation of the said amount of penalty along with interest thereon, *inter alia*, by attachment and sale of movable and immovable properties of Noticees.

51. In terms of the provisions of Rule 6 of the Adjudication Rules, a copy of this order is being sent to Noticees and also to SEBI.

Place: Mumbai **SOMA MAJUMDER**

Date: October 28, 2022 **ADJUDICATING OFFICER**