BEFORE THE ADJUDICATING OFFICER
SECURITIES AND EXCHANGE BOARD OF INDIA
[ADJUDICATION ORDER Ref No.: Order/VV/AS/AK/2022-23/16576-16577]

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:

1. **GRD Securities Limited (PAN: AABCG7534M)**
2. **Berkeley Securities Limited (PAN: AADCB7787M)**

In the matter of Arcotech Limited

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1. SEBI had conducted investigation in the trading in the scrip of Arcotech Ltd Limited (herein after referred to as the "**Company**" or "**Arcotech Ltd**"), a company having its shares listed on Bombay Stock Exchange ("**BSE**") and National Stock Exchange of India Limited ("**NSE**"), in the wake of a complaint received which *inter-alia* alleged manipulation in the price of the scrip of the Company. The focus of investigation was to ascertain any violation of the provisions of the SEBI Act, 1992, SEBI (Prohibition of Fraudulent and Unfair Trade Practices Relating to Securities Market) Regulations, 2003 (hereinafter referred to as "**PFUTP Regulations**"), while in trading in the scrip of Arcotech during the period 01/09/2015 to 30/04/2018 (hereinafter referred to as "**investigation period**" or "**IP**"). Pursuant to investigation, following has been observed during the investigation period:

   a. During the investigation period, BSE Sensex moved from 26,127.04 to 35,160.36 registering an increase of 9,033.32 points (34.57%) and NSE (National Stock Exchange of India Limited) NIFTY 50 moved from 7907.95 to 10739.35 registering an increase of 2831.40 points (35.80%). The total number of shares of the Company increased from 2.10 Crores to 10.50 Crores on June 22, 2017, pursuant to stock split in ratio of 1:5 (Face Value of Rs. 10 to Face Value of Rs.2). The scrip of the Company was traded on 657 days out of total 657 available trading days. Details of price and volume movement during the investigation period, before investigation period and after investigation period on NSE and BSE is shown as follows:

Table 1: Details of price & volume movement

Period	Dates		Opening Price / Volume on first day of the period (₹)	Closing Price / Volume on last day of the period (₹)	Low Price / Volume during the period (₹)	High Price / Volume during the period (₹)	Avg. no. of shares traded daily during the period
BSE							
Before IP	**(01/06/2015 to 31/08/2015)**	**Price**	350.00 (01/06/2015)	349.30 (31/08/2015)	330.00 (29/06/2015)	370.00 (28/08/2015)	49,682
		Vol	67,475 (01/06/2015)	38,897 (31/08/2015)	33,333 (02/07/2015)	91,366 (31/07/2015)	
During IP (Pre-Split)	**(01/09/2015 to 21/06/2017)**	**Price**	348.50 (01/09/2015)	421.40 (21/06/2017)	290.00 (18/01/2016)	811.45 (14/02/2017)	63,006
		Vol	52,045 (01/09/2015)	57,272 (21/06/2017)	938 (07/03/2017)	3,67,022 (28/03/2016)	
During IP (Post-Split)	**(22/06/2017 to 30/04/2018)**	**Price**	85.35 (22/06/2017)	27.95 (30/04/2018)	26.50 (27/04/2018)	123.45 (12/10/2017)	2,01,014
		Vol	4,31,130 (22/06/2017)	72,562 (30/04/2018)	7,565 (06/09/2017)	14,69,704 (27/07/2017)	
After IP	**(01/05/2018 to 31/07/2018)**	**Price**	28.00 (02/05/2018)*	13.51 (31/07/2018)	12.50 (28/06/2018)	34.20 (08/05/2018)	91,899
		Vol	43,719 (02/05/2018)*	34,837 (31/07/2018)	10,369 (30/07/2018)	7,00,398 (08/05/2018)	
NSE							
Before IP	**(01/06/2015 to 31/08/2015)**	**Price**	347.50 (01/06/2015)	349.95 (31/08/2015)	330.00 (29/06/2015)	370.00 (28/08/2015)	62,750
		Vol	61,418 (01/06/2015)	49,375 (31/08/2015)	40,732 (13/07/2015)	1,80,372 (27/07/2015)	
During IP (Pre-Split)	**(01/09/2015 to 21/06/2017)**	**Price**	348.55 (01/09/2015)	421.95 (21/06/2017)	261.00 (18/01/2016)	812.95 (14/02/2017)	1,58,730
		Vol	46,462 (01/09/2015)	1,20,583 (21/06/2017)	6,219 (05/06/2017)	9,34,219 (10/05/2017)	
During IP (Post-Split)	**(22/06/2017 to 30/04/2018)**	**Price**	84.70 (22/06/2017)	28.00 (30/04/2018)	26.90 (27/04/2018)	123.45 (12/10/2017)	10,62,347
		Vol	14,64,241 (22/06/2017)	2,07,576 (30/04/2018)	29,600 (14/09/2017)	72,59,730 (17/10/2017)	
After IP	**(01/05/2018 to 31/07/2018)**	**Price**	28.10 (02/05/2018)	13.45 (31/07/2018)	11.70 (28/06/2018)	34.25 (08/05/2018)	4,91,260
		Vol	2,59,260 (02/05/2018)	2,20,719 (31/07/2018)	1,14,232 (10/07/2018)	40,80,268 (08/05/2018)	

b. During the investigation period major Brokers concentration on BSE and NSE is as follows:

Table 2

Buy Broker Name	Gross Buy Volume	% of Gross Buy to Mkt. Volume	Sell Broker Name	Gross Sell Volume	% of Gross Sell to Mkt. Volume
BSE					
R.K.Stock Holding Pvt Ltd	5725017	8.10%	R.K.Stock Holding Pvt Ltd	5272744	7.46%
Sunflower Broking Pvt Ltd	2833543	4.01%	Crosseas Capital Services Pvt Ltd	2825111	4.00%

Buy Broker Name	Gross Buy Volume	% of Gross Buy to Mkt. Volume	Sell Broker Name	Gross Sell Volume	% of Gross Sell to Mkt. Volume
Crosseas Capital Services Pvt Ltd	2819154	3.99%	Sunflower Broking Pvt Ltd	2741471	3.88%
Way2wealth Brokers Pvt Ltd	2493657	3.53%	ASE Capital Markets Ltd	2684142	3.80%
4A Securities Ltd	2415067	3.42%	Way2wealth Brokers Pvt Ltd	2585731	3.66%
ASE Capital Markets Ltd	2350610	3.33%	4A Securities Ltd	2304024	3.26%
Berkeley Securities Ltd	1941843	2.75%	Berkeley Securities Ltd	1942060	2.75%
Best Bull Stock Trading Pvt Ltd	1723292	2.44%	Globe Capital Market Ltd	1757327	2.49%
Amrapali Aadya Trading & Investments Pvt Ltd	1698509	2.40%	Mansukh Stock Brokers Ltd	1729630	2.45%
Mansukh Stock Brokers Ltd	1623236	2.30%	Best Bull Stock Trading Pvt Ltd	1723296	2.44%
Total of Top 10 Brokers	**25623928**	**36.27%**	**Total of Top 10 Brokers**	**25565536**	**36.19%**
Total of Remaining Brokers	**45028749**	**63.73%**	**Total of Remaining Brokers**	**45087141**	**63.82%**
Total Traded Volume	**70652677**	**100%**	**Total Traded Volume**	**70652677**	**100%**
NSE					
ASE Capital Markets Ltd	18887121	6.38%	ASE Capital Markets Ltd	18291941	6.18%
4A Securities Ltd	12325467	4.17%	4A Securities Ltd	16300277	5.51%
Comfort Securities Limited	12254365	4.14%	Comfort Securities Limited	12252455	4.14%
Sunflower Broking Pvt Ltd	10468754	3.54%	Sunflower Broking Pvt Ltd	10563564	3.57%
R.K. Stockholding Pvt Ltd	9641468	3.26%	R.K. Stockholding Pvt Ltd	10204019	3.45%
Kotak Securities Ltd	8993375	3.04%	Share India Securities Ltd	9010407	3.05%
Zerodha	8327768	2.82%	Bhansali Value Creations Pvt Ltd	7473137	2.53%
Bhansali Value Creations Pvt Ltd	7437495	2.51%	Kunvarji Finstock Pvt Ltd	6962277	2.35%
Kunvarji Finstock Pvt Ltd	7379962	2.49%	Kotak Securities Ltd	6382856	2.16%
Globe Capital Market Ltd	6156191	2.08%	Zerodha	6260543	2.12%
Top 10 Buy Brokers	**101871966**	**34.43%**	**Top 10 Selling Brokers**	**103701476**	**35.05%**
Remaining Brokers	**193980470**	**65.57%**	**Remaining Brokers**	**192150960**	**64.95%**
Total Traded Volume	**295852436**	**100%**	**Total Traded Volume**	**295852436**	**100%**

c. Major client's concentration on BSE and NSE during the investigation period is as follows:

Table 3

Buy Client Name	Gross Buy Volume	% of Gross Buy to Mkt. Volume	Sell Client Name	Gross Sell Volume	% of Gross Sell to Mkt. Volume
BSE					
Rahul	2583683	3.66%	Rahul	2609807	3.69%
Smithblock Financial Services Private Limited	1512231	2.14%	Berkeley Securities Ltd	1473431	2.09%

Buy Client Name	Gross Buy Volume	% of Gross Buy to Mkt. Volume	Sell Client Name	Gross Sell Volume	% of Gross Sell to Mkt. Volume
Berkeley Securities Limited	1473214	2.09%	Smithblock Financial Services Pvt Ltd	1417176	2.01%
G N Credits Private Ltd	1332971	1.89%	Essar Trading Company	1251111	1.77%
Essar Trading Company	1246603	1.76%	Graviton Research Capital LLP	994045	1.41%
Competent Finlease Private Limited	1193311	1.69%	Way2wealth Enterprises Pvt Ltd	993720	1.41%
Mohit Kumar	1129213	1.60%	Indra Pratap Singh HUF	992387	1.41%
Indra Pratap Singh Huf	1032197	1.46%	Ila Jigneshkumar Vakharia	947168	1.34%
Graviton Research Capital Llp	994596	1.41%	Sachin Chawla	946061	1.34%
Way2Wealth Enterprises Private Limited	993693	1.41%	Mohit Kumar	924516	1.31%
Total of Top 10 Clients	**13491712**	**19.10%**	**Total of Top 10 Clients**	**12549422**	**17.76%**
Total Traded Volume	**70652638**	**100.00%**	**Total Traded Volume**	**70652677**	**100%**
NSE					
Smithblock Financial Services Pvt Ltd	7800497	2.64	Smithblock Financial Services Pvt Ltd	7901041	2.67
G N Credits Pvt Ltd	6294413	2.13	G N Credits Pvt Ltd	7887197	2.67
Saurin Rajesh Shah HUF	6258458	2.12	Saurin Rajesh Shah HUF	6260958	2.12
Jhaveri Trading And Investment Pvt Ltd	5465862	1.85	Jhaveri Trading And Investment Pvt Ltd	5343185	1.81
Vishwamurte Trade Invest Pvt Ltd	5419135	1.83	Vishwamurte Trade Invest Pvt Ltd	5149129	1.74
Rahul	5219536	1.76	Rahul	5198584	1.76
Vicky Rajesh Jhaveri	4236681	1.43	Competent Finlease Pvt Ltd	5727783	1.94
Competent Finlease Pvt Ltd	4104146	1.39	Avtar Instalments Pvt Ltd	4915399	1.66
Lopa Saumil Bhavnagari	3915433	1.32	Vasudha Commercial Pvt Ltd	5700000	1.93
Avtar Instalments Private Limited	3754581	1.27	Eos Multi-Strategy Fund Ltd	5005000	1.69
Total of Top 10 Clients	**52468742**	**17.73**	**Total of Top 10 Clients**	**59088276**	**19.97**
Total Traded Volume	**295852436**	**100**	**Total Traded Volume**	**295852436**	**100**

d. The investigation period was divided into 4 patches based on price movement and Stock Split ("SS"). During Patch 1, price of the scrip remained stable. Significant price movement is observed in Patches 2, 3 and 4. Accordingly, Last Traded Price ("**LTP**") analysis has been carried out over Patches 2, 3 and 4 and details of the same is as follows:

Table 4

BSE									
Patches	**Price/Volume trend**	**Period**		**Price Movement**				**% Change in Price**	**Average Daily Volume**
		From	**To**	**Open**	**High**	**Low**	**Close**		
Patch -1	Stable Price (Pre SS)	01/09/2015	29/11/2016	348.50	453.90	290.00	354.35	1.68%	64,709
Patch - 2	Price Rise (Pre SS)	30/11/2016	13/02/2017	357.00	804.80	344.10	782.15	119.09%	92,107
Patch - 3	Price Fall (Pre SS)	14/02/2017	21/06/2017	779.60	811.45	326.00	421.40	-45.95%	39.309
Patch – 4	Price Fall (Post SS)	22/06/2017	30/04/2018	85.35	123.45	26.5	27.95	-67.25%	2,01,014

NSE									
Patch -1	Stable Price (Pre SS)	01/09/2015	29/11/2016	348.55	454.40	261.00	347.05	-0.43%	1,53,693
Patch - 2	Price Rise (Pre SS)	30/11/2016	13/02/2017	370.00	804.85	343.00	782.00	111.35%	1,94,495
Patch - 3	Price Fall (Pre SS)	14/02/2017	21/06/2017	783.30	812.95	331.00	421.95	-46.13%	1,54,604
Patch – 4	Price Fall (Post SS)	22/06/2017	30/04/2018	84.70	123.45	26.90	28.00	-66.94%	10,62,347

e. It was observed observed that during patch 2 of the investigation period price of the scrip opened at Rs. 357.00/- on 30/11/2016, reached a high of Rs. 804.80 on 13/02/2017 and reached a low of Rs. 344.10/- on 30/11/2016 and closed at Rs.782.15 on 13/02/2017. Total market positive LTP contribution in the scrip during the said period was Rs. 17,770.45/-. Berkeley Securities Limited (hereinafter referred to as **"Noticee No. 2"** or **"Berkeley"**) was the top LTP contributor with contribution of Rs. 1344.45/- to net positive LTP and Rs. 2,784.50/- (15.67%) to total market positive LTP. Similarly, GRD Securities Limited (hereinafter referred to as **"Noticee No. 1"** or **"GRD"**) was the 2nd largest LTP contributor with contribution of Rs. 1,340.40/- to net positive LTP and Rs. 1,695.65/- (9.54%) to total market positive LTP. Details of their trades during Patch 2 at BSE is as follows:

Table 5

Client Name	Net LTP Rate	Total Traded Qty	Total Trades	Positive LTP Rate	Positive LTP Traded Qty	Positive LTP Trades	Negative LTP Rate	Negative LTP Traded Qty	Negative LTP No Trades	Zero LTP Traded Qty	Zero LTP Trades	% LTP Contribution
GRD	1340.40	53323	4800	1695.65	19459	1947	-355.25	6997	539	26867	2314	9.54
Berkeley	1344.45	143585	11034	2784.50	24193	2985	-1440.05	32864	3279	86528	4770	15.67
Market Total	**425.15**	**4881654**	**102993**	**17770.45**	**1390018**	**25538**	**-17345.30**	**1197624**	**24674**	**2294012**	**52781**	**100**

f. It was observed from the trading analysis of GRD trades in the scrip that, in 1,676 out of total 1,947 positive LTP contributing trades, buy orders of GRD were placed after the sell orders, which were already available at prices higher than LTP and which contributed to positive LTP of Rs. 1,426.15 i.e. 8.02% of market positive LTP. In the remaining 271 buy order trades, buy orders were placed before the respective sell orders, which contributed to positive LTP of Rs. 269.50 (1.52%). On further analysis of the trades of GRD, it was observed that GRD repeatedly placed buy orders for small quantities (single digits) in 1,117 instances and contributed to significant positive LTP of Rs. 916.15/- (5.15% of total market positive LTP). GRD followed this trading pattern on 33 trading days and contributed to significant positive LTP. An illustration of the top 5 positive LTP contributing trades of GRD is as follows:

Table 6

Trade Date	Client Name	Counterparty Client Name	Order Time	Counterparty Order Time	Trade Time	Trade Rate	LTP Rate	Order LTP	Counterparty Order LTP	Traded _Qty
01/02/2017	GRD	Leela Devi Devi	13:04:38	13:04:33	13:04:38	620.00	12.15	620.00	601.00	8
02/02/2017	GRD	Millennium Stock Broking Pvt Ltd	09:19:50	09:15:00	09:19:50	653.25	9.65	655.50	633.65	2
20/12/2016	GRD	Strm Trading Focus Private Limited	14:11:16	14:11:15	14:11:16	430.00	9.00	430.00	435.00	1
02/01/2017	GRD	Way2wealth Brokers Pvt. Ltd	09:15:17	09:15:10	09:15:17	579.1	6.55	579.65	569.5	3
20/12/2016	GRD	Compage Finlease Pvt Ltd	12:51:29	12:51:29	12:51:29	412.45	6.4	414	406.05	6

g. From the above illustration in Table 6, in respect of the top 5 positive LTP contributing trades of GRD, buy orders were placed in range of 1 - 8 shares, for which quantity the above trades were executed. These 5 trades for small quantity were executed on 5 different days and contributed to positive LTP. Considering that GRD had repeatedly entered into such trades on a total of 33 trading days, it was alleged that GRD was not acting as a genuine buyer and had no *bona fide* intention to buy. It was placing small quantity buy orders by matching sell order prices, which were already above LTP and thereby contributed to significant positive LTP. It is evident from the above trading pattern that the intention of GRD was to mark the price higher and not merely to enter into the buy transactions. Hence, GRD manipulated the scrip price and created a misleading appearance of trading in the scrip by such trades.

h. It was observed (*Refer Table 5*) from the trading analysis of Berkeley trades in the scrip that that, in 2,029 trades out of total 2,985 positive LTP contributing trades, buy orders of Berkeley were placed after the sell orders, which were already available at prices higher than LTP and which contributed to positive LTP of Rs. 2,022.55 (11.38% of market positive LTP). In the remaining 956 buy order trades, buy orders were placed before the respective sell orders which contributed to positive LTP of Rs. 761.95 (4.29%of market positive LTP). On further analysis of the trades of Berkeley, it was observed that Berkeley repeatedly placed buy orders for small quantities (single digits) in 2,443 instances and contributed to significant positive LTP of Rs. 2,488.40 (14.00% of total market positive LTP). Berkeley followed this trading pattern on 32 trading days and contributed to significant positive LTP. An illustration of the top 5 positive LTP contributing trades is given as follows:

Table 7

Trade Date	Client Name	Counterparty Client Name	Order Time	Counterparty Order Time	Trade Time	Trade Rate	LTP Rate	Order LTP	Counterparty Order LTP	Traded _Qty
22/12/2016	Berkeley	Way2wealth Brokers Pvt. Ltd	09:15:18	09:15:01	09:15:18	432.85	11.75	432.85	421.10	1
07/12/2016	Berkeley	Way2wealth Brokers Pvt. Ltd	15:23:02	15:23:05	15:23:05	418.40	10.40	408.00	418.40	1
13/12/2016	Berkeley	K K Finstock	09:15:21	09:03:44	09:15:21	410.00	8.00	410.00	402.00	1
25/01/2017	Berkeley	Compage Finlease Pvt Ltd	09:19:09	09:19:03	09:19:09	595.30	7.30	595.30	588.00	1
09/12/2016	Berkeley	C R Kothari And Sons Stock Broking Pvt. Ltd.	09:15:45	09:06:28	09:15:45	416.00	7.00	416.00	412.50	1

i. From the above illustration in respect of the top 5 positive LTP contributing trades, buy orders were placed for 1 share, for which quantity the above trades were executed. These 5 trades for small quantity were executed on 5 different days and contributed to positive LTP. Considering that Berkeley had repeatedly entered into such trades on a total of 32 trading days, it was observed that Berkeley was not acting as a genuine buyer and had no *bona fide* intention to buy the shares of the Company and was placing small quantity buy orders by matching sell order prices, which were already above LTP and thereby contributed to significant positive LTP. It was evident from the above trading pattern that the intention of Berkeley was to mark the price higher and not merely to enter into the buy transactions. Hence, Berkeley manipulated the scrip price and created a misleading appearance of trading in the scrip by such trades.

j. It was observed that during patch 2 of the investigation period price of the scrip at NSE opened at Rs. 370.00/- and reached a period high of Rs. 804.85/- and closed at Rs. 782.00/-. Investigation observed that the total market positive LTP contribution in the scrip during the period at NSE was Rs. 34,431.15/-. Berkeley was the top LTP contributor at NSE with contribution of Rs. 3,038.10/- to net positive LTP and Rs. 5,572.30/- (16.18%) to total market positive LTP of the scrip. It was further observed from the trading analysis that in 6,907 out of total 9,241 positive LTP contributing trades, buy orders of Berkeley were placed after the sell orders, which were already available at prices higher than LTP and which contributed to positive LTP of Rs. 3,891.75/- (11.30% of market positive LTP). In the remaining 2,334 buy order trades, buy orders were placed before the respective sell orders which contributed to positive

LTP of Rs. 1,680.55 (4.88%). On further analysis of the trades of Berkeley, it was observed that Berkeley repeatedly placed buy orders for small quantities (single digits) on 7,888 instances and contributed to significant positive LTP of Rs. 4,978.75/- (14.46% of total market positive LTP). Berkeley followed this trading pattern on 41 trading days at NSE and contributed to significant positive LTP. An illustration of the top 5 positive LTP contributing trades during Patch 2 at NSE is as follows:

Table 8

Client Name	Counterparty Client Name	Order Time	Counterparty Order Time	Trade Time	Trade Rate	LTP Rate	Order LTP	Counterparty Order LTP	Traded _Qty
Berkeley	Illuminati Trading Private Limited	09:15:31	09:15:11	09:15:31	415.7	13.75	401.95	401.95	1
Berkeley	C R Kothari And Sons Stock Broking Pvt. Ltd.	09:15:04	09:03:52	09:15:04	407.8	11.8	400.35	400.35	1
Berkeley	Illuminati Trading Private Limited	09:15:34	09:15:12	09:15:34	431.95	9.95	422	429.9	1
Berkeley	Kunal Sharma	09:15:46	09:15:12	09:15:46	402	9.9	392.1	407.8	1
Berkeley	C R Kothari And Sons Stock Broking Pvt. Ltd.	09:15:19	09:07:28	09:15:19	408.5	9.9	398.6	398.6	1

k. From the above illustration in Table 8, in respect of the top 5 positive LTP contributing trades by Berkeley, buy orders were placed for 1 share. These 5 trades for small quantity were executed on 5 different days and contributed to positive LTP. Considering that Berkeley had repeatedly entered into such trades at NSE on a total of 41 trading days, it was observed that Berkeley was not acting as a genuine buyer and had no *bona fide* intention to buy the shares of the Company and was placing small quantity buy orders by matching sell order prices, which were already above LTP and thereby contributed to significant positive LTP. It was evident from the above trading pattern that the intention of Berkeley was to mark the price higher and not merely to enter into the buy transactions. Hence, Berkeley manipulated the scrip price and created a misleading appearance of trading in the scrip by such trades.

l. During patch 3 of the investigation period, price of the scrip at BSE opened at Rs. 779.60/- and touched a period low of Rs. 326.00/- and closed at Rs. 421.40/-. It was alleged that GRD was the top LTP contributors among sellers, wherein, top 10 sellers had contributed negative LTP of Rs. -2,829.70/- to net LTP and Rs. -3,993.65 to total market negative LTP during Patch 3. GRD was the top negative LTP contributor with contribution of negative LTP of Rs. -1,471.75/- to net LTP and Rs. -1,940.85 to total market negative LTP. Details of their trades during Patch 3 at BSE is as follows:

Table 9

Client Name	Net LTP Rate	Total Traded Qty	Total Trades	Positive LTP Rate	Positive LTP Traded Qty	Positive LTP Trades	Negative LTP Rate	Negative LTP Traded Qty	Negative LTP No Trades	Zero LTP Traded Qty	Zero LTP Trades	% LTP Contribution
GRD	-1471.75	71499	5121	469.10	10400	622	-1940.85	23011	2029	38088	2470	11.55
Market Total	**-360.75**	**3419845**	**94408**	**16436.90**	**888956**	**20346**	**-16797.65**	**982264**	**21976**	**1548625**	**52086**	**100**

m. It was further observed from the trading analysis that in 1,980 trades out of total 2,029 negative LTP contributing trades, sell orders of GRD were placed after the buy orders, which were already available at prices lower than the LTP and which contributed to negative LTP of Rs. 1,908.45 (11.36%). In the remaining 49 sell order trades, sell orders were placed before the respective buy orders which contributed to negative LTP of Rs. -32.40/- (0.19% of market negative LTP).

n. During Patch 4 of the investigation period, price of the scrip opened at Rs. 85.35/- and touched period low of Rs. 26.50/- and closed at Rs. 27.95/- at BSE. It was observed that GRD was the top LTP contributors among sellers and details of his trades is as follows:

Table 10

Client Name	Net LTP Rate	Total Traded Qty	Total Trades	Positive LTP Rate	Positive LTP Traded Qty	Positive LTP Trades	Negative LTP Rate	Negative LTP Traded Qty	Negative LTP No Trades	Zero LTP Traded Qty	Zero LTP Trades	% LTP Contribution
GRD	-447.35	765575	12404	173.45	78795	1175	-620.80	187355	3658	499425	7571	8.31
Market Total	**-393.45**	**42614933**	**309958**	**7079.90**	**8076238**	**53525**	**-7473.35**	**7681069**	**54698**	**26857626**	**201735**	**100**

o. In patch 4, GRD was the top negative LTP contributor with contribution of Rs. -447.35/- to net LTP and Rs. -620.80/- to total market negative LTP. It was further observed that total negative LTP contribution by GRD was Rs. -620.80/- (8.31% of total market negative LTP). From the trading analysis in respect of GRD, it was observed that in 3,493 trades out of total 3,658 negative LTP contributing trades, sell orders of GRD were placed after the buy orders, which were already available at prices lower than LTP which contributed to negative LTP of Rs. -597.10/-. It was alleged that GRD had repeatedly entered into such trades on a total of 33 trading days. Therefore, it is alleged that GRD was deliberately placing small quantity buy orders to match sell orders, which were already above LTP and thereby contributed to significant negative

LTP. The above, is evident from the above trading pattern of GRD, that the intention of GRD was to manipulate the price of the scrip and not merely to enter into the buy transactions.

2. In view of the above observations, it was alleged that GRD during patches 2, 3 and 4 of the investigation period and Berkeley during the patch 2 of the investigation period had repeatedly placed manipulative trades. Berkeley had traded on 41 trading days, wherein, Berkeley have significantly contributed towards positive LTP during Patch 2 at BSE and NSE. Similarly, GRD had traded on 33 trading days, wherein, GRD have significantly contributed towards positive LTP during Patch 2 at BSE and towards negative LTP during Patch 3 and 4 at BSE, respectively. Therefore, through such manipulative trades in the scrip of the Company, GRD and Berkeley had mark the price higher of the scrip during Patch 1 at BSE and NSE, respectively, and GRD during Patch 3 and 4 through significant negative LTP contributions had manipulated the price of the scrip. In view of the repeated nature of such trades by GRD and Berkeley, the culpability in manipulating the price of the scrip is alleged. In view of the above, it was alleged that GRD and Berkeley has manipulated the price of the scrip through their trades and violated the provisions of Regulations 3(a), 3(b), 3(c), 3(d) and Regulations 4(1), 4(2)(a) and 4(2)(e) of the PFUTP Regulations.

3. It was also observed that GRD and Berkeley are SEBI registered stock brokers and therefore, by indulging in such manipulative trades as a SEBI registered intermediary, they have failed to maintain high standards of integrity, promptitude and fairness in the conduct of their business and also failed to exercise due skill, care and diligence laid down in the code of conduct for Stock Brokers and thus, they have violated the provisions of clauses A(1), A(2), A(3) and A(4) of the Code of Conduct for Stock Brokers as specified in Schedule II read with regulation 9(f) of SEBI (Stock Brokers and Sub-Brokers) Regulations, 1992 (hereinafter referred to as "**Brokers Regulations**"). The text of the said provisions is reproduced below:

<u>PFUTP Regulations, 2003:</u>

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;

Stock Brokers Regulations

9. *Any registration granted by the Board under regulation 6 shall be subject to the following conditions, namely,*

…

(f) *he shall at all times abide by the Code of Conduct as specified in Schedule II*

Schedule II

Code of conduct for Stock-brokers

A. General.

- ***(1) Integrity:*** *A stock-broker, shall maintain high standards of integrity, promptitude and fairness in the conduct of all his business.*
- ***(2) Exercise of due skill and care:*** *A stock-broker shall act with due skill, care and diligence in the conduct of all his business.*

(3) ***Manipulation:*** *A stock-broker shall not indulge in manipulative, fraudulent or deceptive transactions or schemes or spread rumours with a view to distorting market equilibrium or making personal gains.*

(4) ***Malpractices:*** *A stock-broker shall not create false market either singly or in concert with others or indulge in any act detrimental to the investors' interest or which leads to interference with the fair and smooth functioning of the market. A stockbroker shall not involve himself in excessive speculative business in the market beyond reasonable levels not commensurate with his financial soundness.*

4. SEBI felt satisfied that there are sufficient grounds to inquire and adjudicate upon the alleged violations of the aforesaid provisions of the PFUTP Regulations and the Brokers Regulations, by the Noticees No. 1 & 2 (hereinafter together referred as "**Noticees**"). By a *communication-order* dated July 21, 2020 the undersigned was appointed as the Adjudicating Officer to inquire into and adjudge under section 15HA and 15HB of the SEBI Act for the alleged violations by the Noticees. After the receipt of the records, two separate show cause notices to show cause no. EAD-9/VKV/NK/21559/9/2020 and EAD-9/VKV/NK/21559/10/2020 both dated December 10, 2020 (hereinafter together referred to as '**SCNs'**) was issued to the Noticees No. 2 and 1, respectively, in terms of Rule 4(1) of the SEBI (Procedure for Holding Inquiry and Imposing Penalties) Rules, 1995 (hereinafter referred to as '**Adjudication Rules**') read with section 15I of the SEBI Act. The SCNs were duly served upon the Noticees *via* Speed Post Acknowledgement Due ("**SPAD**").

5. Vide letter dated January 06, 2021, GRD requested for inspection of the full records in connection with the instant proceedings. Thereafter, the authorised legal representative of GRD *viz.* Mr. Jaikishan Lalwani, Advocate had undertaken the inspection of documents on January 25, 2021. Subsequently, vide letter dated February 05, 2021, GRD stated that it has been granted access to only certain documents during inspection, which are incomplete in itself and such documents doesn't give a complete picture of the alleged transactions, as it has been provided with trade logs and order logs of only GRD and Berkeley. It had again requested for inspection of documents of all other documents available on record. However, its request has not been acceded to as all the relied upon and relevant documents has already provided to GRD during the inspection and along with the SCN issued to it. Further, GRD and Berkeley has not filed any reply to the SCN till November, 2021.

6. Accordingly, on considering the material available on record and as per the principle of natural justice and in terms of Rule 4(3) of the Adjudication Rules, the Noticees have been granted with an opportunity of personal hearing on November 24, 2021 and they were also allowed with an opportunity to file a reply to the SCNs, if any. The aforementioned hearing notice dated November 12, 2021, has been duly served upon the Noticees *via* SPAD on November 16, 2021, however, Noticee No. 1 had failed to avail the same. In case of Noticee No. 2, vide e-mail dated November 21, 2021, Mr. Anil Shah, Advocate (*from Juris Matrix Partners LLP*) forwarded authority letter regarding his appointment as authorised representative and requested for adjournment due to his prior involvement in other case before Hon'ble SAT. Accordingly, the hearing was adjourned for December 01, 2021, wherein, Mr. Shah appeared and made submissions on behalf of the Noticee's earlier reply dated January 05, 2021, which, it has produced before hearing. Mr. Shah further requested for a weeks' time to make additional written submission and his request was acceded to, wherein, he filed additional written submissions on December 07, 2021.

7. Meanwhile, in terms of principle of natural justice another opportunity of hearing was granted to Noticee No. 1 on December 01, 2021, wherein, the hearing notice dated November 24, 2021 was served to it *via* digitally signed e-mail. However, in absence of any response, another digitally signed e-mail dated November 29, 2021 was forwarded to authorised representative ("**AR**") of GRD, wherein, it was informed to him that scheduled date of hearing has been postponed for December 23, 2021 in the concerned matter. It was further informed that all the relied upon and relevant documents has already been provided to GRD and its representative during the proceedings and as a final opportunity, GRD was allowed to make written submission by December 20, 2021. Thereafter, vide letter dated November 30, 2021, AR informed that it has forwarded an e-mail dated November 23, 2021 and thereafter, another mail on November 29, 2021, wherein, he had reiterated his request for all the information and documents available on record with SEBI. I have found that due to some technical issues the mail forwarded by AR could not be received by undersigned and therefore, his stated communication *via* e-mail and letters taken on record. On scheduled date Mr. Jaikishan Lakhwani, Advocate appeared for hearing and stated that the transactions in questions are jobbing transactions and requested for another opportunity of hearing and sought time upto January 15, 2022 to make written submissions. Accordingly, his request was acceded to and the next date of hearing was scheduled for January 25, 2022. Thereafter, vide letter dated January 15, 2022, GRD filed its reply to the SCN and appeared

for hearing on January 25, 2022, wherein, he reiterated the submissions made in letter dated January 15, 2022 and requested for 2 weeks' time for making additional written submissions. Accordingly, vide letter dated February 04, 2022, GRD made additional written submissions in the matter. Considering the above, I note that the Noticees have filed their respective replies to the SCN and availed the opportunity of hearings granted to them.

8. The written submissions and additional written submissions made by the Noticee No. 1 and 2 during the instant proceedings are *inter alia* as follows:

A. GRD submissions dated January 15, 2022 and February 04, 2022

i. Upon reading of the SCN, it is evident that there are various documents and data that are referred to and relied upon by SEBI in the captioned proceedings. It had requested to provide inspection of crucial documents in this matter to ensure transparency and fairness in the proceedings. Inspection of only partial / incomplete documents was allowed to it on January 25, 2021, after which it had requested for additional documents vide letter dated February 5, 2021 and same was denied. Therefore, inspection in this case still stands incomplete.

ii. It is a SEBI Registered Stock Broker engaged in jobbing activities/ intra-day trading through large number of dealers employed by it. All of its trades were executed in normal and ordinary course of business and the trading pattern of the trades in the scrip of the Company is an outcome of jobbing activities. The trades executed in the scrip of Arctotech were intra-day trades and sell trades, corresponding to the buy trades were also executed, thereby squaring-off the buy positions on the same trading day. This fact has been completely ignored by SEBI and has conveniently not looked into the detailed trading pattern.

iii. GRD does jobbing on a regular basis in several scrips in the Capital Market Segment. The trading pattern described in the SCN, which essentially is jobbing/ intra-day trading, has also been followed by it in several other scrips during its normal course of business over the years from which it has generated substantial turnover.

iv. Placing orders for miniscule quantities, very often even for one share, is a common practice adopted by jobbers/ arbitragers/ intra-day traders across the securities market and is usually done to verify the ongoing LTP in a particular scrip. the execution of the alleged buy trades was consequent to the trading practice normally followed for intra-day activities. It has placed reliance upon the judgement of Learned Whole Time Member ("**WTM**") of SEBI in the matter of *Nouveau Global Ventures Ltd* (Order no. WTM/SM/1VD/1D2/10967/ 2020-21; March 19, 2021).

v. It was not one of the top ten LTP contributing brokers during the investigation period and has absolutely no connection with any of the counterparties to the trades executed on BSE during the investigation period. There is no collusion whatsoever between it and the counterparty, which is a *sine qua non* to sustain a charge of price manipulation. It relied upon the judgement of Hon'ble SAT in the matters of *M/s Nishith Shah HUF v. SEBI* dated 16.01.2020 and *Vikas Bengani* (dated 25.022010 in Appeal No. 225/2009).

vi. It is humbly submitted that *'Intent'* is necessary element of *"fraud"* and is a pre-requisite for violation of Regulations 3 and 4 of the PFUTP Regulations.

vii. To assume that a genuine buyer would not repeatedly place buy orders at a price higher than or equal to sell order price which is already above LTP for a quantity that is lesser than the quantity available for sale is completely misplaced. Reliance has been placed upon the judgement of Hon'ble SAT in the matter of *Vikas Bengani (Supra).* The Hon'ble SAT has appreciated that an investor could place buy orders at higher rate than LTP to in order to meet market obligations, which is also its case and it was doing jobbing activity. SEBI has failed to consider that all the buy trades in patch 2 were squared off by executing corresponding sell trades during the same trading day.

viii. Every trade causes a variation in the last traded price, which is called the LTP contribution to a trade. Mere LTP contribution cannot be the sole indicator of price manipulation, as every trade causes the LTP to move. Thus, the allegation of fraud for contributing to LTP cannot sustain without proving manipulative intent to execute such trade.

ix. With regard to the finding that the buy orders were placed after sell orders which were already higher than LTP; it has submitted that all the buy orders were placed around the market prices only. For instance, on December 23, 2016 the market opened at Rs. 431.65, reached a high of 448.5 and closed at Rs. 443.95; buy orders for the trades executed by it on this trading day was within this price range, which clearly demonstrates that its buy orders were genuine and had no intention to jack up the price of the scrip, as the same could have been done by placing orders at much higher rates, even at rates higher than the high price on that day. The SCN itself states that the Noticee was matching sell order prices which were already above LTP, which means the Noticee had to purchase at the prices quoted by the sellers. On many days its trades have leads to zero LTP contribution, despite which the price of the scrip increase considerably. Since the impugned trades were jobbing trades, it was buying and selling immediately within a span of few minutes or few seconds and the hence orders had to be executed at the prices already available in the exchange system. The rationale behind executing these negative LTP contributing trades is the same as explained herein, therefore, further substantiating that all trades executed during the investigation period *bona fide* jobbing trades. This also goes to show that the Noticee had absolutely no *mala fide* intention to contribute to positive LTP or negative LTP in the scrip of the Company.

x. The timing of placing the orders i.e. buy order after sell orders or *vice-versa* does not indicate any manipulative intent, especially in the absence of any connection with the counterparty of such trades.

xi. It has booked a loss of Rs. 1,22,388/- excluding the exchange charges and other statutory charges. There is absolutely no rationale / intention to manipulate the price of the scrip to book a loss.

B. Berkeley (Noticee No. 2) submissions dated January 05, 2021 and December 07, 2021

i. It began operations in broking in the year 2010 and as a depository participant in the year 2012. As on date it has about 6,014 active broking clients and around 6,415 DP clients. Approximately 8,000 crores of it trading volume is on account of the proprietary book, relatives, business associates and of the promoters and directors.

ii. It is a jobber and have its jobbing strategy in place for buying and selling shares on the same Exchange in various scrips. As a jobber its intent is very clear, that is, to take advantage of favourable price difference. As such, it may be pointed out that by and large it did not carry forward any outstanding position to the next day. This is so because jobber are averse to an open position in the market. If at all there remains an open buy position at the end of the day, it takes delivery and proceed to sell the same the next day.

iii. It is submitted that the alleged trades were executed at the prevailing market price and does not create misleading appearance of trading which tampers/manipulates the price discovery mechanism of Exchange. Neither there has been any undue gain nor unfair advantage to it nor any resultant artificial volume created as a result of the alleged trades.

iv. The SCN alleges price increase in the scrip, however, SCN fails to offer any conclusive finding as how its trades were instrumental in the said price rise only on the basis of jobbing transactions, as there are no allegations that it has taken delivery of shares.

v. Details of its trades in scrip of the Company is as follows:

Table 11

NSE					
Period	**Number of days traded**	**Turnover (in Rs Crores)**	**Total number of scrips traded**	**Total Turnover (in Rs Crores)**	**STT paid for ALL Clients (in Rs Lakhs)**
Before IP	34	5	422	1,265	23
During IP (Before SS)	359	160	874	11,803	227
During IP (After SS)	11	0.39	748	9484	175
After IP	16	0.49	540	2277	43
BSE					
Before IP	11	0.10	200	72	2
During IP (Before SS)	310	106	607	1,464	39
During IP (After SS)	5	0.33	460	1,554	31
After IP	3	0.0026	294	269	6

vi. At the relevant time during the investigation period, the price of scrip was rising continuously and it was desirous of acquiring shares and later selling the shares for profit. Accordingly, it had traded as a prudent investor with intention to do jobbing.

vii. Since the investigation was apparently conducted in the wake of complaint, a copy thereof ought to be provided to it to enable it to effectively represent its case. Since, the SCN has failed to annex a copy of the said complaint, the SCN has deviated from the principles of natural justice. The Noticee has placed reliance upon the judgement of Hon'ble Supreme Court in the matters of *Commissioner of Central Excise v/s Brindavan Beverages (P) Ltd* and *Canara Bank & Ors v/s Debasis Das & ors* [(2003) 4 SCC 557].

viii. The SCN has observed that during investigation period its trades at BSE of gross buy volume of 19,41,843 shares being 2.75% of gross buy to market volume and a gross sell volume of 19,42,060 shares being 2.75% of gross sell to market volume. The SCN is silent how 2.75% volume can be considered as concentration, when top 10 brokers at BSE, buy and sell volume concentration during relevant period is 36.27% and 36.19%, respectively. It also fails to understand that, how volume of 2.75% can be instrumental in net LTP leading to upward price variation. Similarly, its client concentration of 2.09% at BSE could not have been instrumental in net LTP leading to upward price variation in scrip.

ix. In trade analysis in the SCN, the negative LTP contribution has not been considered and considered only Net LTP and Positive LTP contribution instead of working out average thereof, which obviously give a distorted and misleading picture. It is submitted that concluding on the basis of gross aggregation is flawed.

x. The SCN does not even allege that any of the counter parties to its trades placed sell orders at higher prices only to give it an opportunity to buy even though other buy offers for equivalent quantities were available on the screens of the Exchange at lower prices. It is obviously normal, permitted and expected trading practice that, if sellers are not available at lower prices, then no trades at all will take place unless the buyers offer a higher price. Therefore, obviously there is nothing at all objectionable about a buyer wanting to buy at higher prices or about a seller offering higher prices above the LTP, if buyers are not available at lower price. It is indisputable that all buyers are entitled to legitimately place orders at higher than LTP, so long as they are within the permitted range / circuit filter. However, no fault can be found with our trades merely because some of them may have been above the LTP.

xi. It is not in dispute that the trades were executed within of ask and bid prices. Needless to say, the online transparent trading mechanism of the Stock Exchange was primarily instrumental in offering the trading platforms and moreover, ask and bid limits were determined by Stock Exchange. It could not have any role to play in terms of formulating or determining the ask and bid limits. All of its trades were cleared and settled in terms pay in and pay out as per Stock Exchange guidelines pertaining to clearing and settling of trades.

xii. Squaring-off with a difference in values were based on its understanding of the market and its jobbing strategy and hence, could not be called as manipulation. Its trading pattern of matching market orders with 1 buy quantity while trading was not with an intent to deliberately increase the scrip price. The table showing 5 LTP contributions trade failed to elaborate and appreciate that the sell order was placed prior to buy order and got matched accordingly.

xiii. Nowhere does the SCN contend/record/observe that there was any type of connection/connivance or meeting of minds either between said counterparties and/or their brokers and/or us or our clients. The principle of preponderance of probability cannot be exercised in the absence of any connection between the seller and the buyer. It reiterate that in the absence of any finding of collusion between the buyer and the seller the charge contributing to the LTP cannot be sustained. It has placed reliance upon the judgements of Hon'ble SAT in the matters of *M/s Nishith Shah HUF (Supra)*, *Indiabulls Securities Limited* (dated 26.10.2010 in Appeal No. 51/2009), *Pine Animation* (dated 08.06.2021 in Appeal No. 102/2020), *Labhu Gohil* (dated 29.012020 in Appeal No. 26/2019), *Narendra Ganatra* (dated 29.07 2011 in Appeal No. 47/2011), *Jagruti Securities Holding* (dated 27.10.2008 in Appeal No. 102/2006), *Vikas Bengani (Supra)* and *Sterlite Industries Limited* (dated 22.10.2001 in Appeal No. 20/2001).

xiv. It denies the allegations of buying, selling and dealing in scrip of the Company in the fraudulent manner or employing any manipulative and deceptive device in contravention to the provisions of the SEBI Act, Rules or Regulations made thereunder. The trades taken by it in the scrip were genuine and *bona fide*.

xv. On allegation of knowledge, due diligence and reasonable care by a stock broker, it placed reliance upon the judgements of Hon'ble Supreme Court in the matters of *Chandra Kanta Bansal* (dated 1 1.03.2008 in Civil Appeal No. 1893 of 2008) and *AF Fergusson* [dated 24.10.1985 1987 61 CompCas 548 Bon]; and the judgements of Hon'ble SAT in the matters of *Imperial Corporate Finance and Services Private Limited* (order dated 30.07.2004 in Appeal No. 56/2003), *Kasat Securities Limited* (order dated 20.062006 in Appeal No. 27/2006) and *Mehta Equities* (order dated 04.10.2010 in Appeal No. 139/2010).

9. I have considered the allegation levelled in the SCN, reply / submissions of the Noticees and the relevant material brought on record. I note that GRD has raised a technical objection that, it has not been provided with various documents and data that are referred to and relied upon by SEBI in the captioned proceedings and it has been provided with inspection of only partial/ incomplete documents on January 25, 2021. In this regard, I note that, the SCN in this matter has been issued on the basis of trade and order analysis of the Noticees in the scrip of the Company. Accordingly, along with the SCN, the Noticees were provided with their trade log and order log for the relevant period of time and the analysis of their trades w.r.t. first trades, LTP, New High Price, New Low Price, etc. Further, during inspection of documents, GRD has inspected/ received copies of – a) Approval for enforcement action in the matter; b) Appointment of quasi-judicial authority; c) communication of Appointment of quasi-judicial authority; and d) CD containing Annexures 3, 4 and 5 as given under "*Nature of Evidence in brief*" of the Approved Action Matrix. It is to be noted that aforesaid Annexures 3, 4 and 5 of the Investigation Report was enclosed as Annexure 1 to the SCN for respective Noticee, when they were served SCN along with the annexures. Further, the relevant portion of the investigation report w.r.t. allegations and charges against the Noticees, have been duly brought out in detail in the SCNs issued to the respective Noticees. Therefore, in my opinion all the relied upon and relevant documents has been supplied to the Noticees during the instant proceedings and thus, the principles of the natural justice have been duly complied with in the instant proceedings. Further, Hon'ble SAT in the case of *Shruti Vora Vs. SEBI,* in Appeal Number 28 of 2020 decided on February 12, 2020 had held as follows:

"…The contention that the appellant is entitled for copies of all the documents in possession of the AO which has not been relied upon at the preliminary stage when the AO has not formed any opinion as to whether any inquiry at all is required to he held cannot be accepted. A bare reading of the provisions of the Act and the Rules as referred to above do not provide supply of documents upon which no reliance has been placed by the AO, nor even the principles of natural justice require supply of such documents which has not been relied upon by the AO. We are of the opinion that we cannot compel the AO to deviate from the prescribed procedure and supply of such documents which is not warranted in law. In our view, on a reading of the Act and the Rules we find that there is no duty cast upon the AO to disclose or provide all the documents in his possession especially when such documents are not being relied upon…"

10. Further, the Noticee No. 2 has contended that investigation was apparently conducted in the wake of complaint, a copy thereof ought to be provided to it to enable it to effectively represent its case. In this regard, I note that, the Surveillance Department of SEBI received a general complaint on May 02, 2018, wherein, an investor has alleged the '*price manipulation*' in the scrip of the Company. Thereafter, a preliminary examination undertaken and subsequently, a detailed investigation has been undertaken in the matter. Pursuant to detailed investigation, it has been found that during the respective patches of the investigation period, the Noticees have bought/sold minuscule shares of the Company in multiple trades and thus, manipulated the price of the scrip through substantial contribution in either positive LTP or negative LTP, respectively. In view of the above, I am of the opinion that, the complaint in the matter is only a reference point for initiating preliminary examination. Further, all the facts and findings related to the violations alleged against the Noticees arises out of the detailed investigation; and analysis of the trade and order logs of the respective Noticees and their trading patterns in the scrip of the Company during the relevant period of time. All the relied upon and relevant documents w.r.t. the Noticees trades, orders and trading pattern has been furnished to them in the instant proceedings and has been brought out in the SCN. Therefore, I am of a view that the contention of Noticee No. 2 in this regard is not tenable. The Noticee No. 2 has also placed reliance upon the judgement of Hon'ble Supreme Court in the matters of *Commissioner of Central Excise v/s Brindavan Beverages (P) Ltd* and *Canara Bank & Ors v/s Debasis Das & ors* [(2003) 4 SCC 557] in this regard. Since the relevant and relied upon documents has already been furnished to the Noticees in the instant proceedings; and sufficient opportunities to make representation before me has been extended to these Noticees, therefore, in my considered view, the

principle of nature justice has been duly complied with during the proceedings and thus, the aforesaid judgements are not squarely applicable in this case.

11. Coming to the merit of the case, I note that the Noticees have not disputed their transactions and the manner of trading as described in the SCN. The Noticees has also not disputed the facts that despite availability of large quantity of sell orders/ buy orders, they placed buy/ sell orders for small quantities. However, they have contended that they are stock brokers, who are engaged in '*jobbing activities*' and '*intra-day*' trading and the trading pattern described in the SCN, essentially is jobbing/ intra-day trading, wherein, placing of orders for miniscule quantities, very often even for one share, is a common practice adopted by jobbers/ arbitragers/ intra-day traders across the securities market and is usually done to verify the ongoing LTP in a particular scrip. The execution of the alleged buy/ sell trades was consequent to the trading practice normally followed for intra-day activities. The Noticees have also submitted in their defence that they follow similar strategy in other scrip in which they deal in and tendered their trading details for other scrips to support their submissions.

12. Considering the trading pattern of the Noticees as observed during investigation, their acts and conduct need to be looked into holistically. It is admitted position that GRD had purchased 53,323 shares of the Company at BSE and Berkeley had purchased 1,43,585 shares and 2,30,922 shares of the Company at BSE and NSE, respectively, during Patch 1 of the investigation period. Further, during Patch 3 and 4 of the investigation period, GRD had sold 71,499 shares and 7,65,575 shares of the Company at BSE. Out of the above purchase/ sale of shares of the Company by GRD and Berkeley, following has been found w.r.t. their positive and negative LTP contributions during the alleged patches of the investigation period:

<u>Table 12</u>

GRD							
Patches of Investigation Period	**Positive LTP Contribution**	**% of Total Market +ve LTP**	**Negative LTP Contribution**	**% of Total Market -ve LTP**	**Net LTP Contribution**	**Total Market LTP (Net)**	**% of Net LTP Contribution to Total Market +ve/ -ve Contribution**
Patch 2	1695.65	9.54%	-355.25	2.04%	1340.40	3.15 times	7.54%
Patch 3	469.10	2.85%	-1940.85	11.55%	-1471.75	4.08 times	8.76%
Patch 4	173.45	2.45%	-620.80	8.30%	-447.35	1.14 times	5.98%

BERKELEY							
Patch 2 - BSE	2784.50	15.67%	-1440.05	8.30%	1344.45	3.16 times	7.56%
Patch 2 - NSE	5572.30	16.18%	-2534.20	7.45%	3038.10	7.37 times	8.82%

13. It may be noted that the Noticees have contended that, during investigation either their positive LTP trades (for Patch 2) or their negative LTP trades (for Patch 3 and 4) has been considered and all other trades resulting either into positive or negative LTP, respectively for respective patches and zero LTP trades have been ignored and due to the same the trading analysis does not represent true picture. In this regard, from the above Table 12, I note that, GRD positive LTP contribution in the scrip of the Company during Patch 2 was 9.54% to total market positive LTP. As per the Noticees contentions, I have analysed their Net LTP contributions during the said period in aforesaid table and last column of the table represent the percentage of net contribution of the respective Noticees positive / negative LTP contributions (as per the patches) to total market positive / negative LTP contributions during respective patches. For ease of understanding, I reiterate that, Patch 2 was the period of price rise in the scrip and Patch 3 and 4 was the period of price fall in the scrip. Accordingly, when GRD net positive LTP is taken into consideration, as per his contention, same arrives to 7.54% of the total market positive contributions at BSE during the Patch 2. Similarly, for Patch 3 and 4, his net negative LTP contributions in the scrip was 8.76% and 5.98%, respectively, of the total market negative contributions at BSE during the Patch 3 and 4, respectively. Similarly, Berkeley net positive LTP contributions during Patch 2 was 7.56% at BSE and 8.82% at NSE, of the total market positive contributions at BSE and NSE, respectively. In view of the above, I am of the opinion that, even if the Noticees net LTP contribution in the scrip of the Company to be taken into consideration during respective Patches, same has been found to be substantially high. Considering the same, I am of the view that, Noticees No. 1 and 2 have substantially contributed towards the positive LTP in the scrip during Patch 2 and Noticee No. 1 has substantially contributed towards the negative LTP in the scrip during Patch 3 and 4.

14. As a matter of fact, the scrip in question was a fairly traded scrip and the numerous sellers and buyers were available in the market. It was not a case that any one or more connected sellers spoofed the order book. In such a situation, it is very usual that when several sell orders in large quantity are available in the market, one buyer places buy order for miniscule

quantity involving shares in single digit and in many cases for 1 share and *vice-versa* for buy orders. It has been noted that, GRD has placed order of 1 shares on 1,117 occasions and significantly contributed to positive LTP of Rs. 916.15/- i.e. 5.15% of total market positive LTP. With regard to Berkeley, it has been noted that, it has placed order of 1 shares on 2,443 occasions and significantly contributed to positive LTP of Rs. 2,488.40/- i.e. 14% of total market positive LTP. Further, it has been found that during Patch 2, GRD placed 1,676 buy orders after the sell orders were placed and these sell orders were available at prices higher than LTP, which contributed to positive LTP of Rs. 1426.15 i.e. 8.02% of total market positive LTP. Similarly, Berkeley on BSE has placed 2,029 buy orders after the sell orders were placed and these sell orders were available at prices higher than LTP, which contributed to positive LTP of Rs. 2,022.55 i.e. 11.38% of total market positive LTP. Berkeley on NSE has placed 6,907 buy orders after the sell orders were placed and these sell orders were available at prices higher than LTP, which contributed to positive LTP of Rs. 3,891.75 i.e. 11.30% of total market positive LTP. It has also been found that GRD in patch 2 has followed the aforesaid trading pattern on 33 trading days and Berkeley has followed the aforesaid trading pattern on 32 trading days at BSE and 41 trading days at NSE. An elaboration has been provided of the trades of the Noticees in Table 6, 7 and 8, wherein, it has been found that through their miniscule trades (1 – 8 shares) they have contributed significantly towards positive LTP (Rs. 6.40 – Rs 13.75) in the scrip.

15. In view of the above findings, I found that such a behaviour by an investor in the market would be self-detrimental, as seeing so much interest on the seller side, no buyers will be willing to buy bulk number of shares. In a real market situation, the buyer and sellers move step by step gauging the interest on the opposite side. Nobody displays such a huge interest which is in complete disconnect with the interest on the other side. The involvement of the Noticees in placing such buy orders/ sell orders in an average traded scrip in minuscule quantity repeatedly and consistently for a longer duration, when the large number of sell orders/ buy orders were available in the market indicates towards the employment of manipulative device and intent of the Noticees.

16. It is pertinent to mention that every trade establishes the price of the scrip and the trading of Noticees at higher than LTP in Patch 2 and trading of Noticee No. 1 at lower than LTP in Patch 3 and 4, resulted in the price of the scrip going up in Patch 2 and falling down in patches 3 and 4, and same were done with a view to set the price or benchmark the price at

a desired level and thereby influencing the innocent/ gullible investors. Here, it is important to refer to the judgement of the Hon'ble SAT in its order dated March 21, 2014 in *Saumil Bhavnagari Vs. SEBI*: *"... but by purchasing shares at the higher price in LTP in most of the trades, the noticee had given a wrong impression about the liquidity of the scrip in the market. It must not be forgotten that every trade establishes the price of the scrip and the noticee's trading at higher than LTP resulted in the price of the scrip going up and were done with a view to set the price at a desired level and thereby influencing the innocent/gullible investors."*

17. With regard to the Noticees trading pattern, they have placed reliance upon the judgement of Hon'ble WTM in the matter of *Nouveau Global Ventures Ltd (Supra),* wherein, Ld. WTM of SEBI has held that placing of single share orders is market wide practice adopted by the jobbers to know the LTP rate at that point of time in the market. In this regard, I note that, the trades in question in that case pertains to period December, 2010 – March, 2013 and there is a possibility that at that point of time for keeping tab of LTP, the aforesaid practice was taking place. However, in this case, the trades pertain to period November, 2016 – April, 2018 and during this period of time, the screen based system in place by the exchanges, shows LTP on screen on continuous basis and for the same there is no requirement for a jobber to place order for the single share as contended by them.

18. In this case, from the fact of significant LTP contributions across patches of the investigation period by the Noticees and from the aforesaid pattern of trading adopted by the Noticees on continuous basis during the investigation period, I found that such a trading pattern cannot be said to be adopted by a genuine investor/ trader/ jobber in the securities market. However, saying that, I am also aware of the fact that, these Noticees have traded in several other companies during the said period in similar manner, which have been shown by them in their submissions made before me (*refer Table 11*). From Table 11, I observe that, Berkeley has traded in 874 companies at NSE and 607 companies at BSE during Patch 2. Further, the trades executed by these Noticees have also been squared-off on the same day on most of the occasions. As Berkeley has showed that during Patch 2, its trades at BSE of gross buy volume of 19,41,843 shares being 2.75% of gross buy to market volume and a gross sell volume of 19,42,060 shares being 2.75% of gross sell to market volume. Similarly, GRD has produced summary of details of its trades in form of Annexures to its reply, which shows that in shares of Arcotech as well as in other companies it was squaring-off its trades on regular basis. It is also found that, these Noticees have not been alleged to be or found

to be connected among themselves or with their counterparties or with promoter of the Company or with any other person related to securities market. On the aforesaid factors, I have also taken note of the recent order of Hon'ble SAT dated May 13, 2022 in the matter of *BDS Stock Brokers Pvt. Ltd. vs SEBI*. I am of the opinion that the aforesaid matter and the instant case before me are similar in terms of facts, attendant circumstances, top LTP contributor, trading pattern, charges, violations, etc. and I found that Hon'ble SAT has *inter alia* held as follows in the aforesaid order:

"…..

10. Having heard both the sides, in our view, the impugned order cannot be sustained. The appellant has given all the details of sell as well as buy orders in the scrip of the present case as well as in the large number of other scrips in which it had traded during all the five patches. Table 10 of the impugned order reproduced the trading of the appellant as under: -

Table 10

Investigation Period	***Number of total scrips traded***
Patch 1	*429*
Patch 2	*224*
Patch 3	*121*
Patch 4	*277*
Patch 5	*429*

11. The learned AO has in paragraph no. 14 found that the appellant was amongst the top 10 buy as well as sell clients. The investigation however blames the appellant only for buying the shares in which buy orders were placed in miniscule quantity. Other trades of the appellant are not scrutinized though the appellant has given the details of the same.

12. Though there is no doubt that on preponderance of probability merely on trading pattern of the trades can be found to be non-genuine or manipulative, in the present case, we find that the trading pattern of the appellant is not enough to conclude that the appellant had indulged into manipulative trading practices. Large number of companies in which it had traded would indicate that the appellant is a regular jobber cum dealer in the large number of scrips. Further, it was admittedly net seller during all the patches as shown by it. Therefore, merely blaming the appellant for buying in small quantity without anything further, in the background of the above situation would show that the order of the learned AO is merely based on suspicion or surmises. Benefit of doubt would have to be given to the appellant."

19. Considering the facts and circumstances of the instant case, I am of a view that the aforesaid judgement pronounced by the Hon'ble SAT in the aforesaid matter is squarely applicable

in this case, specially, a) on the basis of Noticees trades in several other companies during the relevant period of time; b) trading pattern of placing trades of miniscule shares; c) Noticees being charged for only buy side or sell side trades in a particular patch, wherein they were trading on both sides in each patches; d) appellant being regular jabber; etc. Therefore, despite the fact that trading pattern of the Noticees not appear to be a genuine/ regular trading pattern; in terms of aforesaid judgement of Hon'ble SAT, I am bound to hold a view that the attendant circumstances in this case are not tilting towards the charges made out against the Noticees in this case, since both the Noticees being stock brokers were also working as jobber in the securities market during relevant period of investigation. Therefore, in line with aforesaid Hon'ble SAT judgement, I am inclined to give the Noticees benefit of doubt with regard to their trades in the scrip of the Company during relevant patches of the investigation period.

20. I further note that, from the material available on record, 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 in this case cannot be computed. Also, Noticee No. 1 has submitted in its reply that it has incurred loss to the tune of Rs 1.22 lakhs in his trade in the scrip of the Company during the relevant period and same has been demonstrated by it before me. Therefore, the purpose behind the jacking up the price of the scrip through positive LTP contributions by the Noticees in Patch 2; and for bringing down the price of scrip in Patches 3 and 4 by the Noticee No. 1 by significant negative LTP contributions has not been brought out before me in the instant proceedings. Also, nothing about the prior meeting of mind or collusion with the counterparties or any other connected person to the Noticees w.r.t. their impugned trades has been alleged or brought out during the instant proceedings. Therefore, there exists doubts and uncertainties regarding the Noticees being a part of device/ scheme employed to gain undue advantage from the significant LTP contributions through their impugned trades in the scrip of the Company. Thus, in totality of the peculiar facts and circumstances, I am of the view that in the instant case the evidence is not sufficient enough to pass the muster of the principle of preponderance of probabilities and to lead to a conclusion that the Noticees have employed any manipulative and deceptive device in contravention of the PFUTP Regulations. Since, the Noticees have been found to be eligible for benefit of doubt with regard to the charge of involvement in fraudulent activities, accordingly, the charge of violations of Code of Conduct for Stock Brokers made against these Noticees also get dropped. In view of aforementioned discussion and on a

careful consideration of the attendant circumstances of this case, especially in the backdrop of aforesaid Hon'ble SAT judgement in the matter of *BDS Share Brokers Pvt. Ltd. (Supra),* I observe that the test of preponderance is not tilted towards probability of the Noticees being guilty of the charges made out in the SCN.

21. It is trite of law to state that the desideratum of clarity represents one of the most essential ingredients of legality. Therefore, I am of the view that, in this case the materials on record are not sufficient enough to establish the charges made against the Noticees in the SCN with clarity and conviction, and accordingly the SCNs is disposed of *qua* the Noticee No. 1 and Noticee No. 2.

22. In terms of Rule 6 of the Adjudication Rules, copies of this order are sent to the Noticee and also to SEBI.

Date: May 27, 2022	**Vijayant Kumar Verma**
Place: Mumbai	**Adjudicating Officer**