BEFORE THE ADJUDICATING OFFICER

SECURITIES AND EXCHANGE BOARD OF INDIA

[ADJUDICATION ORDER: Order/MC/VS/2021-22/14370]

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

In respect of -

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

In the matter of Era Constructions (India) Limited

BACKGROUND

1. Securities and Exchange Board of India (hereinafter referred to as "**SEBI**") initiated adjudication proceedings against Sunil Purohit ("**Noticee**") under Section 15HA of the Securities and Exchange Board of India Act, 1992 ("**the SEBI Act**") for alleged violations of the SEBI (Prohibition of Fraudulent and Unfair Trading Practices relating to the Securities Market) Regulations 2003 ("**PFUTP Regulations**") pursuant to investigation in the scrip of Era Constructions (India) Limited ("**Era**"/ "**the Company**") for the period March 17, 2004 to November 12, 2004. Shri D Ravikumar was appointed as Adjudicating Officer (AO) vide order dated January 17, 2012 to inquire into, and adjudge under Section 15HA of the SEBI Act the aforesaid alleged violations of the Noticee. Order dated February 28, 2013 was passed by the AO imposing a penalty of Rs. 8 lakhs on the Noticee. This order was appealed before the

Hon’ble Securities Appellate Tribunal (SAT) which remanded the matter to SEBI vide its order dated March 07, 2016.

APPOINTMENT OF ADJUDICATING OFFICER

2. Subsequent to the SAT order, the undersigned was appointed as Adjudicating Officer (“AO”) under Section 15-I of the SEBI Act read with Rule 3 of the SEBI (Procedure for Holding Inquiry and Imposing Penalties) Rules, 1995 (hereinafter be referred to as the “**Adjudication Rules**”), vide order dated June 18, 2021, to inquire into and adjudge under Section 15HA of the SEBI Act the aforesaid alleged violations of the Noticee. The appointment of the undersigned as AO was communicated vide order dated June 21, 2021.

SHOW CAUSE NOTICE, REPLY AND HEARING

3. Show Cause Notice No. AO/JS/OW/16082/2010 dated 12.08.2010 was issued to the Noticee for alleged violation of the PFUTP Regulations. The allegations levelled against the Noticees in the SCN are summarized as follows:-

4. SEBI conducted investigation into the dealings in the scrip of Era, during the period from March 17, 2004 to November 12, 2004 (hereinafter referred to as 'Investigation Period'). It was alleged that, during the investigation period, the Noticee in collusion with certain brokers and clients had executed synchronized trades which resulted in the creation of artificial volume of the scrip of Era at BSE.

5. On analysing the trade and order log it was observed that a group of clients including the Noticee and a few brokers, traded significantly in the scrip of Era during the period under investigation at BSE. The major brokers and clients who have traded significantly were S.P.J Stock Brokers Pvt. Ltd. (dealing in own account), Uttam Financial Services (dealing in own account), Pawan J Choudhri (dealing in own account); Harikishan Hiralal (dealing for Victory Trading Corporation), Adolf Pinto.Share & Stock Broker (dealing on behalf of Shri Kenneth Pinto, Ms. Gillian Pinto and Mangera M Sharma), Vijay

Bhagwandas Shah (dealing on behalf of Tejas Ghelani), Sanchay Fincom Ltd. (dealing on behalf of the Noticee), Galaxy Broking Ltd. (dealing on behalf of Kapil Bhuptani), ISJ Securities Pvt. Ltd. (dealing on behalf of Vijay Rathod), VSE Stock Services Ltd. (dealing on behalf of Mehul Shah), Ajmera Associates Pvt. Ltd. (dealing on behalf of Manherlal Vora, Pratap Sanghvi and Chetan Mehta), Southern Shares & Stocks Ltd. (dealing on behalf of Chirag Pujara). It was observed that these brokers and clients traded for gross quantity of 46,03,916 shares, bought 23, 18,731 shares (36.56% of total market-buy quantity) and sold 22,85,185 shares (36.03% of market-sell quantity).

6. It was observed that the Noticee bought 2,32,231 shares (3.66% of total market-buy quantity) and sold 2,32,255 shares (3.66% of market-sell quantity) during the period under investigation on 38 trading days out of total 170 trading days that the scrip was traded at BSE.

7. Analysis of the trading pattern revealed that there were instances of synchronized trades among group of brokers and clients including the Noticee, details of which are as given below.

Broker	Dealt for clients/ own account	Qty Bought through synchronised trade	Qty sold through synchronised trade	Gross Trading Volume	Synchronized trade to total mkt volume
Uttam Financial Services Ltd. (779)	OWN	273890	274531	548421	4.32%
P. J. Stock Brokers vt. Ltd. (646)	OWN	122240	201600	323840	2.55%
Vijay Bhagwandas Shah (77)	Tejas Ghelani (5061)	231415	236160	467575	3.69%
Sanchay Fincom Ltd. (204)	Sunil• Purohit (SI 96)	207961	151845	359806	2.84%
M/S Harikishan Hiraial (267)	Victory Trading Corporation (Vasant Kumar Bissa 5029	147175	118785	265960	2.10%
Galaxy Broking Ltd. (513)	Kapil Bhuptani (029)	50615	61945	112560	0.89%

Adolf Pinto (13)	Connected clients Kenneth Pinto (J4), Gillian Pinto (J5) and Mangera M Sharma MOIO	68445	59565	128010	1.01%
ISJ Securities Pvt. Ltd. (799)	Vijay Rathod (OC734)	55240	48015	103255	0.81%
Pawan J Choudhri (740)	OWN	29700	36050	65750	0.52%
VSE Stock Services Ltd. (253)	Mehul Shah (B668M01)	29555	25240	54795	0.43%
Ajmera Associates Pvt. Ltd. (911)	Manherlal Vora (Ml 98), Pratap Sanghvi (P176), Chetan Mehta C129	2586	295	2881	0.02%
Southern Shares & Stocks Ltd. (182)	Chirag Pujara (P203)		4791	4791	0.04%
Total		1218822	1218822	2437644	19.22%

8. The above brokers and clients including the Noticee are alleged to have indulged in several synchronized trades among themselves for 64 trading days from the period from May 19, 2004 to September 23, 2004 where price and quantity of buy orders and sell orders were identical. Also the time difference between placing buy orders and sell orders was less than one minute of each other.

9. The details of the alleged synchronised trades were given at Annexure S of the SCN. The alleged synchronised trades resulted in 7969 trades out of a total of 25,873 trades in the market during the relevant 64 trading days. The number of alleged synchronised trades constituted 30.8% of total trades during the relevant 64 days.

10. These alleged synchronized trades resulted out of 613 buy orders and 613 sell orders and resulted into trade of 12,18,822 shares which accounted for 19.22%

of the total market volume of the investigation period, 33.96 % of market volume on those 64 trading days from May 19, 2004 to September 23, 2004 and around 53% of trading volume executed by the above brokers and clients including you (buy 23,18,731 shares and sell 22,85, 185 shares).

11. In all these instances, the difference between buy order time and sell order time was less than a minute. Out of these 7969 synchronized trades, in about 6966 trades, the time difference between buy order and sell order was less than 5 seconds. In all these trades, the price and quantity of the buy orders and sell orders were the same.

Broker	Dealt for clients[own account	Qty Bought through trading among themselves	Qty sold through trading among themselves	Gross Trading Volume	% of trading among themselves to total market volume
Uttam Financial Services Ltd. (779)	OWN	371394	370021	741415	5.85
P. J. Stock Brokers vt. Ltd. (646)	OWN	316366	317785	634151	5.00
Vijay Bhagwandas Shah (77)	Tejas Ghelani (5061)	293495	295535	589030	4.64
Sanchay Fincom Ltd. (204)	Sunil Purohit (S196)	232136	231605	463741	3.66
M/S Harikishan Hiraial (267)	Victory Trading Corporation (Vasant Kumar Bissa 5029	205085	205320	410405	3.24
Galaxy Broking Ltd. (513)	Kapil Bhuptani (K029)	159455	156565	316020	2.49
Adolf Pinto (13)	Connected clients Kenneth Pinto J4 , Gillian Pinto and Mangera Sharma	81245	81545	162790	1.28

12. The trading pattern of above mentioned brokers and clients including the Noticee who were involved in the alleged synchronized trades were further analyzed to ascertain the volume of trading among them. Details of the same were as given below:

ISJ Securities Pvt. Ltd. (799)	Vijay Rathod (OC734)	64940	64940	129880	1.02
Pawan J Choudhri (740)	OWN	64525	62575	127100	1.00
VSE Stock Services Ltd. (253)	Mehul Shah (B668M01)	54280	53180	107460	0.85
Ajmera Associates Pvt. Ltd. (911)	Manherlal Vora (Ml 98), Pratap Sanghvi (PI 76), Chetan Mehta C129	20401	3010	23411	0.18
Southern Shares & Stocks Ltd. (182)	Chirag Pujara (P203)	9800	31041	40841	0.32
Total		1873122	1873122	3746244	29.54

13. From the above table it can be observed that the above brokers and clients including the Noticee executed trades for 18,73,122 shares through trading among themselves and this accounted for 81% of the total trading volume (buy 23, 18,731 shares and sell 22,85,185 shares) and 29.54% of the total market volume of 63,41 ,973 shares during the entire investigation period. Out of 170 trading days, Noticee along with the above brokers and clients have traded on 79 trading days among themselves. It is alleged that these trading of Noticee created significant contribution in generating volume in the scrip.

14. From the day-wise trading details (Annexure T-1 of the SCN) it was observed that the above clients and brokers including the Noticee significantly contributed to volume through trading among themselves on an average of 41.84% of daily market volumes on 79 trading days from May 19, 2004, to October 6, 2004 during the period under investigation and also contributed to daily market volume around 67% during the period May 19, 2004 to July 30, 2004.

15. Noticee along with the group of 16 entities indulged in trading among themselves on 38 trading days. Noticee bought 2,32,136 shares (3.66% of total market-buy quantity) and sold 2,31 ,605 shares (3.65% of total market-sell quantity) during the period under investigation among themselves.

16. Noticee allegedly indulged in synchronized trade on 1219 instances for purchasing of 207961 shares (i.e. 3.28% of total market-buy quantity) on 38

trading days and on 997 instances for selling of 151845 shares (2.39% of total market-sell quantity) on 36 trading days by placing 102 buy orders and 76 sell orders respectively. Moreover, Noticee was present on both legs of the transactions on 2216 instances of synchronized trades. The total volume of shares in such synchronized trades was 359806 shares with a total value of Rs.2,22,18,341. The details of synchronized transactions where Noticee acted either buy client or sell client were given in Annexure-2 of the SCN.

17. The aforesaid findings led to the allegation that the Noticee had created artificial volumes in the scrip of Era during the investigation period. As the time difference between most of the buy and sell orders executed was very negligible, it was alleged that such transactions were in the nature of synchronized trades and such matching of trades cannot happen in such accuracy without pre-understanding of both the buy and sell clients and the brokers for such a long period. Hence, it was alleged that there was a concerted effort by the Noticee with intent to create artificial volume of trading of Era during the said period.

18. The aforesaid alleged violations, if established, makes the Noticee liable for monetary penalty under Section 15 HA of the SEBI Act, which read as follows:-

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

19. Vide letter No. EAD-2/AP-SKS/OW/6763/1/2021 dated March 23, 2021 the SCN was again sent to the Noticee. Further, a Hearing Notice No. EAD-5/MC/VS/OW/P/2021/18250 dated August 10, 2021 was issued to the Noticee granting an opportunity of hearing by videoconferencing on September 2, 2021 Noticee submitted letter dated 03-06-2021 wherein he authorized Advocate Mr. Vikas Bengani as his Authorized Representative in the captioned matter.

20. Vide letter dated 03.06.2021 and e-mail dated 16.08.2021 the Noticee made the following submissions:-

(a) Noticee questioned the delay of more than five years in issuance of SCN after the matter was remanded by SAT in 2016 as that had prejudiced the Noticee.

(b) Noticee requested trade and order logs, copy of the investigation report and details of other documents relied in the SCN.

(c) In the captioned matter, SEBI itself has exonerated entities as Hon'ble Tribunal set aside Order of the SEBI in the Appeal filed by one of the Noticee. The Noticee referred to order dated 10.10.2013 passed by Hon'ble Tribunal and another Order dated 01.08.2014 passed by Ld. Adjudicating Officer in the case of Mangeram Sharma in the same matter of Era Constructions (India) Ltd. In these two Orders the respective Noticees were exonerated. The Noticee herein is also facing similar charges. Thus, same yardstick should be applied in the case of the Noticee herein as applied in these cases.

21. During the hearing conducted through videoconferencing on 02.09.2021, Authorised Representative of the Noticee reiterated submissions made vide letter dated 03.06.2021 and e-mail dated 16.08.2021. Averments were made on the inordinate delay of 5 years in issuance of SCN, absence of evidence that the synchronized trades were fraudulent, and the status of adjudication orders passed in respect of the other 11 entities were made.

22. In the light of the allegations contained in the SCN, the Noticee’s submissions in respect of the allegations made in the SCN and relevant material available on record, I hereby proceed to decide the case on merits.

CONSIDERATION OF ISSUES AND FINDINGS

23. The issues arising for consideration in the instant proceedings are:-

I. Whether the provisions of regulations 4(1) and 4(2)(a) and (g) of the PFUTP Regulations have been violated by the Noticee

II. If yes, whether the Noticee is liable for imposition of monetary penalty under Section 15 HA of the SEBI act

III. If yes, what would be the monetary penalty that can be imposed upon the Noticee taking into consideration the factors stipulated in Section 15J of the SEBI Act read with Rule 5 (2) of the Adjudication Rules?

I. Whether the provisions of Regulations 4 (1) and (2) (a) and (g) of the PFUTP Regulations have been violated by the Noticee?

24. It is alleged that, as part of a group of 12 brokers and 13 clients, the Noticee bought 2,32,231 shares (3.66% of total market buy quantity) and sold 2,32,255 shares (3.66% of market-sell quantity) during the investigation period on 38 trading days out of 170 days that the scrip was traded on the BSE. It has been alleged that of the aforementioned buy and sell quantities, 2,07,961 shares were bought and 1,51,845 shares i.e. a gross trading volume of 359806 shares (2.84%) was traded by the Noticee in the form of synchronised trades executed by its broker Sanchay Fincom Ltd. It has also been alleged that the Noticee's trades which were synchronised with entities belonging to the group of brokers and clients contributed 3.66% by market volume in the scrip during the IP. The Noticee carried out 1219 synchronised trades as a buyer, and 997 synchronised trades as seller, or a total of 2216 synchronised trades, as per tabulated data in Annexure 2 to the SCN.

25. The legal provisions allegedly violated by the Noticee are reproduced below for reference: -

PFUTP Regulations

"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 –

(a) indulging in an act which creates false or misleading appearance of trading in the securities market;

(g) entering into a transaction in securities without intention of performing it or without intention of change of ownership of such security;"

26. At the outset, I note that while the impugned synchronised trades took place in 2004, a copy of the trade and order logs for the relevant period could not be obtained from the BSE as the BSE has informed vide its e-mail dated 01.09.2021 that trade and order books prior to 01.01.2006 are not available in their system. Therefore, findings in this order are based on the trade and order details tabulated in the Annexures to the SCN.

27. I note that while the allegation of artificial volume creation through trades synchronised with group entities has been levelled on the Noticee, details of connection amongst the group entities (Noticee and its counterparty brokers/clients) are not available in the material on record.

28. I further note the submission of the Noticee that in the adjudication order dated 01.08.2014 in respect of Mangeram Sharma, one of the group entities who allegedly carried out synchronised trades in the scrip of Era, the said Mangeram Sharma has not been found to have contravened the provisions of the PFUTP Regulations. The finding in the order in respect of Mangeram Sharma is based on the SAT order dated 10.10.2013 in the case of Kapil Bhuptani in the same scrip, where the Tribunal stated that "*simple trading by the appellant in a particular scrip without any proved nexus between trades with the other so called group of brokers and clients is not per se punishable*", and that there was nothing on records to show connection of Mangeram Sharma with any of his counterparty brokers or clients. I note that Sunil Purohit i.e. the Noticee in the present case was counterparty client with respect to Mangeram Sharma in 3 synchronised trades in the scrip of Era whose details are provided in Annexure 3 to the SCN.

29. In view of the SAT Order dated 10.10.2013 and Adjudication Order dated 01.08.2014 above, considering the fact that there is insufficient material on record to establish a connection between the "group entities" consisting of 12 brokers and 13 clients including the Noticee, as well as the fact that trade log is not available for the relevant period, I find that material on record is not sufficient to conclude that the impugned synchronised trades of Noticee were fraudulent or manipulative.

30. In view of the above, I find that the allegation of violation of Regulations 4 (1) and (2) (a) and (g) of the PFUTP Regulations by the Noticee does not stand established.

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

ORDER

32. In the light of the findings noted hereinabove, the adjudication proceedings initiated against the Noticee vide SCN dated 12.08.2010 are disposed of.

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

MANINDER CHEEMA
Digitally signed by MANINDER CHEEMA
Date: 2021.11.26 16:04:14 +05'30'

DATE: NOVEMBER 26, 2021
PLACE: MUMBAI

MANINDER CHEEMA
ADJUDICATING OFFICER