BEFORE THE ADJUDICATING OFFICER

SECURITIES AND EXCHANGE BOARD OF INDIA

[ADJUDICATION ORDER NO. Order/PM/AB/2019-20/4214]

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

In respect of:

Shri Badrilal Birla

PAN: ABDPB7183R

In the matter of Moryo Industries Ltd.

FACTS OF THE CASE:

1. Securities and Exchange Board of India (hereinafter be referred to as, the "***SEBI***") conducted investigation into trading activities of certain entities in the scrip of Moryo Industries Ltd. (hereinafter be referred to as, the "***Moryo***") for the period of January 15, 2013 to August 31, 2014 (hereinafter be referred to as, the "***Investigation Period***").
2. Based on the findings of the investigation, SEBI initiated adjudication proceedings against Shri Badrilal Birla (hereinafter be referred to as, the "***Noticee***") under Section 15HA of the Securities and Exchange Board of India Act, 1992 (hereinafter be referred to as, the "**SEBI Act**"), for the alleged violation of Regulations 3(a), (b), (c) & (d), 4(1) and 4(2) (a) & (e) of SEBI (Prohibition of Fraudulent and Unfair Trade Practices Relating to Securities Market) Regulations 2003 (hereinafter be referred to as, the "***PFUTP Regulations***").

APPOINTMENT OF ADJUDICATING OFFICER

3. SEBI vide order dated September 7, 2017 appointed the undersigned as the Adjudicating Officer under section 15 I of SEBI Act, 1992 read with Rule 3 of SEBI (Procedure for Holding Inquiry and Imposing Penalties by Adjudicating

Officer) Rules, 1995 ("AO Rules") to inquire into and adjudge the aforesaid allegations under Section 15HA of the SEBI Act.

SHOW CAUSE NOTICE, REPLY AND PERSONAL HEARING

4. A Show Cause Notice dated April 27, 2018 (hereinafter be referred to as the "***SCN***") was issued to the Noticee under Rule 4 of the AO Rules to show cause as to why an inquiry should not be initiated and penalty be not imposed under Section 15HA of the SEBI Act for the allegations as detailed in the said SCN. The price movement during the investigation period was examined in various patches. The SCN alleged that during the period January 15, 2013 to November 8, 2013 ("***Patch 1***"), the price of the scrip of Moryo opened at Rs. 93.40 and closed at Rs. 101 with a high of Rs. 138.6 and a low of Rs. 60.30. A total of 1,45,926 shares were traded during Patch 1 with the average daily traded volume of 1,363 shares. The role of entities who had contributed to the increase in Last Trade Price (hereinafter referred to as "LTP") was examined by SEBI.

Noticee's role as Buyer

5. The summary of trading of the Noticee during Patch 1 was as follows:

Table 1: Summary of trading done by the Noticee

Total Trades			LTP Diff. >0			LTP Diff. < 0			LTP Diff. =0		% of Positive LTP to Total Market Positive LTP
Sum of LTP diff	Sum of Quantity	No of trades	LTP impact	QTY traded	No of trades	LTP impact	QTY traded	No of trades	QTY traded	No of trades	
65.25	32	22	86.40	23	18	-21.15	8	3	1	1	**30.46**

6. It was observed that the Noticee contributed to more than 5% to total market positive LTP through 22 trades for a total quantity of 32 shares during this patch. Out of these 22 trades, Noticee contributed Rs. 86.40 of positive LTP (30.46% of market positive LTP) in 18 trades for 23 shares. It was observed that in all the said 18 positive LTP contributing trades, Noticee had placed buy orders in small quantity. Details of these 18 trades along with their LTP contribution is given below:

Table 2: Details of trades of the Noticee

Sl. No.	**Description**	**No. of trades**	**LTP Contribution (Rs)**	**% of total market positive LTP**
1	Trades where buy order qty is 1 share	15	77.05	27.16%

2	Trades where buy order qty is 2 shares	2	7.15	2.52%
3	Trades where buy order qty is 6 shares	1	2.2	0.78%
4	All buy trades which contributed to positive LTP	**18**	**86.40**	**30.46%**

7. It was observed that out of above 18 positive LTP contributing trades, there were 12 trades wherein the buy order was placed for less than or equal to 6 shares while the disclosed quantity of sell order was more than or equal to 100 shares. These 12 trades were executed on 12 different days and resulted in positive LTP contribution of Rs 56.65 (19.97% of total market positive LTP) during Patch 1. Details of these 12 positive LTP contributing trades is given below:

Table 3: Details of trades of the Noticee

Sl. No.	Trade Date	Buyer Name	Seller Name	Trade Time	Buy Order Time	Sell Order Time	Trade Price	LTP Diff	Buy Order Price	Sell Order Price	Trade Quantity	Sell Order Disclose Volume	Buy Order Original Quantity
1	31.01.2013	Badri Lal Birla	Rakesh Kumar Modi	09:54:43.5050340	09:54:43.4767400	09:44:49.7451510	113.60	2.20	113.60	113.60	6	100	6
2	16.04.2013	Badri Lal Birla	Vinod Banwarilal Sharma	14:15:33.5017690	13:58:34.4683990	13:57:34.4912230	76.00	3.60	76.00	76.00	1	300	1
3	06.05.2013	Badri Lal Birla	Rakesh Kumar Modi	15:15:26.3704090	15:09:40.7919310	15:03:58.9738280	104.00	4.40	104.00	104.00	1	500	1
4	07.05.2013	Badri Lal Birla	Sunil Kr Bagaria Huf	15:15:21.8107230	15:01:15.8389440	15:01:52.1442820	109.20	5.20	109.20	109.20	1	1000	1
5	15.05.2013	Badri Lal Birla	Insight Multitrading Private	14:15:23.8931650	14:02:44.4628580	13:43:02.6466090	132.00	5.00	132.00	132.00	1	500	1
6	20.05.2013	Badri Lal Birla	Prem Ratan Bhaiya	11:15:29.3936290	10:35:23.4013120	11:09:29.4392630	138.50	6.50	138.60	138.50	1	100	1
7	22.05.2013	Badri Lal Birla	Sunil Kr Bagaria Huf	15:15:24.6336290	14:49:44.4699300	14:50:46.2692270	137.00	5.00	138.00	137.00	1	400	1
8	06.06.2013	Badri Lal Birla	Vivekanand Bagadia Huf	15:15:21.6561930	15:13:43.8089390	15:06:28.3626280	108.00	7.45	111.05	108.00	1	170	1
9	11.06.2013	Badri Lal Birla	Narendra G Navalakha	15:15:23.5523810	15:09:11.9484130	14:55:04.5389920	107.25	4.60	107.25	107.25	1	250	1
10	12.06.2013	Badri Lal Birla	Narendra G Navalakha	15:15:29.9985050	15:08:25.7440170	14:30:04.8607650	111.40	4.15	111.40	111.40	1	250	1
11	15.07.2013	Badri Lal Birla	Coline Computer Private	15:15:30.3478120	15:00:19.3921620	14:37:34.3355630	112.00	4.80	112.00	112.00	1	100	1
12	18.07.2013	Badri Lal Birla	Vinubhai Khushalbhai Patel	15:15:29.1054690	14:56:55.3713750	14:32:21.4881380	100.00	3.75	106.00	100.00	1	122	1

8. In respect of trades at sl. no. 4, 6 and 7 (i.e., where buy order was placed before the sell order), the buy order was placed for 1 share at prices significantly above

LTP, which were subsequently matched by sell orders. In the remaining trades (i.e., where buy order was placed after the sell order), while the disclosed volume of the sell orders was large, buy orders were placed for small quantities, for which quantity the above trades were executed. These trades for small quantity were executed on 12 days and contributed to significant positive LTP. Further, out of these 12 days, on 7 days the trade of the Noticee was the only trade of the day.

9. Thus, it was alleged that the Noticee was not acting as genuine buyer and had no bona fide intention to buy but to mark the price higher because despite availability of large disclosed quantity of sell orders, he was placing small quantity buy orders by either matching or placing orders at prices higher than sell order price which were already above LTP or by placing buy orders at prices above LTP which were subsequently matched by sell orders thereby contributing to significant positive LTP.

Noticee's role as Seller

10. It was also observed that the Noticee was one of the entities who contributed more than 5% to market positive LTP during patch 1 as seller. Upon analysis of his LTP contribution, it was observed that the Noticee contributed Rs. 68.65 of positive LTP (24.20% of market positive LTP) through 14 trades for 23 shares. The details of the trades of the Noticee as seller is as follows:

Table 4: Details of trades of the Noticee

Sl. No.	Batch Date	Buyer Name	Seller Name	Trade Time	Buy Order Time	Sell Order Time	Trade Price	LTP Diff	Buy Order Price	Sell Order Price	Trade Quantity	Sell Order Volume	Buy Order Volume	No. of shares held before these trades
1	10.04.2013	Chandrakanta Laddha	Badri Lal Birla	15:15:28.0197830	15:09:25.3511850	15:11:51.8788370	66.00	5.00	66.00	66.00	1	1	5	700
2	11.04.2013	Chandrakanta Laddha	Badri Lal Birla	15:15:20.9609680	14:30:39.5564540	14:32:19.9057080	69.00	3.00	69.00	69.00	1	1	10	699
3	17.04.2013	Shyam Kanheyalal Vyas	Badri Lal Birla	11:15:36.5707650	10:30:05.0960430	10:32:27.2075950	79.80	3.80	79.80	79.80	1	1	500	700

4	17.04.2013	Badri Lal Birla	Badri Lal Birla	15:15:32.7875170	14:51:16.1298750	14:34:09.0199340	79.80	7.30	79.80	79.80	1	1	1	699
5	18.04.2013	Badri Lal Birla	Badri Lal Birla	15:15:21.5569810	14:35:52.0683860	15:04:14.6230220	83.75	3.95	83.75	83.75	1	1	1	699
6	13.05.2013	Chandrakanta Laddha	Badri Lal Birla	15:15:29.0931230	14:31:43.9379730	14:32:47.9692090	121.20	5.20	121.20	121.20	3	3	5	703
7	17.05.2013	Chandrakanta Laddha	Badri Lal Birla	15:15:31.5513270	14:30:34.6734180	14:31:15.3454240	132.00	5.50	132.00	132.00	2	2	10	702
8	21.05.2013	Chandrakanta Laddha	Badri Lal Birla	15:15:30.7855600	15:06:01.1523290	15:04:14.3967600	132.00	6.00	132.00	132.00	1	1	2	701
9	24.06.2013	Amritlal Kanji Haria	Badri Lal Birla	10:15:27.0151350	09:59:55.6360840	10:04:28.8100230	100.35	4.75	100.35	100.35	1	1	1	704
10	27.06.2013	Chandrakanta Laddha	Badri Lal Birla	15:15:26.5524120	14:33:10.3273100	15:13:35.9956750	108.00	2.65	109.35	107.95	1	1	2	703
11	01.07.2013	Chandrakanta Laddha	Badri Lal Birla	15:15:30.3549310	14:53:06.6327380	14:59:55.9148270	106.80	4.15	106.80	106.75	2	2	5	704
12	02.07.2013	Chandrakanta Laddha	Badri Lal Birla	15:15:35.1818470	14:39:36.1466430	14:48:16.2415370	109.90	3.10	109.90	109.85	1	1	3	702
13	04.07.2013	Chandrakanta Laddha	Badri Lal Birla	10:15:46.2864050	10:03:36.6494630	10:04:35.0806030	114.80	4.90	114.85	114.80	5	5	5	701
14	19.07.2013	Chandrakanta Laddha	Badri Lal Birla	15:15:36.1418160	14:48:21.9549690	15:04:47.1531770	104.45	9.35	105.00	104.45	2	2	2	705

11. The following is observed from the above 14 trades:

   a. Despite having sufficient quantity of shares with him, Noticee was placing small quantity sell orders (1 to 5 shares) at prices higher than LTP. Such trades were executed on 13 days and contributed to significant positive LTP.

   b. In 6 days from April 10, 2013 to April 18, 2013, the Noticee indulged into such positive LTP contributing trades on 4 days.

   c. Also, in 7 days from June 24, 2013 to July 04, 2013, the Noticee indulged into such positive LTP contributing trades on 5 days.

d. From the aforesaid trading pattern, it was alleged that the Noticee was not acting as a genuine seller and had no bona fide intention to sell but to mark the price higher because in-spite of having sufficient quantity of shares available with him, he was placing small quantity sell orders at prices above LTP, thereby contributing to significant positive LTP.

12. It was thus alleged that the Noticee, by trading in the aforesaid manner, manipulated the scrip price and created a misleading appearance of trading in the scrip by such trades and thereby violated Regulations 3(a), (b), (c), (d), 4(1), 4(2) (a), and (e) of PFUTP Regulations, 2003.

13. The SCN was returned undelivered with comment "Incomplete Address". Subsequently, an attempt was made to deliver the SCN through the Broker of the Noticee – M/s Arihant Capital Markets Ltd. and the broker delivered the SCN by hand delivery to the Noticee and provided an acknowledgment to SEBI on November 16, 2018. However, no reply to the SCN was received.

14. An opportunity of personal hearing was granted to the Noticee on April 24, 2019 vide Notice of hearing dated April 4, 2019 in accordance with Rule 4(3) of the AO Rules. The authorized representative appeared on the said date and filed his submissions dated April 18, 2019 during the course of hearing. The representative further sought 15 days' time to submit more detailed submissions. The Noticee submitted additional submissions vide letter dated May 13, 2019.

15. A summary of the submissions made by the Noticee in response to the SCN is as follows:

    a. The Noticee is retired pensioner of 77 years and does normal share trading with his limited income to keep himself busy and earn some money.

    b. The Noticee does not have any sort of direct/indirect relationship with the Company, its directors or the counter parties.

    c. The Noticee does not have any source of income except pension or income from share trading. His income is very low i.e. below the taxable income.

    d. The Noticee as a matter of practice used to buy shares in small quantity as he had miniscule savings. During the year 2011 – 2016 there are around 30 companies in which the Noticee used to trade in quantities between 1 and 10 shares. This type of trading shows that it was normal for the Noticee to trade in small quantities.

CONSIDERATION OF ISSUES AND FINDINGS

16. I have carefully perused the reply to the SCN, oral and written submissions of the Noticee and the documents available on record. The issues that arise for consideration in the present case are:

Issue No. I Whether the trading done by the Noticee during the Investigation Period were in violation of Regulations 3(a), (b), (c) & (d), 4(1), 4(2)(a) &(e) of the PFUTP Regulations?

Issue No. II If yes, whether the violation, on the part of the Noticee would attract monetary penalty under Section 15HA of the SEBI Act?

Issue No. 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?

17. Before proceeding further, I would like to refer to the relevant provisions of PFUTP Regulations which are reproduced as under: -

"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;

(b) ....

(c) ....

(d) ....

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

18. It is seen from the reply of the Noticee that the Noticee purchased a total of 26 shares through 21 trades during patch 1. Further, the Noticee sold 25 shares in 15 trades during patch 1. It is seen from the reply of the Noticee that all the trading done by the Noticee is in Odd Lot. The striking feature of the trading of the Noticee is that in 15 trades of 1 share each where the Noticee was the buyer, the change in LTP is Rs. 77.05 i.e. 27.16% of the total market positive LTP. Out of the total purchase done by the Noticee during patch 1 there are 12 trades where there were sellers available in sufficient numbers yet the Noticee placed order for very miniscule quantity. It can be observed from the trading of the Noticee given in Table 3 that on various occasions, the Noticee placed the buy order after the sell order was entered in the system and yet the price of buy order was higher than the sell order in the system. As stated earlier, on many days the trades of the Noticee were the only trades during the day. Out of the 12 trades mentioned in Table 3 above, on 7 days, the Noticee's trades were the sole trades of the day when Noticee was the buyer. Even as seller, out of the 14 trades mentioned in Table 4, on 6 days, the Noticee's trades were the only trades of the day. On two occasions the Noticee entered into self-trades and contributed to increase in LTP.

19. The ingenuity of the Noticee and his role in increasing the LTP can be seen from the self-trades done by the Noticee. On April 16, 2013, the scrip of Moryo closed at 76. On April 17, 2013, one buyer entered a buy order at 10:30 at a price of Rs. 79.80 with disclosed quantity of 500 shares. The Noticee entered a sell order at 10:32 for one share at 79.80 which resulted in trade of 1 share at Rs. 79.80. This trade led to an increase of Rs. 3.80 from previous close of Rs. 76. Subsequently, there was another trade for 45 shares at Rs. 72.5. The Noticee then entered a sell order at 14:34 at a price of Rs. 79.80 for 1 share. This sell order was Rs. 7.3 higher than the last traded price of Rs. 72.5. After entering the sell order the Noticee placed a buy order for 1 share at 14:51 at a price of Rs. 79.8. This buy order of the Noticee matched with Noticee's own sell order, thereby increasing the price of the scrip to Rs. 79.80. On next trading day i.e. April 18, 2013, there was no trading in the scrip during the day and the Noticee placed a buy order at 14:51 for one share at a price of Rs. 83.75. As stated earlier the closing price on April 17, 2013 was Rs. 79.8 due to the trade of the Noticee and the buy order placed by the Noticee on April 18, 2013 was

Rs. 3.95 higher than the last traded price. Subsequently, the Noticee entered a sell order at 15:04 for 1 share at a price of Rs. 83.75. This sell order matched with the pending buy order of the Noticee establishing a high price in the scrip of Moryo. As this was the only trade for the day, the closing price of the scrip was Rs. 83.75. Thus, it can be seen that the Noticee in 2 self-trades increased the price of the scrip of Moryo from Rs. 72.5 to Rs. 83.75 i.e. an increase Rs. 11.25.

20. The Noticee as a buyer and as a seller has placed his orders of miniscule quantities above the LTP and on most occasions due to sparse trading in the scrip, the trades resulting from these orders contributed to increase in the LTP and the closing price of the scrip. Considering this pattern of trading it was alleged that the Noticee was not acting as genuine buyer or seller and had no bona fide intention to buy or sell the shares.

21. I have considered the submissions of the Noticee wherein the Noticee has submitted that he has traded for only miniscule quantity of shares and he was not connected with the company or the other people dealing in the scrip. Further, the Noticee claims to have traded in 30 scrips in similar fashion.

22. As per the submissions of the Noticee he was a retired person who used to trade in small quantities. This indicates that the Noticee understood how the market functions and had the knowledge about trading in shares. However, as discussed in the preceding paragraphs, the trading of the Noticee made no economic rationale and could be justified on any ground. The Noticee in his reply has also not provided any justification for his trading except for the fact that he is not related and he has traded in similar fashion in various scrips. It is not possible to understand that when there was sufficient quantity available for buying, why the Noticee was buying shares in such miniscule quantities. Further, when the Noticee had sufficient number of shares, why was he selling such miniscule quantity? Further, it is interesting to note that the Noticee was entering buy and sell orders during the same period for e.g., the Noticee bought 1 share of Moryo on May 20, 2013 at Rs. 138.50. The Noticee then sold 1 share of Moryo on May 21, 2013 at Rs. 132. Subsequently, the Noticee bought another share of Moryo on May 22, 2013 at Rs. 137. Thus, there doesn’t seem to be any rationale for trading in such fashion. Incidentally, on May 20, 2013 the sell order price was Rs. 138.50 but the Noticee placed the buy order at 138.60. Similarly, on May 22, 2013 the Noticee entered the buy order at Rs. 138 when the LTP was 132 and the sell order was entered at 137. Thus, from the trading of the Noticee it appears that the sole purpose of entering the orders was to increase the price of shares of Moryo without having any *bonafide* intention of trading in the scrip. It has already been pointed out in SCN that at various occasions the Noticee entered buy order before the sell orders and the price was significantly higher than the LTP.

23. In view of the aforesaid, I find that the Noticee, by engaging in such non-genuine transactions, manipulated the price of the scrip of Moryo and also created a misleading appearance of trade in the scrip. I am of the considered view that the aforesaid act of the Noticee is in clear violation of Regulations 3(a), (b), (c)&(d) and 4(1), 4(2)(a) &(e) of the PFUTP Regulations.

Issue No. II **If yes, whether the violation, on the part of the Noticee would attract monetary penalty under Section 15HA of the SEBI Act?**

&

Issue No. 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?**

24. Since violation of Regulations 3(a), (b), (c)&(d) and 4(1), 4(2)(a) &(e) of the PFUTP Regulations by the Noticee is established, I am of the view that the same warrants imposition of monetary penalty upon the Noticee under Section 15HA of the SEBI Act, text of which is produced as under:

> ***SEBI Act***
> "***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 which shall not be less than five lakh rupees but which may extend to twenty-five crore rupees or three times the amount of profits made out of such practices, whichever is higher.*"

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

Section 15J - Factors to be taken into account by the adjudicating officer While adjudging quantum of penalty under section 15, 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.

26. It is seen from the submission of the Noticee and the trade data that the manipulative trades which increased the price of the shares of Moryo were for a miniscule quantity for which the profit is not quantifiable. Further, the loss caused to investors cannot be quantified. However, as stated earlier, the Noticee contributed significantly to the increase in the price of shares of Moryo through his trading. No material is available on record to indicate that the Noticee has repeated his actions.

ORDER

27. In view of the above, after considering all the facts and circumstances of the case and exercising the powers conferred upon me under Section 15-I (2) of the SEBI Act, 1992 read with Rule 5 of the Adjudication Rules, I hereby impose monetary penalty of Rs. 10,00,000/- (Rupees Ten Lakhs only) on the Noticee.

28. The Noticee 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 by using the web link https://siportal.sebi.gov.in/intermediary/AOPaymentGateway.html

29. The Noticee shall forward said Demand Draft to the Enforcement Department – Division of Regulatory Action – IV of SEBI. The Noticee shall provide the following details while forwarding the Demand Draft:

    a. Name and PAN of the entity (Noticee)
    b. Name of the case / matter
    c. Purpose of Payment – Payment of penalty under AO proceedings
    d. Bank Name and Account Number
    e. Transaction Number

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

Date: August 30, 2019

Place: Mumbai

PRASANTA MAHAPATRA
ADJUDICATING OFFICER