BEFORE THE ADJUDICATING OFFICER

SECURITIES AND EXCHANGE BOARD OF INDIA

ADJUDICATION ORDER NO. AO/SG-VP-VS/EAD/45-50/2017

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 BY ADJUDICATING OFFICER) RULES, 1995

In respect of:

Sr. No.	Name of the Entities	PAN No	Address
1	Prabodh Artha Wardhini Private Limited	AABCP1019L	Prabodh, 1070, Shukrawar Peth, Subhashnagar, Lane no. 5, Pune – 411002
2	Ms. Manisha B Vidhate	AEEPV0154L	Flat No.11, Siddhartha Park, C Building, Plot No.106, S.No. 78/19, Bhusari Colony, Kothrud, Pune 411038
3	Mr. Ramchandra Dimble	ACIPD7743B	106, 'Shukratara, Behind Navsha Maruti Mandir, Sinhagad Road, Pune 411009
4	Mr. Hemant V Kulkarni	ALZPK7202L	202, Samruddha Pratibha, S.No.14/15 Wadgoan(Bud), Vitthal Nagar, Sinhgad Road, Anand Nagar, Pune-411051
5	Mr. Digambar Kulkarni	APJPK5487K	Prabodh, 1070, Shukrawar Peth, Subhashnagar, Lane no. 5, Pune – 411002 Maharashtra
6	Ms. Madhavi N Bendre	AKSPB1075C	Prabodh, 1070, Shukrawar Peth, Subhashnagar, Lane no. 5, Pune – 411002 Maharashtra

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BACKGROUND

1. Securities and Exchange Board of India (hereinafter referred to as 'SEBI') conducted investigation during December 2011 into the allegations levelled by Pune Stock Exchange Brokers Forum into the matter pertaining to certain shareholders of Pune Stock Exchange Limited (hereinafter referred to as 'PSE').

2. Upon Investigation, it was alleged by a department of SEBI (hereinafter referred to as 'MRD') that entities viz. Prabodh Artha Wardhini Private Limited (PAWPL), Ms.

Manisha B Vidhate, Mr. Ramchandra Dimble, Mr. Hemant V Kulkarni, Mr. Digambar Kulkarni and Ms. Madhavi N Bendre (hereinafter collectively referred to as 'Noticees') had failed to comply with the provisions of regulation 8 (1) of Securities Contracts (Regulation) (Manner of Increasing and Maintaining Public Shareholding in Recognised Stock Exchanges) Regulations, 2006 (hereinafter referred to as 'MIMPS Regulations') read with Regulation 17(2) of Securities Contracts (Regulation) (Stock Exchanges and Clearing Corporations) Regulations, 2012 (hereinafter referred to as 'SECC Regulations') by acquiring (together with persons acting in concert) more than 5% of the paid up equity share capital in PSE on 25.08.2007 during Demutualization process as under :

Name of shareholder	**DP ID-BO A/c**	**No. of Final shares allotted**	**% Holding**
Manisha B Vidhate	12037500 00001217	90000	4.77%
Ramchandra Dimble	12037500 00000437	90000	4.77%
Hemant V Kulkarni	12037500 00000743	90000	4.77%
Madhavi N. Bendre	12037500 00001221	500	0.026%
Digambar Kulkarni		500	0.026%
Sub-Total		**271000**	**14.36%**
Holding of PAWPL*		5000	0.26%
Total		**276000**	**14.62%**

**PAWPL is a member of PSE whom 5000 shares were allotted during Corporatization.*

APPOINTMENT OF ADJUDICATING OFFICER

3. Shri Prasad Jagadale was appointed as the Adjudicating Officer (hereinafter referred to as 'AO') vide order dated 05.02.2015 to inquire and adjudge under Section 15HB of SEBI Act, 1992 the alleged violation committed by the Noticees. Subsequent to the transfer of Shri Prasad Jagadale, the undersigned was appointed as Adjudicating Officer under Section 15I of the Securities and Exchange Board of

India Act, 1992 (hereinafter referred to as 'SEBI Act, 1992') vide Order dated 14.12.2016 and the proceedings were received on 09.02.2017.

SHOW CAUSE NOTICE, REPLY AND HEARING

4. A common Show Cause Notice (hereinafter referred to as 'SCN') in terms of the provisions of Rule 4 of SEBI (Procedure for Holding Inquiry and Imposing Penalties by Adjudicating Officer) Rules, 1995 (hereinafter referred to as 'Adjudication Rules') read with Section 15I of SEBI Act, 1992 was issued on 27.03.2015 by the previous AO to each of the Noticees calling upon the Noticees to show cause as to why an inquiry should not be held against them under Rule 4 of the Adjudication Rules and penalty be not imposed for the alleged violation. I find from the records that the aforesaid SCN was delivered except to Mr. Digambar Kulkarni. Further, from the records, I note that the SCNs were again issued to Mr. Digambar Kulkarni and Ms. Madhavi N. Bendre by the previous AO on 15.02.2016 and the same returned undelivered.

5. The Noticees have submitted their replies to the SCNs except Noticees namely Mr. Digambar Kulkarni and Ms. Madhavi N Bendre.

   5.1. The Noticee namely Prabodh Artha Wardhini Private Limited vide letters dated 04.05.2015 and 05.11.2015, inter alia, made the following submissions :

   "…

   2. We, Prabodh Artha Wardhini Pvt. Ltd. have been a member of Pune Stock Exchange Ltd. There is no official/formal/ registered body such as PSE Brokers Forum. We understand that certain individual brokers might have complained to SEBI with some malafied intention. We request you to furnish us a copy of the Complaint as well as Investigation Report referred to in para 2 of the SCN to enable us to deal with the same.

   We have already written to SEBI to provide us Bank accounts statements and Demat statements which are referred to and relied upon in this Show Cause Notice.We have still not received these copies. In the mean while, we are filing this reply. We reserve our rights to file the rejoinder, if needed, after receiving those statements.

   3.1 The allegations referred to in para 3 of the SCN are on the basis of conjunctures and surmises and are not supported by any cogent documentary evidence. Please note that we held only 5000 shares of Pune Stock Exchange (PSE) issued to us consequent upon the demutualization of PSE and being a member of PSE. The said holding is a negligible fraction of the total share capital of PSE and does not warrant any inquiry as proposed or otherwise.

3.2 With further reference to para 3 of the SCN, we submit that the provisions of Regulation 17(2) of the Securities Contract (Regulation) (Stock Exchanges and Clearing Corporation) Regulations, 2012 (2012 Regulations) has no application to our holding of or acquiring 5000 shares of PSE particularly in view of the fact that we were allotted 5000 shares by PSE sometime in the year 2007. The said 2012 Regulations has no retrospective effect and cannot be made applicable retrospectively as purported to be done by SEBI and your good offices in terms of SCN under reference. A plain reading of the provisions of Regulations 17(2) of makes it amply clear that the same has prospective effect and under no circumstances has retrospective application. In any view of the matter, we deny that we acquired or were allotted 5000 shares of PSE acting in concert with any person as purported to have been alleged or otherwise. Further, we respectfully submit that the said provisions of Regulation 17(2) have no application to our holding or acquiring 5000 shares of PSE.

3.3 With reference to para 3, we further submit that prior to the enactment of 2012 Regulation, no action whatsoever was taken by SEBI or the Adjudicating Officer in respect of the subject matter in question which could be said to have been saved under the provisions of Regulations 52(2) of the 2012 Regulations. We therefore submit that even Regulation 8(1) of the 2006 Regulations would not be applicable to us as nothing was done or no action was taken or purported to have been taken or contemplated under the 2006 Regulations and prior to the enactment of 2012 Regulations and hence the action purportedly now being taken are not saved under the provisions of Regulation 52(2) of the 2012 Regulations.

3.4 With reference to para 3, we further submit that the provisions of Regulation 8(1) of the Securities Contracts (Regulation) (Manner of Increasing and Maintaining Public Shareholding in Recognized Stock Exchanges) Regulations, 2006 (2006 Regulations) were amended by the Amendment Regulations, 2008 w. e. f. 23rd December, 2008 and prior to it the said sub-Regulation 8(1) read as under:

"(1) No persons shall, directly or indirectly, acquire or hold more than five per cent in the paid up equity capital of a recognized stock exchange at any time after commencement of these regulations."

The said sub-Rule did not include the words "together with persons acting in concert".

3.5 The Amendment to the aforesaid Sub-Rule included the word "together with persons acting in concert" and given effect to from 23rd December, 2008. The allegation that the shares were acquired in concert with other persons were in fact allotted to or acquired by the persons mentioned in the SCN in the year 2007. It is submitted that any attempt to make the said provisions applicable retrospectively would be unjust and illegal and in excess of the authority vested in the Adjudicating Officer/ SEBI.

3.6 We further draw your attention to the second proviso to Regulation 8(1) of the said 2006 Regulations, which stipulates as under:

*"**Provided further** that person holding equity shares in a recognized stock exchange in excess of the limits specified in this regulation at the commencement of these regulations shall reduce his holding to ensure compliance with this regulation within the time specified in sub-section (8) of Section 4B of the Act or the time extended under the proviso thereto."*

3.7 We have been given to understand that all the 5 persons mentioned in the SCN have disposed of their respective holdings in PSE.

.....

9. With reference to para 9 of the SCN, we deny that our Company along with the 5 persons mentioned therein were allotted 2,71,000 shares of PSE as alleged. Having a common address for correspondence does not mean that our Company has acted in concert with them for the purpose of acquiring shares of PSE. Once again we submit that the name of Mr. Mohan Gujarati was added as a joint holder in some of the accounts for the purpose of convenience only.

10. With reference to para 10 of the SCN, we repeat and reiterate that our company has no transaction or connection with Prabodh Artha Sanchay Pvt. Ltd. In any case, our Company has not funded any of the 5 persons including Mr. Ramchandra Dimble for the purpose of acquiring the said shares of PSE.

11. With reference to para 11 of the SCN, we deny that we have acted in concert with any of the 5 persons mentioned therein or that the acquisition of the said shares of PSE by those 5 persons can be said to be in violation of Regulation 17(2) of the 2012 Regulations. We repeat and reiterate that the said provision has no retrospective application. We submit that we have neither acted in concert nor have directly or indirectly assisted any of them to acquire the shares of PSE. In any view of the matter, we have been given to understand that each of the persons has large holdings of various companies and the shares of PSE is one such holding. The individual demat accounts in which PSE shares were held can throw more light on this fact.

12. Having regard to what is stated hereinabove, we submit that there is no reason or cause to hold any inquiry under the provisions of Rule 4 of SEBI(Procedure for Holding Inquiry and Imposing Penalties by Adjudicating Officer) Rules, 1995 or otherwise and that there is no reason or justification to impose any penalty under Section 15-I of the SEBI Act, 1992 as we have not violated any of the provisions of either Regulation 17(2) of 2012 or Regulation 8(1) of the Securities Contracts (Regulation) (Manner of Increasing and Maintaining Public Shareholding in Recognized Stock Exchanges) Regulations, 2006.

......"

5.2. The Noticee namely Ms Manisha Vidhate vide letters dated 02.05.2015 and 12.01.2016, inter alia, made similar submissions as made by PAWPL including the following submissions :

"....

4. I am further advised that the said Regulations has no retrospective effect and cannot be made applicable retrospectively. I further submit that Regulations 17(2) has prospective effect. I submit that I have not acted in concert with any persons mentioned in the SCN for acquiring shares of Pune Stock Exchange. My total holding of Pune Stock Exchange shares was less than 5% and I was not required to comply with any of the provisions of the then prevailing Regulations. I submit that, I am an independent person and while applying to shares of PSE, I had applied in my individual capacity. While applying the shares, I had submitted certain documents. These documents were forwarded by PSE to SEBI. I was allotted shares by PSE, only after formal sanctioning by SEBI as 'Fit & Proper person' to acquire those shares. I submit that I have not violated any of the provisions of either Regulations 17(2) or Regulation 8(1) as alleged.

....

6. In any view of the matter I say and submit that I have sold and disposed of my holdings of PSE sometime in January / February 2015.

...

9. I further submit that I have no connection/relationship with Shri. Ramchandra S. Dimble, Mr. Hemant Kulkarni, Mr. Digambar Kulkarni or Ms. Madhavi N. Bendre. I am an employee of Depository Participant unit of Praboth Artha Wardhini Pvt. Ltd. However, I have no transactions with any of the above referred persons. None of them are my relatives or associates.

10. I say that making initial application for 2000 shares of Pune Stock Exchange and subsequently increasing the bid and later on to acquiring 90,000 shares is not in violation of any provisions of law. The said shares were acquired by me by making payment from my bank account with Axis Bank. The cheque for making the payment for the said shares was signed by me. I further say and submit that I regularly buy and sell shares of various companies. I enclose my DP statement in support thereof. This is to prove and justify that purchasing 90,000 shares of Pune Stock Exchange is not an exception and it is a normal course of my investment activities.

...

12. I say that use e-mail id of Prabodh Artha Wardhini was with regard to the operation of my DP account with them and was only for the purpose of correspondence. No adverse inference could be drawn for using the email id or having DP account with the said company.

13. I say that just to have a common address for correspondence does not mean that I have acted in concert with the persons named in the show cause notice for the purpose of acquiring the said shares in question.

14. I deny that we have acted in concert with any of the five persons mentioned in *the show cause notice or have violated Regulation 17(2) of the Regulations or Regulation 8(1).*

….."

Vide letter dated 12.01.2016

"Further to the personal hearing held before your goodself on 4.1.2016, I am submitting herewith the following further details :

………

B) For the purchase of shares of Pune Stock Exchange (PSE), the payments were done from my Axis Bank, A/c held by me in my individual name. This account was opened in 2006. The sale proceeds of the PSE shares were also credited in the same account in 2015.
This is an individual Bank Account. It has no joint holder or any connection with Prabodh Artha Wardhini Pvt. Ltd. This account is still active.

C) The Demat Account referred to in the SEBI Notice, was opened on 11/04/2005 jointly with Shri. Mohan Chimanlal Gujarathi. His name was added only for the sake of convenience. It is pertinent to note that there has been no transaction in this account since 05/07/2006, i.e. prior to the purchase of shares of PSE. Most pertinently, the shares of PSE were not received in this account.

D) I had opened one other individual Demat Account on 27/05/2006. After that date, I am dealing in the share market through this account only. I have made all my investments in that account including that of Pune Stock Exchange shares.

……

3) Regarding funds received from M/s Prabodh, please note that I have never received or given funds to Mohan Chimanlal Gujarathi or Prabodh Artha Wardhini Pvt. Ltd. The investment in Pune Stock Exchange was out of my own funds only.

…"

5.3. The Noticee namely Ramchandra Dimble Manisha vide letters dated 30.04.2015 and 11.01.2016, inter alia, made similar submissions as made by PAWPL including the following submissions:

" ……..

1. At the outset you are requested to furnish me a copy of the Complaint and Investigation Report mentioned in para 2 of the SCN.

…

6. In any view of the matter I say and submit that I have sold and disposed of my holdings of PSE sometime in January/ February 2015.

…..

7.2 It is absolutely wrong to refer the demat account as the demat account in which shares of PSE were allotted after demutualization (clause 6 of page 6 of your Show Cause Notice). I state that, I have a different demat account which is owned by me singly (and not jointly with anybody) in which I held the shares of PSE. I had been holding the PSE shares in this account only, from the beginning.

……

14 I deny that we have acted in concert with any of the five persons mentioned in the show cause notice or have violated Regulation 17(2) of the Regulations or Regulation 8(1).

…"

<u>Vide letter dated 11.01.2016</u>

"1) A) …….

B) For the purchase of shares of Pune Stock Exchange (PSE), the payments were done from my Axis Bank A/c held by me in my individual name. This account was opened in 2006. The sale proceeds of shares of PSE were also credited in the same account in 2015.

This is an individual Bank account. It has no joint holder or any connection with Prabodh Artha wardhini Pvt. Ltd. This account is still active.

C) The Demat Account referred to in the SEBI Notice, was opened on 11/04/2005 jointly with Shri. Mohan Chimanlal Gujarathi. His name was added for the sake of convenience. But, there has been no transaction in this account since 28/07/2005. The shares of PSE were not received in this account.

D) I had opened one other individual Demat account on 11/10/2006. After that date, I am dealing in the share market through this account only. I have made all my investments including that of Pune Stock Exchange shares only through this account, held in my individual name.

…"

5.4. The Noticee namely Mr. Hemant V Kulkarni vide letters dated 01.05.2015 and 12.01.2016, inter alia, made similar submissions as made by PAWPL including the following submissions:

"…

8. *I further submit that I am working as an employee with Prabodh group. There is no connection of any other nature between myself and Mohan Gujarathi.*

…"

<u>Vide letter dated 12.01.2016</u>

"Further to the personal hearing held before your goodself on 4.1.2016, I am submitting herewith the following further details:
1) A) I have not opened any Joint Bank Account with Shri. Mohan Chimanlal Gujarathi. I strongly deny the wrong allegation against me. The account referred to in the SCN at Paragraph 6 in HDFC Bank is my individual account. In this account <u>Shri. Mohan Chimanlal Gujarathi was not a joint holder at all.</u>

…"

6. In the interest of natural justice and in order to conduct an inquiry in terms of rule 4 of the Adjudication Rules an opportunity of hearing was given to the Noticee namely PAWPL by the previous AO on 28.09.2015 vide hearing notice dated 16.09.2015. The Noticee vide letter dated 23.09.2015 requested to reschedule the hearing. Another opportunity of hearing was given to the Noticee on 04.11.2015 vide hearing notice dated 21.10.2015 along with copies of bank statement and demat account details pertaining to Noticee as sought by it. Mr. Mohan Gujarathi, Director of Prabodh Artha Wardhini Pvt, Ltd, Mr. Arun Tambe, Compliance Officer of Prabodh Artha Wardhini Pvt, Ltd and Adv. Shri Shaukat Merchant, from M & M Legal Ventures, Authorised Representatives of the Noticee appeared on 04.11.2015 for the hearing and reiterated the submissions made vide letter dated 04.05.2015 and requested time to submit additional documents by 14.11.2015, which was granted.

7. In the interest of natural justice and in order to conduct an inquiry in terms of rule 4 of the Adjudication Rules an opportunity of hearing was given to the Noticee namely Manisha B Vidhate by the previous AO on 28.09.2015 vide hearing notice dated 16.09.2015. The said notice returned undelivered. Another opportunity of hearing was given to her on 04.11.2015 vide hearing notice dated 21.10.2015 along with the copies of the bank statement and demat account details pertaining to the Noticee as sought by her. The said hearing notice was returned undelivered with a remark 'left'. Another opportunity of hearing was given to her on 04.01.2016 vide hearing notice dated 14.12.2015 sent by previous AO to a new address. Mr. Neville

Lashkari and Ms. Kruttika Pokale, Advocates, Authorised Representatives of the Noticee and the Noticee appeared on 04.01.2016 for the hearing and reiterated the submissions made vide letter dated 02.05.2015 and requested time to submit additional documents by 15.1.2016, which was granted.

8. In the interest of natural justice and in order to conduct an inquiry in terms of rule 4 of the Adjudication Rules an opportunity of hearing was given to the Noticee namely Ramchandra Dimble by previous AO on 28.09.2015 vide hearing notice dated 16.09.2015. The said notice returned undelivered. Another opportunity of hearing was given to the Noticee on 04.11.2015 vide hearing notice dated 21.10.2015 along with the copies of the bank statement and demat account details pertaining to the Noticee as sought by him. The said hearing notice was returned undelivered with a remark 'left'. Another opportunity of hearing was given to the Noticee on 04.01.2016 vide letter dated 14.12.2015 sent by previous AO to new address. Mr. Neville Lashkari and Ms. Kruttika Pokale, Advocates, Authorised Representatives of the Noticee and the Noticee appeared on 04.01.2016 for the hearing and reiterated the submissions made vide letter dated 30.04.2015 and requested time upto 15.01.2016 to submit additional documents, which was granted.

9. In the interest of natural justice and in order to conduct an inquiry in terms of rule 4 of the Adjudication Rules an opportunity of hearing was given to the Noticee namely Hemant V Kulkarni by the previous AO on 28.09.2015 vide hearing notice dated 16.09.2015. The said notice returned undelivered. Another opportunity of hearing was given to the Noticee on 04.11.2015 vide hearing notice dated 21.10.2015 along with the copies of the bank statement and demat account details pertaining to the Noticee as sought by him. The said hearing notice was returned undelivered with a reason 'left'. Another opportunity of hearing was given to the Noticee on 04.01.2016 vide letter dated 14.12.2015 sent by previous AO to new address. Mr. Neville Lashkari and Ms. Kruttika Pokale, Advocates, Authorised Representatives of the Noticee and the Noticee appeared on 04.01.2016 for the hearing and reiterated the submissions made vide letter dated 01.05.2015 and requested time upto 15.01.2016 to submit additional documents, which was granted.

10. Considering the facts and circumstances of the case, I am of the opinion that no prejudice would be caused to any of the Noticees in the given matter if opportunity of hearing under Rule 4(3) of Adjudication Rules is not provided to them before me and I deem it appropriate to decide the matter on the basis of facts/material available on record.

ISSUES FOR CONSIDERATION

11. After perusal of the material available on record, I have the following issues for consideration, viz.,
    I. Whether the Noticees have failed to comply with the provisions of Regulation 8(1) of MIMPS Regulations read with Regulation 17(2) of SECC Regulations?
    II. Does the violation, if any, on the part of the Noticees attract monetary penalty under Section 15HB of the SEBI Act, 1992?
    III. If so, what quantum of monetary penalty should be imposed on the Noticees?

FINDINGS

12. On perusal of the material available on record and giving regard to the facts and circumstances of the case and submissions of the Noticees , I record my findings hereunder.

ISSUE I: Whether the Noticees have failed to comply with the provisions of Regulation 8(1) of MIMPS Regulations read with Regulation 17(2) of SECC Regulations?

13. I note that the provisions of Regulation 8(1) of MIMPS Regulations and Regulation 17(2) of SECC Regulations, which are alleged to have been violated read as under:

<u>Regulation 8(1) of the Securities Contracts (Regulation) (Manner of Increasing and Maintaining Public Shareholding in Recognized Stock Exchanges) Regulations, 2006.</u>

Shareholding and transferability restrictions.-

8. (1) No person shall, directly or indirectly, acquire or hold more than five per cent in the paid up equity capital of a recognised stock exchange at any time after commencement of these regulations:

Regulation 17(2) of the Securities Contracts (Regulation) (Stock Exchanges and Clearing Corporations) Regulations, 2012.

Shareholding in a recognised stock exchange

17. (1)……

(2) No person resident in India shall at any time, directly or indirectly, either individually or together with persons acting in concert, acquire or hold more than five per cent of the paid up equity share capital in a recognised stock exchange:

***Provided** that,—*

(i) a stock exchange;

(ii) a depository;

(iii) a banking company;

(iv) an insurance company; and

(v) a public financial institution,

may acquire or hold, either directly or indirectly, either individually or together with persons acting in concert, upto fifteen per cent of the paid up equity share capital of a recognised stock exchange.

14. I note that PAWPL vide its aforesaid submission dated 04.05.2015 has ,inter alia, contended with respect to the alleged violation of provisions of Regulation 8(1) of MMIPS Regulations as under:

"..

3.4 With reference to para 3, we further submit that the provisions of Regulation 8(1) of the Securities Contracts (Regulation) (Manner of Increasing and Maintaining Public Shareholding in Recognized Stock Exchanges) Regulations, 2006 (2006 Regulations) were amended by the Amendment Regulations, 2008 w. e. f. 23rd December, 2008 and prior to it the said sub-Regulation 8(1) read as under:

"(1) No persons shall, directly or indirectly, acquire or hold more than five per cent in the paid up equity capital of a recognized stock exchange at any time after commencement of these regulations."

The said sub-Rule did not include the words "together with persons acting in concert".

3.5 The Amendment to the aforesaid Sub-Rule included the word "together with persons acting in concert" and given effect to from 23rd December, 2008. The allegation that the shares were acquired in concert with other persons were in fact allotted to or acquired by the persons mentioned in the SCN in the year 2007…"

Other 3 Noticees have made similar submissions, which are on record.

15. I agree with the aforesaid contention that the provisions of Regulation 8(1) of MIMPS Regulations as applicable on the date of allotment of shares during the year 2007 to the Noticees did not include the words 'together with persons acting in concert'. Further, I note from the allegations made by MRD that none of the Noticees individually acquired more than five percent of the paid up equity share capital in PSE.

16. I further note that PAWPL vide its submission dated 04.05.2015 has, inter alia, contended with respect to the alleged violation of provisions of Regulation 17(2) of SECC Regualtions as under:

"..

3.2 With further reference to para 3 of the SCN, we submit that the provisions of Regulation 17(2) of the Securities Contract (Regulation) (Stock Exchanges and Clearing Corporation) Regulations, 2012 (2012 Regulations) has no application to our holding of or acquiring 5000 shares of PSE particularly in view of the fact that we were allotted 5000 shares by PSE sometime in the year 2007. The said 2012 Regulations has no retrospective effect and cannot be made applicable retrospectively…"

Other 3 Noticees have made similar submissions, which are on record.

17. With regard to the above submission, I further note that the SECC Regulations, have been notified on 20.06.2012 and have come into effect from the said date and the shares forming part of the allegation were allotted to the Noticees in the year 2007. Since the allotment of shares precedes the coming into force of the regulatory provision alleged to have been violated as aforesaid, the said regulatory provision is not applicable in the facts and circumstances of the instant matter.

18. From the findings recorded at para 15 and 17 above, I conclude that the allegation that Noticees have failed to comply with the provisions of Regulation 8(1) of MIMPS Regulations read with Regulation 17(2) of SECC Regulations is not tenable.

ISSUE II. Does the violation, if any, on the part of the Noticees attract monetary penalty under Section 15HB of the SEBI Act, 1992?

19. The provisions of Section 15HB of the SEBI Act, 1992, read as under:

    Penalty for contravention where no separate penalty has been provided.

    15HB. *Whoever fails to comply with any provision of this Act, the rules or the regulations made or directions issued by the Board thereunder for which no separate penalty has been provided, shall be liable to a penalty which may extend to one crore rupees.*

20. The MIMPS Regulations referred in the instant proceedings were made by SEBI in exercise of powers conferred under section 31 read with the sub-section (8) of section 4B of Securities Contracts (Regulation) Act, 1956 and hence do not fall within the contours of Section 15HB quoted above.

21. In view of the above and in view of the findings at para 18 as above, the Noticees are not liable for monetary penalty under Section 15HB of the SEBI Act, 1992.

ISSUE III. If so, what quantum of monetary penalty should be imposed on the Noticees?

22. Since, the Noticees are not liable for monetary penalty in the instant matter, this issue deserves no consideration.

ORDER

23. In view of my findings noted in the preceding paragraphs, I hereby dispose of the Adjudication Proceedings initiated against Prabodh Artha Wardhini Private Limited, Ms. Manisha B Vidhate, Mr. Ramchandra Dimble, Mr. Hemant V Kulkarni, Mr. Digambar Kulkarni and Ms. Madhavi N Bendre vide Show Cause Notice dated 27.03.2015.

24. In terms of the provisions of Rule 6 of the Adjudication Rule, a copy of each of this order is being sent to Prabodh Artha Wardhini Private Limited, Ms. Manisha B Vidhate, Mr. Ramchandra Dimble, Mr. Hemant V Kulkarni, Mr. Digambar Kulkarni and Ms. Madhavi N Bendre at their respective address and also to the Securities and Exchange Board of India, Mumbai.

Date: 31.07.2017	**Suresh Gupta**
Place: Mumbai	**Adjudicating Officer**