

**BEFORE THE ADJUDICATING OFFICER
SECURITIES AND EXCHANGE BOARD OF INDIA
[ADJUDICATION ORDER NO. EAD-12/ AO/SM/ 192 – 194 /2017-18]**

**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:

Noticee	PAN
Bharat J Patel	AAAPP6652R
Hridaynath Consultancy Private Limited	AACCH5285R
Acira Consultancy Private Limited	AAICA9489N

In the matter of Ponni Sugars (Erode) Limited

FACTS OF THE CASE IN BRIEF

1. Securities and Exchange Board of India (hereinafter referred to as 'SEBI'), conducted an investigation in the scrip of Ponni Sugars (Erode) Limited (hereinafter referred to as "PSEL/ company") and observed that Bharat J Patel (hereinafter referred to as "Noticee 1") had violated provisions of regulation 13(1) and 13(3) of SEBI (Prohibition of Insider Trading) Regulations, 1992 (hereinafter referred to as "PIT"), regulation 29(1) and 29(2) of SEBI (Substantial Acquisition of Shares and Takeovers) Regulations, 2011 (hereinafter referred to as "SAST Regulations"), regulations 3(a), (b), (c) and (d), 4(1), 4(2)(a) and (g) of SEBI (Prohibition of Fraudulent and Unfair Trade Practices Relating to Securities Market) Regulations, 2003 (hereinafter referred to as "PFUTP Regulations") and clauses A(3), (4), (5) of the Code of Conduct specified in Schedule II read with regulation 9 of SEBI (Stock Broker and Sub Brokers) Regulations, 1992 (hereinafter referred to as "Brokers Regulations"), Hridaynath Consultancy Private Limited (hereinafter referred to as "Noticee 2") violated regulation 29(1) of SAST Regulations and regulation 13(1) of PIT Regulations and Acira Consultancy Private Limited (hereinafter referred to as "Noticee 3") violated regulations 3(a), (b), (c) and (d), 4(1), 4(2)(a) and (g) of PFUTP Regulations.
2. It was alleged that Noticee 1 and Noticee 3 indulged in executing synchronised trades and reversal of trades in proprietary account resulting in creation of artificial volume for the period from March 1, 2012 to November 13, 2012 (hereinafter referred to as "investigation period"). Noticee 1 also failed to make disclosures with the exchange of acquisition of shares. Noticee 2 failed to make disclosure with the exchange.

APPOINTMENT OF ADJUDICATING OFFICER

3. Vide an order of the Competent Authority, SEBI, dated May 6, 2015, Mr. D Sura Reddy was appointed as the Adjudicating Officer under Section 15-I of SEBI Act read with Rule 3 of SEBI (Procedure for Holding Inquiry and Imposing Penalties by Adjudicating Officer) Rules, 1995 (hereinafter referred to as "Adjudication Rules") to inquire and adjudge under sections 15HA, 15HB, 15A(b) of SEBI Act on Noticee 1, section 15 A(b) of SEBI Act on Noticee 2 and section 15 HA on Noticee 3. Pursuant to the transfer of the case, the undersigned has been appointed as the Adjudicating Officer in the matter.

SHOW CAUSE NOTICE, REPLY AND HEARING

4. Based on the findings by SEBI, Show Cause Notice/s dated June 3, 2015 (hereinafter referred to as 'SCN') were issued to the Noticees under Rule 4(1) of Rules to show cause as to why an inquiry should not be held and penalty should not be imposed on them for the alleged violations.
5. The charges in the SCN broadly are as follows:
- a. The shares of PSEL are listed at National Stock Exchange (NSE) and Bombay Stock Exchange Limited (BSE). The scrip of PSEL moved from ` 108.65 on March 1, 2012 to a high of ` 418.25 on November 13, 2012. On analysis of the trading activity in the scrip of PSEL, the investigation, prima facie, revealed that clients related/connected among themselves or with the promoters of the company, traded 56.81% of the gross traded volume in the market during the period 01/03/2012 to 13/11/2012. As buyers, the connected/related entities contributed to 15.37% and 16.53% of the total positive contribution to LTP in the scrip at NSE and BSE respectively. During the period 25/10/2012 to 13/11/2012, when the price of the scrip moved up from an open of ` 202.4 to a high of ` 418. 25, the related/connected entities were observed to have traded 19.4% and around 71% of the gross and net market volumes respectively.
- b. **Connection of Noticees:**

On perusal of information from Surveillance report, NSDL & CDSL and by analyzing Know Your Client (KYC) documents, and various submissions, certain entities were shortlisted as suspected entities along with their connections/relationship as follows:

S. No	Client Name	PAN	Connection/Observations
I.	Bharat J Patel	AAAPP6652R	Director Fidelity Multitrade Ltd., Finquest Financial Solutions Pvt Ltd.& PAT Financial Consultants Ltd. Also a stock broker at BSE
II.	Hridaynath Consultancy Private Limited	AACCH5285R	Off-market transactions with Finquest Securities and with Ruchit Bharat J Patel(Son of Bharat J Patel and Director of Finquest Securities)
III.	Acira Consultancy Private Limited	AAICA9489N	Shankar Kirplani (Director of Finquest securities) is a director and synchronized trades with Bharat J Patel.

- c. Noticee 1 and Noticee 3 entered into synchronized trade between themselves which resulted in creation of 17.06% of artificial market volume at BSE. Noticee 3 and Noticee 1 also indulged in reversal of trades amounting to 11.94% of the shares traded on NSE, which created artificial volume.
- d. Based on the shareholding of Noticee 1 and the transaction statement received from depositories, which contains data regarding, inter alia, share acquisitions and conversions from physical to demat, it was observed as under:

Date	Holding (%)	Regulation Triggered(SAST/PIT)	Disclosures given (Yes/No)
01-03-2012	0.44	NA	NA
29-03-2012	5.17	SAST29(1), 13(1) PIT	No
01-04-2012	0.58	SAST29(2) &13(3)PIT	No

- i. No disclosures were filed with exchange by Noticee 1 as required under Regulation 29(1) of SAST Regulations and 13(1) of PIT Regulations, when his holding exceeded 5%.
- ii. Further, when his holdings reduced by more than 2% of share capital, no disclosures were made under Regulation 13(3) of PIT Regulations & Regulation 29 (2) of SAST Regulations.
- iii. Thus Noticee 1 has not complied with Regulation 29(1) & 29 (2) of SAST Regulations & 13(3) of SEBI (PIT) Regulations.
- e. The shareholding of Noticee 2 from the transaction statement received from depositories, which contains data regarding, inter alia, share acquisitions and conversions from physical to demat, is as follows:

Date	Holding (%)	Regulation Triggered SAST/PIT	Disclosures given (Yes/No)
01-03 -2012	4.73	No	Not Applicable
02-11-2012	5.06	SAST29(1), 13(1) PIT	No

- f. No disclosures were filed with exchange by Noticee 2 as required under Regulation 29(1) of SAST Regulations and Regulation 13(1) of PIT Regulations, as his holding exceeded 5%.
6. Noticee 1, vide letter dated July 22, 2015 sought inspection of documents. On August 25, 2015, Noticee 1 was given an opportunity to inspect documents and take copies of the same. Noticee 1, vide letter dated October 12, 2015, made, inter alia, the following submissions:

- *All my trades in the scrip of PSEL were in the ordinary course of business, dehors sinister intent or design. Further, at the relevant time I was trading independently, without acting in concert with anybody else including the persons belonging to the alleged suspected entities and promoters of PSEL. Whole grouping of various persons/ entities is erroneous and the same has led to incorrect inferences.*
 - *The charges in the notice are based on trading done by me in the scrip of PSEL, during the alleged investigation period spanning over 258 days in PSEL. It may be noted that during the investigation period my trades were confined only to 14 days.*
 - *All my trades in the scrip of PSEL in the 14 days during the investigation period were delivery based trades wherein I had taken delivery. Further, as on date I am still holding 93,293 shares of Further SEBI has failed to substantiate any link/ connection /nexus with any of the promoters of PSEL. It is submitted that a sweeping and bald allegation has been made.*
 - *There is also allegation that connection with various related/connected entities just because they are clients of Finquest Securities Private Limited whose directors are my son (Hardik Patel) and my Wife (Minal Patel). All of them are financially independent and trade independently.*
 - *It is submitted that at the relevant time, I had traded in the ordinary course of business in the scrip of PSEL, wherein I was both buying and selling the shares dehors sinister intent or design. At the relevant time, while trading I was trading independently, without being aware of other entities who were trading in the market in the scrip of PSEL and the same was of no concern to me.*
 - *With regard to allegation in para 13 of the Notice it is submitted that the alleged failure to make disclosures under Regulation 29(1) and 29(2) of SAST Regulation and 13(3) of the PIT Regulations was inadvertent and bonafide error.*
7. Noticee 2, vide letter dated July 24, 2015 sought inspection of documents. Noticee 2 was given an opportunity to inspect the documents and take copies on October 12, 2015 and mentioned that it had Inadvertently, failed to make disclosures under Regulation 13(I) of the PIT Regulations and Regulation 29(I) of the Takeover Regulation..
8. The SCN issued to Noticee 3 returned undelivered. It was affixed at the last known address of the Noticee at 33, Ocean Crest, 85 Warden Road, Mumbai 400036. Noticee 3, vide letter dated July 27, 2015 sought inspection of documents. SEBI, vide letter dated August 12, 2015 gave an opportunity of hearing to Noticee 3 on August 25, 2015. However, the letter returned undelivered. Noticee 3, vide letter dated November 2, 2015 submitted its reply, stating, inter alia, the following:
- *During the relevant period we had bonafide traded in various other scrips including the scrip of PSEL in the ordinary course. As stated hereinbefore, at the relevant time PSEL was a profit making company and there was nothing adverse about PSEL in public domain . Further, consistently, right since June 2011 quarter, PSEL was making positive*

announcements regarding its financial results , and was declaring dividend since 2011

- *It is submitted that the trades were in the ordinary course of business. It is pertinent to note that during the relevant time, we had traded in the scrip of PSEL only on two days i.e. on 19.03.2012 and 26.03.2012. It is submitted that we are not related to any of the entities as brought out in the table. Here we may point out that:*
 - i. We have no link /nexus/ relationship I connection with any of the entities referred in the said Para.*
 - ii. Admittedly, Mr. Shankar Kirplani is our director since inception and the same is a matter of record and nothing ulterior should be read into it.*
 - iii. Nothing has been brought on record to demonstrate that at the relevant time, we were aware that other entities stated in the Notice were trading in the scrip of PSEL.*
 - iv. With regard to the allegation of synchronized trades with Bharat J Patel it is submitted that we are not aware of Bharat J Patel and we were not aware of his trades in the scrip. At the relevant time, we were also not aware that he was trading in the scrip. Further, nothing has been brought on record to demonstrate that we were related to him in any manner.*

9. In order to comply with the principles of natural justice an opportunity of personal hearing was given to the Noticees on November 29, 2017 vide notice dated October 23, 2017. Only Noticee 1 appeared on the scheduled date of hearing and reiterated the submissions made vide letter dated October 12, 2015. He made further submissions vide letter dated December 23, 2017, stating, inter alia, the following:

- *I have had no relation with any of the Promoter of PSEL. I cannot be burdened to justify act of other persons even though they may be client of Finquest Securities Pvt. Ltd. whose directors are my son and wife.*
- *As regards the reversal of trades, it is submitted that the SCN merely relies on just 2 such alleged in stances. Whilst vehemently denying any allegations of creating artificial volumes, it is submitted that my transactions were carried out on the blind trading screen of the Exchange and at the time of placing the order, I would never be aware of the identity of the counter-party. It is also pertinent to note that there is no charge that my said trades affected the price of the scrip.*

10. Another opportunity of hearing was given to Noticee 2 and 3 on January 3, 2018 vide letter dated October 23, 2017. No one appeared on the scheduled date of hearing. Noticee 2, vide letter dated January 16, 2018 requested to consider its reply dated November 4, 2015 as final. Noticee 3, vide letter dated January 6, 2018 made, inter alia, the following submissions:

- *We deny that we have any relationship with any of the entities as referred to in the SCN including Mr. Bharat J Patel and/or M/s Hridaynath Consultancy Pvt. Ltd. Allegations of our relationship with other entities are baseless and based merely on surmises and conjectures. Nothing has been brought on record to show any relationship with the other*

entities, save and except "Shankar Kirpalani who happens to be a Director of Finquest Securities is a Director of our Company.

- *It is pertinent to note that the relevant time, while trading, we were trading independently without being aware of the other entities who were trading in the scrip including Mr. Bharat J Patel. Our trade was in normal course of business and with the objective to earn profit.*
- *With regards to purchase of 3,81,300 shares on 19.03.2012 at Rs.93.75 Per share, it is submitted that the trade was in ordinary course of business just like we are trading in other shares and were not even aware of counter party to the said trade. It is pertinent to point out that our trade was delivery based and we have taken delivery of PSEL as can be noted from enclosed DEMAT statement.*
- *We sold the entire purchased quantities on 26/03/2012 at the then prevailing market rate of Rs.126.47 per shares, as we were making decent profit in short term which was much more than expected. The sales were carried out by our broker on the screen based mechanism of Stock Exchange, wherein it is not possible to know the counter broker/client. The alleged matching of our trade is not by design but sheer co-incidence.*
- *The investigation has erred in stating that there were reversals of trade. There was only ONE reversal trade which coincidentally matched with trade of Mr. Bharat J Patel. However, the same was in the ordinary course of business based on taken and given delivery. It is surprising that based on one single transaction of so called synchronized trade and reversal ought not to result in SCN against our Company including allegations of relationship and/or violation of SEBI Rules and Regulations. The allegation of artificial volume as a result of our genuine trade cannot be sustained.*

CONSIDERATION OF ISSUES AND EVIDENCE

11. I have carefully perused the charges levelled against the Noticees in the SCN, their replies and the material / documents available on record. In the instant matter, the following issues arise for consideration and determination:-

- I. Whether Noticee 1 have violated regulation 13(1) and 13(3) of PIT Regulations and 29(1) and 29(2) of SAST Regulations and regulations 3(a), (b), (c), (d), 4(1), 4(2)(a), (g) of PFUTP Regulations and clause A(3), (4) of code of conduct prescribed in schedule II r/w regulation 9 of Brokers Regulations?**
- II. Whether Noticee 2 have violated regulations 29(1) of SAST Regulations and 13(1) of PIT Regulations?**
- III. Whether Noticee 3 have violated regulations 3(a), (b), (c), (d), 4(1), 4(2)(a), (g) of PFUTP Regulations?**

- IV. Do the violations, if any, on the part of the Noticees attract monetary penalty under sections 15A(b), 15HA and 15HB of SEBI Act on Noticee 1, section 15A(b) of SEBI Act on Noticee 2 and section 15HA on Noticee 3?
- V. If so, what would be the quantum of monetary penalty that can be imposed on the Noticee after taking into consideration the factors mentioned in section 15J of the SEBI Act?

12. Before proceeding further, I would like to refer to the relevant provisions of the PIT Regulations, SAST Regulations, PFUTP Regulations and Brokers Regulations:

Relevant provisions of PIT Regulations:

Disclosure of interest or holding in listed companies by certain persons - Initial Disclosure

13(1) Any person who holds more than 5% shares or voting rights in any listed company shall disclose to the company [in Form A], the number of shares or voting rights held by such person, on becoming such holder, within 2 working days of :—

- (a) the receipt of intimation of allotment of shares; or*
(b) the acquisition of shares or voting rights, as the case may be.

Continual disclosure.

(3) Any person who holds more than 5% shares for voting rights in any listed company shall disclose to the company [in Form C] the number of shares or voting rights held and change in shareholding or voting rights, even if such change results in shareholding falling below 5%, if there has been change in such holdings from the last disclosure made under sub-regulation (1) or under this sub-regulation; and such change exceeds 2% of total shareholding or voting rights in the company.

Relevant provisions of SAST Regulations

Disclosure of acquisition and disposal.

29.(1) Any acquirer who acquires shares or voting rights in a target company which taken together with shares or voting rights, if any, held by him and by persons acting in concert with him in such target company, aggregating to five per cent or more of the shares of such target company, shall disclose their aggregate shareholding and voting rights in such target company in such form as may be specified.

(2) Any person, who together with persons acting in concert with him, holds shares or voting rights entitling them to five per cent or more of the shares or voting rights in a target company, shall disclose the number of shares or voting rights held and change in shareholding or voting rights, even if such change results in shareholding falling below five per cent, if there has been change in such holdings from the last disclosure made under sub-regulation (1) or under this subregulation; and such change exceeds two per cent of total shareholding or voting rights in the target company, in such form as may be specified.

Relevant provisions of PFUTP Regulations

Regulation 3. 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 recognised stock exchange, any manipulative or deceptive device or contrivance in contravention of the provisions of the Act or the rules or the regulations made thereunder;*
- (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 recognised 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 recognised stock exchange in contravention of the provisions of the Act or the rules and the regulations made thereunder.*

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

Relevant provisions of Brokers Regulations

SCHEDULE II CODE OF CONDUCT FOR STOCK BROKERS

[Regulation 9]

A. General.

- (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.

(5) Compliance with statutory requirements: A stock-broker shall abide by all the provisions of the Act and the rules, regulations issued by the Government, the Board and the Stock Exchange from time to time as may be applicable to him.

13. I note from the documents on record that there was one synchronized trade of 3, 81,300 shares between Noticee 1 & 3 accounted for 17.06% of market volume on BSE. The Basis of connection between Noticee 1 and 3 was that Shri Shankar Kriplani, Director of noticee 3 also happens to be the director of the company- M/s Finquest Financial Solutions Private Limited (Finquest) where Bharat J Patel was also the director. However I note that Noticee 1 has refused this allegation and there is nothing on record to substantiate that Noticee 1 was the director of Finquest. However Noticee 1 has accepted that his family members (Mrs Minal Patel and Hardik Patel) are the directors of Finquest. It is important to note that Finquest and Bharat J Patel as the member of BSE had contributed 66% market volume and on NSE Finquest has contributed 50% of market volume in the scrip PSEL during IP.
14. Contribution of Noticee 1 and Noticee 3 on BSE was 35% and on NSE Noticee 1 contributed 12.43% of traded volume.
15. I note that the Noticee 1 & 3 have been alleged to have executed one synchronized trade and two reversal trade between them. The contribution of the trades of Noticee 1 and Noticee 3 to the LTP is negligible.
16. It may be noted that Synchronized trades are different from Self-trades but are considered manipulative under provisions of PFUTP Regulations similar to self-trades. Hon'ble Supreme Court in the matter of SEBI vs. Kishore R Ajmera (C.A. no.2818 of 2008) vide its order dated 23/02/2016 has observed that based on the attended circumstances being the huddled and repeated trading in illiquid scrips, the inference can reasonable be drawn that the broker is involved in the devise of synchronized trades which leads to unnatural rise in hiking the price/value of the scrip(s). The Hon'ble Court has laid down parameters, though non-exhaustive, that can be used to arrive at a conclusion with respect to liability in such cases for violation of the provisions of the SEBI Act, 1992 and regulations framed thereunder. The parameters are:
 - a. Volume of the trade affected;
 - b. The period of persistence in trading in the particular scrip;
 - c. The particulars of the buy and sell orders, namely the volume thereof;
 - d. The proximity of time between the two and such other relevant factors.
 - e. The fact that trading has gone on without settlement of accounts i.e. without any payment and the volume of trading in the illiquid scrips.

17. Volume traded in the matter through synchronized trade and reversal trade was 17.06% and 11.94% respectively. I am inclined to apply the above parameters in the instant matter to check the veracity of violations allegedly committed by the Noticees.

- a. **Period of persistence in trading:** The number of synchronized trades/reversal trades in this matter was just 1 and 2 each. I note these trades were done only on two separate days. Hence I note that the alleged synchronized trades and reversal trades were not persistent. Repetition of any activity is crucial factor in deciding whether there is a deliberate attempt to manipulate the price/volume. I find repetitiveness of synchronized trade and reversal trade is absent in the instant case. However I note that both Noticees have contributed substantial volume in the scrip during IP which cannot be ignored. It is critical to note PSEL was not a liquid scrip before IP but suddenly lot of volume was created in the scrip by Noticee 1 and 3 along with other connected entities. The two brokers who had substantially contributed to the volume in the Scrip was Noticee 1 and Finquest (where family members of Noticee 1 were the directors).
- b. **The particulars of the buy and sell orders, namely the volume thereof:** I note that the quantity of buy and sell order was same on the alleged synchronized trades on BSE and of first reversal order, however the difference in quantity in second reversal order was 16 shares.
- c. **Proximity of time:** I note that the time gap between the buy and sale orders of the alleged synchronized trade on BSE between Noticee 1 and Noticee 3 was 3 seconds and in case of Reversal trades it was 2 and 44 seconds.
- d. **The fact that trading has gone on without settlement of accounts i.e. without any payment and the volume of trading in the illiquid scrips.** The average daily turnover before IP of PSEL on NSE and BSE was 7209 and 6786 shares respectively and suddenly there was substantial trading in the scrip and post investigation the average daily turnover in the scrip was 3327 and 2386 shares on BSE and NSE respectively.
- e. **LTP Contribution by these synchronized trade and reversal trade.** I note that LTP contribution of alleged synchronized trade and reversal trades was Rs. -1.88 and Rs. 0.2 respectively which was miniscule and negligible.

18. I find that the extant matter fit into certain parameters set out by Hon'ble SC for synchronized trading and reversal trading. Scrip was not liquid and suddenly connected entities started creating volume and all the alleged trades were perfectly synchronized in terms of quantity, time and price. The above trading pattern of Noticee 1 and 3 clearly suggests their manipulative intent.

19. In this regard, it is important to note the Judgment of Hon'ble SAT in Ketan Parekh vs SEBI (Appeal No. 2 of 2004) " A synchronized transaction even on the trading screen between genuine parties who intend to transfer beneficial interest in the trading stock and who undertake the transaction only for that purpose and not for rigging the market is not illegal and cannot violate the regulations. As already observed 'synchronization' or negotiated deal ipso facto is not illegal. A synchronized transaction will, however, be illegal or violative of the Regulations if it is executed with a view

- a. To manipulate the market or
- b. Results in circular trading or
- c. dubious in nature and is executed with a view to avoid regulatory detection or
- d. does not involve change of beneficial ownership or
- e. To create false volumes resulting in upsetting the market equilibrium.
- f. Any transaction executed with the intention to defeat the market mechanism whether negotiated or not would be illegal.

20. I note that trading between noticee 1 and 3 has created artificial volume in the scrip which has incited other gullible investors to take interest in the scrip without any fundamentals. I note that though the alleged transactions are not repetitive, however they were substantial in quantity and were definitely synchronized to create artificial volume in the scrip, hence allegation of creation of artificial volume stands concluded.

Role of Stock Broker

21. The main charge against the Noticee 1 is that it as a stock broker had entered into Synchronized and reversal trades on proprietary account and created artificial volume in share of PSEL leading to false and misleading appearance of trading volume in the securities market. I am not inclined to agree with the defense of Noticee 1 that he had traded in PSEL in routine course of his investment in the company and both the alleged trades had resulted into delivery.

22. Since I have already concluded that Noticee 1 as a client created artificial volume. Noticee 1 (an Individual) in the instant matter has traded in his proprietary account through his own broking outfit. Noticee 1 who is SEBI registered Intermediary is expected to abide by the code of conduct prescribed under Clause A (2) of the Code of Conduct for Stock Brokers as specified under Schedule II read with Regulation 9 of Stock Broker Regulations 1992. In the instant matter Noticee 1 has failed in his duty as Stock Broker and got himself involved in the creation of artificial volume and thereby manipulated the trading on Stock Exchange.

23. In view of the above, I find that the allegation of violation of regulations 3(a), (b), (c) and (d), 4(1), 4(2)(a) and (g) of PFUTP Regulations and clauses A(3), (4), (5) of the Code of Conduct specified in Schedule II read with regulation 9 of Brokers Regulations by Noticee 1 and violations of regulations 3(a), (b), (c) and (d), 4(1), 4(2)(a) and (g) of PFUTP Regulations by Noticee 3 stand established.

Disclosure Violations

24. It was observed from the transaction statement of the depositories that on March 29, 2012, Noticee 1 was holding 4,44,307 shares which was 5.17% of the total shareholding of the company. Accordingly, he was to make disclosures under regulation 29(1) of SAST Regulations and regulation 13(1) of PIT Regulations. However, he failed to do so. Moreover, on April 1, 2012 when the shareholding of Noticee 1 reduced to 0.58%, he was to make disclosures under regulation 29(2) of SAST Regulations and 13(3) of PIT Regulations. He failed to make such disclosure.
25. On November 2, 2012, Noticee 2 was holding 4, 35,404 shares which was 5.06% of the total shareholding of the company. Accordingly, he was to make disclosure under regulation 29(1) of SAST Regulations and 13(1) of PIT Regulations. However, it did not make any such disclosure.
26. The Hon'ble Securities Appellate Tribunal, in Appeal No.66 of 2003 order dated April 15, 2005 - Milan Mahendra Securities Pvt. Ltd. Vs SEBI, has also observed that, *"the purpose of these disclosures is to bring about transparency in the transactions and assist the Regulator to effectively monitor the transactions in the market. We cannot therefore subscribe to the view that the violation was technical in nature"*.
27. In view of the above, I find that the allegation of violation of regulation 29(1) and 29(2) of SAST Regulations and regulations 13(1) and 13(3) of PIT Regulations in respect to Noticee 1 and regulation 29(1) of SAST Regulations and 13(1) of PIT Regulations in respect to Noticee 2 stand established.
28. The Hon'ble Supreme Court of India in the matter of SEBI Vs. Shri Ram Mutual Fund [2006] 68 SCL 216(SC) held that *"In our considered opinion, penalty is attracted as soon as the contravention of the statutory obligation as contemplated by the Act and the Regulations is established and hence the intention of the parties committing such violation becomes wholly irrelevant..."*.
29. The above non-disclosure of Noticee 1 and 2 make them liable under section 15A(b) of SEBI Act, which reads as follows:

15A. Penalty for failure to furnish information, return, etc.-

If any person, who is required under this Act or any rules or regulations made thereunder, -

(b) to file any return or furnish any information, books or other documents within the time specified therefor in the regulations, fails to file return or furnish the same within the time specified therefor in the regulations, he shall be liable to a penalty of one lakh rupees for each day during which such failure continues or one crore rupees, whichever is less;

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 which of twenty five crore rupees or three times the amount of profits made out of such practices, whichever is higher.

30. While determining the quantum of penalty under Section 15A(b) of the SEBI Act, it is important to consider the factors relevantly as stipulated in Section 15J of the SEBI Act which read 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.

31. The defaults of the Noticees are not repetitive in nature. I find from the material on record that the loss caused to an investors as a result of the said defaults cannot be quantified. I find that the investigation did not bring out the disproportionate gain or unfair advantages to the Noticees.

ORDER

32. In view of the above, after considering all the facts and circumstances of the case and the factors mentioned in the provisions of Section 15-J of the SEBI Act, I, in exercise of the powers conferred upon me under Section 15-I(2) of the SEBI Act read with Rule 5 of the SEBI Adjudication Rules, conclude that the proceedings against the Noticees stand established in terms of the provisions of the SEBI Act. Hence, in view of the charges established under the provisions of the SEBI Act, I, hereby impose the following monetary penalty, in my view the penalty imposed is commensurate with the default committed by Noticees

Entity	Penalty levied under Section	Quantum of penalty in Rs.
Shri Bharat Patel	Section 15 HA of SEBI Act, 1992	5,00,000(Five lakhs only)
	Section 15 HB of SEBI Act, 1992	1,00,000 (One lakh only)
	Section 15A(b) of SEBI Act, 1992	2,00,000 (Two lakhs only)
Acira Consultancy Private Limited	Section 15 HA of SEBI Act, 1992	5,00,000(Five lakhs only)
Hridyanath Consultancy Private Limited	Section 15A(b) of SEBI Act, 1992	1,00,000 (one lakh only)

33. The Noticee shall remit / pay the said amount of penalty within 45 (forty five) days of receipt of this order either by way of Demand Draft (DD) in favour of “SEBI - Penalties Remittable to Government of India”, payable at Mumbai and 1) the said DD should be forwarded to the Division Chief, Enforcement Department (EFD), Division of Regulatory Action - II [**EFD-DRA-2**] SEBI Bhavan, Plot No.C4-A, ‘ G’ Block, Bandra Kurla Complex (BKC), Bandra (East), Mumbai – 400 051 OR 2) through e-payment facility into Bank Account, the details whereof are given as below :-

Account No. for remittance of penalty (ies) levied by Adjudication Officer:-

Bank Name	State Bank of India
Branch	Bandra-Kurla Complex
RTGS Code	SBIN0004380
Beneficiary Name	SEBI – Penalties Remittable To Government of India
Beneficiary A/c No.	31465271959

34. The Noticees shall forward the said Demand Drafts or the details / confirmation of penalty so paid through e-payment to the Division Chief of the aforesaid Enforcement Department (EFD) of SEBI.
35. The format for forwarding details/confirmations of e-payments shall be made in the following tabulated form as provided in SEBI Circular No. SEBI/HO/GSD/T&A/CIR/P/2017/42 dated May 16, 2017 and details of such payment shall be intimated at e-mail ID- tad@sebi.gov.in:

Date	
Department of SEBI	
Name of Intermediary/other Entity	
Type of Intermediary	
SEBI Registration Number (if any)	
PAN	
Amount (in Rs.	
Purpose of payment (including the period for which payment was made e.g Quarterly, annually)	
Bank Name and Account Number from which payment is remitted	
UTR No	

36. In terms of Rule 6 of the Adjudication Rules, copies of this order are sent to the Noticees and also to the Securities and Exchange Board of India.

Date: February 28, 2018
Place: Mumbai

SAHIL MALIK
ADJUDICATING OFFICER