

**BEFORE THE ADJUDICATING OFFICER**  
**SECURITIES AND EXCHANGE BOARD OF INDIA**  
**[ADJUDICATION ORDER NO: EAD-12/AO/SM/73-75/2017-18]**

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**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:**

S.No	Name of the Entity	S.No	Name of the Entity
1	M/s Shree Rama Newsprint Limited (formerly Rama Newsprint and Papers Limited) (PAN No. AAACR2499H)	2	M/s Setu Securities Limited (PAN- AAGCS3919K)
3	M/s Mansi Share & Stock Advisors Private Limited (PAN No. AADCM6645D)		

**In the matter of**  
**M/s Shree Rama Newsprint and Papers Ltd**  
**(formerly Rama Newsprint and Papers Limited)**

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**Facts Of The Case:**

1. Securities and Exchange Board of India (hereinafter referred to as ‘SEBI’) conducted an investigation in the matter of M/s Shree Rama Newsprint and Papers Ltd (formerly Rama Newsprint and Papers Limited) (hereinafter referred to as “SRNL/Company/Noticee No. 1) for the period November 16, 2009 to January 28, 2010(hereinafter referred to as ‘Investigation Period/IP’) to ascertain if there was any violation of the provisions of SEBI Act, 1992 and Rules and Regulations made thereunder in the trading in the scrip of SRNL.
2. Pursuant to investigation, SEBI observed that :
  - 2.1. Noticee No. 1 has violated Regulation 13(6) of SEBI (Prohibition of Insider Trading) Regulations, 1992(hereinafter referred to as SEBI (PIT) Regulations, 1992) read with Regulation 12(2) of the SEBI (PIT) Regulation, 2015 and Regulation 7(3) of SEBI (Substantial Acquisition of Shares and Takeovers) Regulations, 1997 (hereinafter referred to as SEBI SAST Regulations, 1997”) read with Regulation 35(2) of the SEBI SAST 2015 by making delayed disclosures relating to change in shareholding of one M/s Prism Impex Private Limited(hereinafter referred to as “PIL”) to BSE and non-filing these disclosures to NSE.
  - 2.2. M/s Setu Securities Ltd(hereinafter referred to as “Noticee No. 2”) had entered into self-trades repeatedly through the broker M/s Mansi Share & Stock Advisors Pvt. Limited(hereinafter referred to as “Noticee No. 3”) for 11 days at NSE and 8 days at

BSE. By entering into such self-trades, Noticee No. 2 created artificial/fictitious volume in the market and gave a false and misleading appearance of trading in the scrip of SRNL at BSE and NSE. Thus, it was alleged that Noticee No.2 has violated Regulation 3 (a),(b),(c),(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 as SEBI (PFUTP) Regulations) whereas Noticee No. 3 had violated Clause A(2) of the Code of Conduct for Stock Brokers as specified under Schedule II read with Regulation 9 of SEBI (Stock Brokers and Sub Brokers) Regulations, 1992(hereinafter referred to as Stock Brokers Regulations) failing to exercise due skill and care by facilitating manipulative practices of its client i.e, noticee 2.

### **Appointment of Adjudicating officer**

3. Vide order dated August 31, 2016, Shri D.S. Reddy was appointed as Adjudication Officer in terms of Rule 3 of SEBI (Procedure for Holding Inquiry and Imposing Penalties by Adjudicating Officer) Rules, 1995 (hereinafter referred to as Rules) read with section 15-I of SEBI Act to inquire and adjudge under section 15 A (b) of SEBI Act on Noticee No. 1, under Section 15HA of SEBI Act on Noticee No. 2 and under Section 15HB of SEBI Act on Noticee No. 3 for the aforesaid alleged contravention of provisions of law. Subsequent to transfer of the case, I have been appointed as Adjudicating Officer vide order dated May 18, 2017 to inquire and adjudge under the provisions as enumerated above.

### **Show Cause Notice, Reply And Personal Hearing:**

4. Common show cause notice (hereinafter referred to as 'SCN') dated January 24, 2017 was issued to the Noticees under the provisions of Rule 4 (1) of the Rules by the erstwhile Adjudicating Officer to show cause as to why an inquiry should not be initiated against the Noticees and penalty be not imposed under the provisions of 15 A (b) of SEBI Act on Noticee No. 1, Section 15HA of SEBI Act on Noticee No. 2, and under Section 15HB of SEBI Act on Noticee No. 3.

### **5. Allegation against Noticee No. 1:**

- 5.1. It was observed that the shareholding of PIL had crossed 5% of the share capital of the company on January 05, 2010. PIL has informed that it had made required disclosure in this regard to the company and exchanges on January 06, 2010. Company in its reply has confirmed receipt of said disclosures made by PIL.
- 5.2. With regard to aforesaid disclosure of PIL, BSE has informed that it had received disclosure from SRNL under Regulation 13(6) of the SEBI PIT 1992 and Regulation 7(3) of the SEBI SAST 1997 on January 25, 2010. It was alleged that said disclosure was not made by SRNL to NSE.
- 5.3. It was alleged that SRNL has made delayed disclosure/no disclosure as stipulated under Regulation 13(6) of the SEBI PIT 1992 and Regulation 7(3) of the SEBI SAST 1997.

### **6. Reply of Noticee 1 pursuant to SCN:**

Vide letter dated February 03, 2017, Noticee No. 1 *inter alia* made the following submission:

*“the intimation from PIL, Kolkata was received on January 24, 2010 and accordingly BSE and NSE were informed on January 25, 2010 under Regulation 7(3) of SEBI (SAST) Regulation, 1997 and Regulation 13 (6) of SEBI (PIT) Regulations, 1992.*

*Letter dated January 25, 2010 for Regulation 13 (6) of SEBI (PIT) Regulations, 1992 was delivered personally to BSE on January 25, 2010 itself whereas letters were sent to NSE and BSE by fax on the same day.”*

**7. Allegation against Noticee No. 2 and Noticee No. 3:**

7.1. It was alleged that Noticee No. 2 has executed self-trades at BSE and NSE. The summary of all of its trades vis-à-vis its self-trades at BSE and NSE are tabulated below:

**a. Self trades done at BSE:**

Name of the Client	Name of the Broker	Buy Qty (No. of Shares)	Sell Qty (No. of Shares)	Total Trading Qty (Buy + Sell)	Total No. of days entity traded in the market	Self-Trade Qty and No. of Self Trades	No. of days Self Trades executed	% of Self Trade Qty to its Total Trading Qty	% of Self Trade Qty to BSE Market Volume of entire Inv Period	% of Self Trade Qty to BSE Market Vol on the days of Self Trades
Setu Securities Ltd	Mansi Share & Stock Advisors Pvt. Ltd.	572930	559717	1132647	31	62,421 Shares & 262 Self Trades	8 days	11.02%	0.58%	1.00%

**b. Self-trades done at NSE:**

Name of the Client	Name of the Broker	Buy Qty (No. of Shares)	Sell Qty (No. of Shares)	Total Trading Qty (Buy+Sell)	Total No. of days entity traded in the market	Self-Trade Qty and No. of Self-Trades	No. of days Self-Trades executed	% of Self-Trade Qty to its Total Trading Qty	% of Self-Trade Qty to BSE Market Volume of entire IP	% of Self-Trade Qty to NSE Market Vol on the days of Self-Trades
Setu Securities Ltd	Mansi Share & Stock Advisors Pvt. Ltd.	1079296	1049534	2128830	25	2,87,751 Shares & 606 Self Trades	11 days	27.03%	2.05%	3.86%

7.2. It was alleged that Noticee No. 2 executed the above self-trades through Noticee No. 3 at BSE and NSE and have appeared on both buy side and sell side of self-

trades. Noticee No. 2 has entered into self-trades on 262 occasions for 8 trading days on BSE and 606 occasions for 11 trading days on NSE.

7.3. In view of the above, it was alleged that Noticee No. 2 have created artificial/fictitious volume in the market and given a false and misleading appearance of trading in the scrip at BSE and NSE.

7.4. It was alleged that Noticee 3 was the broker who has facilitated the alleged trading of Noticee No. 2.

8. Therefore, it was alleged that Noticee No. 2, has violated Regulations 3 (a),(b),(c),(d); 4 (1), 4 (2) (a) and (g) of SEBI (PFUTP) Regulations and Noticee No. 3, has violated Clause A(2) of the Code of Conduct of Stock Brokers Regulations by facilitating such manipulative practices of its client, i.e, Noticee No. 2.

#### **9. Inspection of documents by Noticee No. 2**

Vide letter dated April 17, 2017, Noticee No. 2 had sought for inspection of original documents and copies of the documents related to the alleged self-trade to submit its reply to the SCN. The Inspection of documents and copies of desired documents were provided to Noticee No. 2 on July 07, 2017.

#### **Reply pursuant to SCN by Noticee No. 2:**

10. Vide letter dated August 01, 2017, Shri Kamal Agarwal, Authorized Representative (hereinafter referred to as "AR") mentioned that he has been appointed to represent the matter related to Noticee No. 2 and requested for one month's time to file a detailed reply to the SCN. Vide letter dated September 04, 2017, Noticee No. 2 *inter alia* made following submission:

- i. *"Setu Securities Ltd is engaged in the business of trading in the shares of companies listed at BSE and NSE through our broker M/s. Mansi Shares and Stock Advisors Pvt. Ltd. We further state that during the investigation period, from 16<sup>th</sup> November 2009 to 28<sup>th</sup> January 2010, Mansi shares and Stock Advisors Pvt Ltd had allotted dedicated terminals to us for the purpose of execution of transactions at BSE and NSE.*
- ii. *We state that our business is to execute transactions for sale and purchase of shares of large number of companies including companies under the 'A' group, 'B' group and 'Z' group. An analysis of contract notes for the period from 1<sup>st</sup> April 2009 to 31<sup>st</sup> March 2010, it is clear that we had on an average turnover of Rs. 200 crores and we had on an average traded in more than 600 scrips.*
- iii. *We state that as a business strategy and to keep watch on the movement in the price of stock, we placed order for sale and purchase of shares in the scrip of approximately 600 to 700 companies. We wish to place on record that the capital market transactions are driven by the market sentiment and the information floating around the market and we as a trader also execute the transactions based on the said information.*
- iv. *We state that while executing transactions in the scrip of SRNL, we have followed the same principles of trading without realizing that our order placement in the scrip of SRNL can have any impact in the market price of shares and /or can result into self-trade which can be termed by SEBI as illegal trade.*

- v. We state that there are reasons beyond our control which can result into self-trade and such self-trades were not executed intentionally to either raise the market price of the scrip of SRNL or to influence the market, which can only be prohibitive. We further state that there is a situation as explained, where there are 3 buyers in the shares of SRNL and we are standing at s.no. 4. All of a sudden, the first 3 buyers have modified their orders leaving us only as the buyer. In order to avoid, the purchase order is executed, we are left with 2 options; i.e. (i) to modify the order by reducing the quantity or rate, which takes 3-4 seconds to modify and (ii) to place an order for sale of same quantity of shares with the same rate, which takes less than 2 seconds. In such a situation, in order to minimize the losses and/or to avoid purchase, we frequently place orders for either sale or purchase of shares based on the original trade. We therefore state that while doing such a kind of transaction, our intention is only to minimize the losses and not to create either false impression about the volume or to indulge into price rigging. In fact, while doing transactions in more than 600 companies for aggregate amount of Rs. 200 crores and more, it is not practically possible to indulge into price manipulative activities as alleged.
- vi. We state that such kind of business practice is followed by us on daily basis in all the scrips irrespective of its market capitalization, floating stock and other criteria. We further state that execution of transactions through the terminal as a trader which may result into self-trade is not illegal per se.
- vii. We state that though there is allegation in the SCN about the number of self-trades in the scrip of SRNL, but there is no evidence in the SCN that due to the self-trades, there was any manipulation in the price of the scrip of SRNL and /or the said self-trades has generated any volume which has impacted the market. We are giving below a table showing market price of the shares of SRNL at BSE and NSE on the date of the self-trade with quantitative analysis of our trades.
- | Date            | Open  | High  | Low   | Close | WAP   | No. of shares | No. of trades |
|-----------------|-------|-------|-------|-------|-------|---------------|---------------|
| <b>1-12-09</b>  |       |       |       |       |       |               |               |
| BSE             | 22.60 | 25.50 | 20.00 | 25.05 | 24.27 | 1652361       | 2423          |
| NSE             | 21.50 | 24.85 | 26.00 | 24.85 | 23.74 | 1397733       | NA            |
| Self trades     |       |       |       |       |       | 42032         | 37            |
| %               |       |       |       |       |       | 1.37%         | 1.08%         |
| <b>2-12-09</b>  |       |       |       |       |       |               |               |
| BSE             | 26.00 | 27.55 | 26.00 | 27.55 | 27.44 | 1158874       | 1390          |
| NSE             | 27.30 | 27.35 | 26.00 | 27.35 | 27.24 | 604081        |               |
| Self trades     |       |       |       |       |       | 9039          | 38            |
| %               |       |       |       |       |       | 0.51%         | 2.73%         |
| <b>30-12-09</b> |       |       |       |       |       |               |               |
| BSE             | 53.80 | 54.05 | 48.95 | 49.90 | 49.97 | 154714        | 703           |
| NSE             | 54.00 | 54.00 | 48.85 | 49.65 | 50.25 | 197173        |               |
| Self trades     |       |       |       |       |       | 3068          | 2             |
| %               |       |       |       |       |       | 0.87%         | 0.28%         |
- viii. In view of the information given in the above table, it is clear that our self trades had neither generated substantial volume, which can give any wrong impression to investors nor created new price of the scrip and hence are not illegal.
- ix. There is also no submission and /or evidence that we had used or employed any manipulative and deceptive device while executing transactions. There is also neither any allegation nor any evidence



*that we had employed any device or scheme to defraud in connection with dealing in the shares of SRNL and /or would operate as fraud upon any person in connection with the dealing. further state that the analysis given in the above table clearly indicates that our self-trades in the scrip of SRNL have not created any false or misleading appearance of trading in the securities market and our ledger account with Mansi clearly indicates that we have performed our part of obligations under the contract notes related to the self-trades fully and wherever deliveries were due, same were taken after payment of consideration.*

- x. *We state that the investigation period from 16th November 2009 to 28th January 2010 (73 days) during which our self-trades at BSE were only for 1st, 2nd, 4th, 7th, 9th, 10th and 14th, 17th December 2009 and at NSE on 1st, 2nd, 4th, 7th, 10th and 14th, 15th, 17th, 18th and 30th December 2009. The number of days of our self-trades are only 11 days as compared to total 73 days of investigation. From a review and analysis of the information given in the above table, it is clear that our self-trades had no impact either on the market price of the shares of SRNL and it has also not impacted the volume in percentage terms.*
- xi. *We state that an analysis of our trades including self-trades clearly demonstrate that the self-trade in the scrip of SRNL were negligible in percentage terms with our total traded volume and we justify that we cannot indulge into any trade practice prohibited under SEBI (PFUTP) regulations. We are giving below analysis of our trading pattern at BSE and NSE on 1st and 2nd December 2009 as under:*

<b>S. No.</b>	<b>Particulars</b>	<b>01-Dec-09</b>	<b>02-Dec-09</b>
1	Number of self trades of Setu Securities Ltd as per investigation report.		
	BSE	5	3
	NSE	32	35
2	Quantity of self trades of Setu Securities Ltd as per investigation report		
	BSE	8	9004
	NSE	42024	35
3	Total number of trades at the exchange		
	BSE	2423	1390
	NSE		
4	Total traded quantity of shares of SRNL		
	BSE	1652361	1158874
	NSE	1397733	604081
5	Noticee's % of trades in SRNL to the total traded quantity at exchange		
	BSE	15.78	8.65
	NSE	18.27	11.97
6	Noticee's trades in other shares		

S. No.	Particulars	01-Dec-09	02-Dec-09
	No. of scrips	653	651
	<b>Turnover : cash segment</b>	834555855	952583782
	<b>Turnover : F&amp;O segment</b>	1516882836	1311575577
	<b>Total</b>	<b>2351438691</b>	<b>2264159359</b>
	Percentage of Noticee's trades in SRNL with trades in other scrips		
	<b>No. of trades</b>	<b>0.15313936</b>	<b>0.15360983</b>
	<b>Volume</b>	<b>0.015</b>	<b>0.004</b>

- xii. *We state that in view of the analysis given hereinabove, it is clear that our self-trades dated 1st, 2nd, 4th, 7th, 9th, 10th and 14th, 17th, 18th and 30th December 2009 had practically no effect on the market price of shares of the scrip of SRNL and the traded quantity was negligible. In view of this only, the caption SCN is liable to be withdrawn against us.*
- xiii. *There is neither an allegation nor any documentary evidence to prove that the above referred two self-trades have violated any of the provisions of SEBI (PFUTP) Regulations.*
- xiv. *We state that in view of the above factual and legal position, we respectfully submit that our self-trades dated 1st, 2nd, 4th, 7th, 9th, 10th and 14th, 17th, 18th and 30th December 2009 had happened due to circumstances unavoidable and the same were not executed with the pre-determined mind. The captioned SCN is therefore liable to be withdrawn.*
- xv. *The above referred self-trades have not caused any losses to an Investor or group of Investors as there was no default from our side to complete the above referred two transactions. In fact, in the case of self-trade, we were the buyer and seller and no third party was involved and therefore there was no question of loss to any other Investor or group of Investors and therefore we are entitled for withdrawal of the captioned SCN.*

### **11. Inspection of documents by Noticee No. 3:**

- 11.1. Vide letter dated March 02, 2017, Noticee No. 3 had sought inspection of certain documents alleged in the SCN to file reply to the SCN.
- 11.2. The inspection of records/documents were provided to Noticee No. 3 on July 07, 2017.
- 11.3. Vide letter dated August 01, 2017, Shri Kamal Agarwal, AR informed that he has been appointed to represent Noticee No. 3 in the matter and requested for one month's time to file a detailed reply to the SCN.

### **12. Reply pursuant to SCN by Noticee No. 3:**

Noticee has made *inter alia* made following submissions

- i. *"On July 09, 2008, M/s Setu Securities Ltd (hereinafter referred to as "SSL") had executed Know Your Client Form and Member Client Agreement and appointed us as their share and stock broker for the purpose of execution of transactions for sale and purchase of shares*

*listed at BSE and NSE. SSL has also opened a demat account no. 1205970000000031 and executed a POA for the purpose of completing pay-in obligation on their behalf against sale of shares.*

- ii. We state that after empaneling themselves as constituent, SSL started placing orders for sale and purchase of shares of various companies during the period from July 11, 2008 to till date and all the transactions were executed by us in the client code of SSL and in accordance with the Byelaws and Regulations of the exchange. We further state that since the volume of transactions (in terms of number of companies and in terms of value) were very high and as requested by SSL, we had allotted dedicated terminals to SSL said terminals were exclusively used by our registered dealer for executing the transactions on behalf of SSL*
- iii. We state that we have issued Contract Notes cum Bill to SSL on day-to-day basis and there were regular pay-in and pay-out of funds between us and SSL. There is no dispute of any nature between us and SSL.*
- iv. We state that as per the copy of the investigation report provided to us during inspection, we have observed that out of the investigation period (IP) from 16<sup>th</sup> November 2009 to 28<sup>th</sup> January 2010 (73 days), our client had executed self-trades in the scrip of SRNL for 6 days at NSE and 5 days at BSE and thereby effectively for 11 days. The market price of shares of RNPL have increased from Rs. 17.70 as on 16<sup>th</sup> November, 2009 to Rs. 32.65 on 28<sup>th</sup> January, 2010 and our clients trades have not contributed to said price rise.*
- v. We state that as per our records, on the date of said 11 self-trades, SSL had executed transactions in number of scrips for aggregate value running into several crores against the transactions in one scrip (SRNL) for aggregate value of a few lakhs .:*
- vi. When a client places orders for sale and purchase of shares in the scrip of more than 600 companies per day and the turnover is ranging between 124 crores to 286 crores, what maximum due skill, care and diligence can be adopted by a Trading Member?. We respectfully submit that while executing the above referred transactions in the scrip of SRNL on behalf of SSL, we have followed a fool proof system and exercised due skill and care. It is also pertinent to note that number of self-trades cannot be a criteria for determining activities of TM or client as one order can result into multiple trades.*
- vii. We state that SSL placed orders for large quantities for buy or sale and during the day of transactions when they decided to modify the orders placed in the system, they instead of modifying the orders for either reducing the quantity or completely withdrawing the trade, they order for either sale of the same quantity of shares or for the buy of the same quantity of shares. The reason for these kind of transactions is to complete the outstanding position in less time than the time required for modification of the order. As can be seen from the investigation report, that none of above self-trades had either impacted the market price of shares of SRNL nor its volume which has created an impression in the mind of other investors.*
- viii. In view of the facts and circumstances narrated hereinabove, it is clear that the above referred self-trades transactions have become self-trades under unavoidable circumstances to safeguard the interest of*



*client. It was neither our intention nor the intention of SSL to execute the above self-trades for the purpose of either manipulating in the market price of shares in the scrip of SRNL and it cannot be said that while executing above referred self-trades we have violated Clause A(2) of the Code of Conduct.*

- ix. *Before dealing with the allegation of violation of Clause A (2) of the Code of Conduct, it is necessary to reproduce the details of the some of the self-trades on the basis of which the caption SCN is issued.*

Date	Open	High	Low	Close	WAP	No. of shares	No. of trades
<b>1-12-09</b>							
BSE	22.60	25.50	20.00	25.05	24.27	1652361	2423
NSE	21.50	24.85	26.00	24.85	23.74	1397733	NA
Self-trades						42032	37
%						<b>1.37%</b>	<b>1.08%</b>
<b>2-12-09</b>							
BSE	26.00	27.55	26.00	27.55	27.44	1158874	1390
NSE	27.30	27.35	26.00	27.35	27.24	604081	
Self trades						9039	38
%						<b>0.51%</b>	<b>2.73%</b>
<b>30-12-09</b>							
BSE	53.80	54.05	48.95	49.90	49.97	154714	703
NSE	54.00	54.00	48.85	49.65	50.25	197173	
Self trades						3068	2
%						<b>0.87%</b>	<b>0.28%</b>

- x. *A review of the above table shows that we as a Trading Member had executed transactions for sale and purchase of shares of SRNL in the name of SSL with due care and skill as the said transactions have neither had any impact on the market price of shares of SRNL nor it has created any false impression of volume.*
- xi. *The self-trade transactions for 754188 shares of RNPL executed by us as a Trading Member had generated us brokerage of Rs. 930.18/- and we have not made any disproportionate gain or unfair advantage while executing the said transactions.*

### **13. Personal Hearing:**

- 13.1. In the interest of natural justice and in order to conduct an inquiry in terms of Rule 4(3) of the Rules, the Noticees were granted an opportunity of personal hearing before the undersigned on September 05, 2017 at SEBI, Mumbai.
- 13.2. **Noticee No. 1:** The AR requested for postponement of the hearing, which was acceded and was granted hearing on September 07, 2017. On the scheduled date hearing was attended by AR, Shri Samit Shukla, DSK, Legal, Ms. Raveena Dhawan, DSK Legal and Shri P.K. Mundra, Company's Representative. During the time of hearing, AR showed the original document of letter submitted by PIL and fax report as proof of dispatch made to BSE and NSE, further, AR reiterated to the submission made pursuant to SCN. Noticee 1 inter alia made the following additional submission made post hearing:
- i. *Letter dated January 6, 2010 sent by PIL was received by them only on January 24, 2010 and was promptly and completely disclosed by them to BSE and NSE in the prescribed form and manner as provided for under Regulation 13(6) of PIT Regulations and Regulation 7(3) of the Takeover Regulations vide its letter to BSE dated January 25, 2010 bearing reference no. RNPL/GS/2470- 1/09-10 and fax to NSE and BSE.*

- ii. *After the hearing, the following additional submissions were made by Noticee No. 1 :*

***Prompt Disclosure by SRNL upon receipt of information:***

- iii. *Our client produced the original letters and faxes exchanged by our client with PIL and the stock exchanges which clearly records that the letter sent by PIL dated January 6, 2010 was acknowledged and received by SRNL only on January 24, 2010 and thus, there was no delay by them in disclosing the same to the stock exchanges. Further the original fax transmission acknowledgment receipts to NSE and BSE were also shown which proves that the allegations of violations committed by SRNL **qua** non disclosure to NSE are also not correct.*
- iv. *Further, it is pertinent to note that the Letter was sent from Kolkata to a remote and isolated location viz. Village Barbodhan. in Surat. In view thereof, it is unfathomable for SRNL to receive the Letter on January 6, 2010 as alleged in the Show Cause Notice.*
- v. *Under Regulation 13(6) of PIT Regulations and Regulation 7(3) of the Takeover Regulations a company is required to make disclosure to the exchanges within 2 days and 7 days, respectively from receipt of information from the person/acquirer making disclosures under Regulation 13(1), 13(2), 13(3) and 13(4) of the PIT Regulations and under Regulation 7 (1) and (1A) of the Takeover Regulations.*

***Judgment cited by the Noticee:***

- vi. *Further, it is a well settled law which is also accepted by the Hon'ble Securities Appellate Tribunal (SAT) in the matter of Mega Resources Ltd. v. SEBI (Appeal No. 49 2001 >. wherein it was observed:*
- vii. *Mere dispatch of the information is short of the said requirement. According to Blacks Law Dictionary "Disclosure" means act of disclosing, revelation, the importation of that which is secret or not fully understood. Disclose is to expose to review or knowledge anything, which before was secret, hidden or concealed. Thus, the requirement is that the information should reach the person to whom it is meant.....*
- viii. *In view of the aforesaid, the requirement is not mere dispatch of the disclosures, but the disclosures should reach the recipient. Thus, onus to establish whether a document is received by the recipient is on the sender and not the recipient.*
- ix. *In view thereof. SRNL received and acknowledged the Letter on January 24, 2010 and made prompt disclosures to the exchanges on January 25, 2010 and thus, SRNL was well within time for making disclosures under the said regulations.*

*New Regulations do not provide for the disclosures which SRNL has allegedly violated.*

- x. *The PIT Regulations and Takeover Regulations (hereinafter referred to as the "Old Regulations" ) have been repealed and replaced by new regulations viz. SEBI (Prohibition of Insider Trading) Regulations, 2015 (Insider Trading Regulations") and SEBI (Substantial Acquisition of Shares and Takeovers)*

*Regulations. 2011 ("New Takeover Code') (hereinafter collectively referred to as the "New Regulations").It is pertinent to note that whilst the Old Regulations sought disclosures from both the acquirer and target company to the stock exchanges, the New Regulations have no such disclosures requirement qua the target company.*

- 13.3. **Noticee No. 2:** Shri Kamal Agrawal, AR and Shri Hardik M Shah, Dealer of Noticee No. 2 attended the hearing on behalf of Noticee No.2. Noticee 2 has submitted details of turnover during IP.

Sr. No	Description	Turn over Amount (Rs. in crore)
1	Jobbing turnover	2780.37
2	Delivery based turnover	517.77
3	Future turnover	2530.43
4	Option turnover	108.90
	<b>Total</b>	<b>5937.49</b>

- 13.4. **Noticee No. 3:** Shri Kamal Agrawal, AR attended the hearing on behalf of Noticee No. 3. AR reiterated to the submission made pursuant to SCN and was advised to submit pan copy of Noticee No. 3. The same was not provided by the Noticee No. 3.

**Consideration of Issues and Findings:**

- 14.I have carefully perused the charges levelled against the Noticees as per the SCN, and the materials/documents available on record. The issues that arise for consideration in the present case are :

- I. **Whether Noticees had violated**
  - a. **Noticee No. 1 – Regulation 13(6) of (PIT) Regulations, 1992) read with of SEBI Regulation 12(2) of (PIT) Regulations, 2015 and Regulation 7(3) of SEBI(SAST) Regulations, 1997 read with Regulation 35 of SEBI (SAST) Regulation, 2015**
  - b. **Noticee No. 2 - Regulation 3 (a),(b),(c),(d); 4 (1), 4 (2) (a) and (g) of SEBI (PFUTP) Regulations)**
  - c. **Noticee No. 3 - 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**
- II. **Does the violations, if any, attract monetary penalty**
  - a. **Under Section 15 A (b) of SEBI Act on Noticee No. 1,**
  - b. **Under section 15HA of SEBI Act on Noticee No. 2 and**
  - c. **Under Section 15 HB of SEBI Act on Noticee No. 3.**
- III. **If so, what should be the quantum of monetary penalty?**

Before proceeding further, I would like to refer to the relevant provisions of SEBI (SAST) Regulations, 1997, SEBI (PFUTP) Regulation and SEBI (Stock Brokers) Regulations.

***SCHEDULE II read with Regulation 9 of Stock Broker Regulations, 1992***

***Clause A(2) of the Code of Conduct for Stock Brokers***  
***(2) Exercise of due skill and care : A stock-broker shall act with due skill, care and diligence in the conduct of all his business.***

**Regulation 13 (6) SEBI (PIT) Regulations, 1992:**

*"Every listed company, within two working days of receipt, shall disclose to all stock exchanges on which the company is listed, the information received under sub-regulations (1), (2), (3) and (4) in the respective formats specified in Schedule III".*

**Regulation 12 of SEBI (PIT) Regulations, 2015:**

**Repeal and Savings:**

12. (1) The Securities and Exchange Board of India (Prohibition of Insider Trading) Regulations, 1992 are hereby repealed.

(2) Notwithstanding such repeal,—

(a) the previous operation of the repealed regulations or anything duly done or suffered thereunder, any right, privilege, obligation or liability acquired, accrued or incurred under the repealed regulations, any penalty, forfeiture or punishment incurred in respect of any offence committed against the repealed regulations, or any investigation, legal proceeding or remedy in respect of any such right, privilege, obligation, liability, penalty, forfeiture or punishment as aforesaid, shall remain unaffected as if the repealed regulations had never been repealed; and

(b) anything done or any action taken or purported to have been done or taken including any adjudication, enquiry or investigation commenced or show-cause notice issued under the repealed regulations prior to such repeal, shall be deemed to have been done or taken under the corresponding provisions of these regulations;

**Regulation 7(3) of SEBI(SAST) Regulations reads as under:**

*"Every company, whose shares are acquired in a manner referred to in sub-regulations (1) and (1A) shall disclose to all the stock exchanges on which the shares of the said company are listed the aggregate number of shares held by each of such persons referred above within seven days of receipt of information under sub-regulations (1) and (1A)".*

**SEBI (SAST) Regulations, 2011**

35.(1) The Securities and Exchange Board of India (Substantial Acquisition of Shares and Takeovers) Regulations, 1997, stand repealed from the date on which these regulations come into force.

(2) Notwithstanding such repeal,—

(a) anything done or any action taken or purported to have been done or taken including comments on any letter of offer, exemption granted by the Board, fees collected, any adjudication, enquiry or investigation commenced or show-cause notice issued under the repealed regulations, prior to such repeal, shall be deemed to have been done or taken under the corresponding provisions of these regulations;

(b) the previous operation of the repealed regulations or anything duly done or suffered thereunder, any right, privilege, obligation or liability acquired, accrued or incurred under the repealed regulations, any penalty, forfeiture or punishment incurred in respect of any offence committed against the repealed regulations, or any investigation, legal proceeding or remedy in respect of any such right, privilege, obligation, liability, penalty, forfeiture or punishment as aforesaid, shall remain unaffected as if the repealed regulations has never been repealed;

## **SEBI (PFUTP) Regulations:**

### **3. Prohibition of certain dealings in securities under SEBI (PFUTP) Regulations 2003**

*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;*

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

## **Findings:**

### **15. The findings in respect to Noticee No. 1:**

15.1. I note SRNL submission that it had received the letter of PIL on January 24, 2010 and therefore it had made disclosure to Exchanges on January 25, 2010. An email was sent to PIL on September 20, 2017, advising PIL to provide the acknowledgment of SRNL for the disclosure sent by it on January 06, 2010 to SRNL. The copy of this email was also marked to SRNL. PIL vide e-mail dated September 23, 2017, provided a scanned copy of the details of letters dispatched through Speed Post receipt no. EW270988533IN, EW270988520IN and No.EW270988547IN to Noticee No. 1, BSE and NSE on January 06, 2010. It has not provided any acknowledgement of SRNL with date on which its letter was received by Noticee 1. The reply received by PIL was sent to SRNL for its comments, if any.

15.2. Noticee No. 1 vide its submission dated September 26, 2017 *inter-alia* stated that

*“Pursuant thereto we tried tracking the delivery status of the consignment on the India Post website. It appears that no details are available. We repeat that from our records the date of receipt of the Letter is January 24, 2010”.*

15.3. I note that PIL has sent desired disclosure to BSE, NSE and Noticee No. 1 on January 06, 2010 and the said disclosures were available on BSE and NSE Website on January 11, 2010 and January 12, 2010 respectively. Hence, Public at large was aware of the



shareholding of PIL and hence the spirit of regulation was met by informing existing and prospective shareholders of the company about the shares held by entity called PIL in the Company.

- 15.4. There is nothing on record which proves contrary to the submission of SRNL that it had received the letter sent by PIL prior to January 24, 2010. However it is strange that when all three letters sent by PIL together and on the same date to BSE and NSE and SRNL. NSE and BSE which are based out of Mumbai had received it by January 11 and 12, 2010 respectively whereas the SRNL had reportedly received the same letter on January 24, 2010. I take note of the location of SRNL's registered office which is based out of a remote village in Surat, Gujarat and delay of delivery can be attributed to the location compare to faster delivery of the same letters in Mumbai. I also take cognizance of strike of labour in SRNL during January-February 2010 which was duly disclosed on Exchange Websites
- 15.5. It was alleged in the SCN that no disclosure was made by SRNL to NSE, I find the required disclosure is available on NSE website from January 25, 2010. Hence this allegation is dropped.
- 15.6. I also take note of the revised requirements under PIT 2015 and SAST 2011 wherein dual reporting of the same instance has been removed and Company is not under any obligation to disclose the disclosure received by it to the Exchanges, acquirers are obligated to do so.
- 15.7. Under Regulation 7(3) of the SAST 1997 and 13(6) of PIT 1992, SRNL was under an obligation to disclose within seven/two days of receipt of information from PIL. As reported and claimed by SRNL that it had received the letter of PIL on January 24, 2010 and it had made desired disclosure on NSE and BSE on January 25, 2010 which is within stipulated timeline. Hence it has complied with the requirement of Regulation 13(6) of the PIT 1992 read with Regulation 12(2) of SEBI (PIT) Regulation, 2015 and Regulation 7(3) of the SAST 1997 read with Regulation 35(2) of SAST 2015 and. Therefore, allegations against Noticee No. 1 does not stand established.

## **16. The findings in respect to Noticee No. 2 :**

- 16.1. I note that the self-trade percentage / volume of the Noticee is 1.00% in BSE and 3.86% on NSE of the total trades executed in the scrip on the said dates. Apparently, from such negligible percentage in the scrip, it is difficult to arrive at the conclusion that these self-trades were executed by the Noticee with an 'intent' to create misleading appearance of trading in the securities. I note there is nothing on record which suggest that how much these self-trades contributed to the price of the scrip with its last traded price. I note that Noticee No. 2 is engaged into the business of jobbing and had extensively dealt in over 600 scrips during April 01, 2009 to March 2010 (including IP). The total turnover of Noticee No. 2 during the IP was Rs. 5937 crores out of which 2780.37 is the jobbing and 2639 was Future and Options turnover. This suggests that over 91% of the turnover is non delivery based turnover.
- 16.2. I also take note of the reasons provided by Noticee 2 about these self-trades. Total self-trades executed by Noticee is 0.019% of its total trading on NSE and BSE during Investigation period.
- 16.3. There is nothing on record to suggest how these self-trades have manipulated the market.
- 16.4. I also take note of the recent SEBI policy on Self-trades which emphasizes on to check whether any manipulation arising out of self-trades or any intention to enter into self is

evident from the material on record and if no intention or manipulation is evident from the case and only charge is mere occurrence of self-trades then the entity may be exonerated and it was also stated that while assessing the manipulative intent, the volume transacted may also be considered in additions to other factors.

- 16.5. There is no evidence in the SCN to suggest any fraudulent intention behind the execution of self-trades by Noticee. I also note of the submission made by the Noticee that these self-trades have occurred due to the situation wherein in order to minimize the losses and/or to avoid purchase, it frequently place orders of either sale or purchase of shares based on the original trade. These trades have occurred as Noticee No. 2 is engaged extensively into jobbing business. The impact of self-trades on last traded price is not on records. I note the volume of self-trades is miniscule, therefore, considering the fact and circumstance of the case and also taking into account the recent SEBI policy dated May 15, 2017, it is concluded that the violation of Regulation 3 (a) (b) (c) and (d), 4 (1) & 4 (2) (a) and 4 (2) (g) of the SEBI (PFUTP) Regulations *does not stand established against the Noticee.*

### **17. The findings in respect to Noticee No. 3:**

- 17.1. I note that the Noticee No. 3 had provided dedicated terminals to Noticee No. 2, who does arbitrage transactions. Noticee No. 3 has only acted as broker and counterparty broker and thus acted in the professional capacity with the Noticee. I also note that Noticee No. 3 has ensured that Noticee No. 2 completes its pay in obligations and the transactions done by Noticee No. 2 have been duly settled as per normal procedure of the market.
- 17.2. I note that total brokerage earned by Noticee for the alleged self-trades was Rs 930/- only and there is nothing on record to suggest that it had made any disproportionate gain or unfair advantage while executing the said transactions
- 17.3. I note that in the absence of any alerts, a broker who is having a large client base probably could not anticipate any foul play by the client when all other parameters showing normalcy specially of the client who is trading in over 600 scrips and having turnover ranging between 124-286 crores.
- 17.4. I also note that Noticee No. 3 is not related to Noticee No. 2 except the professional relationship. It is not in dispute that there was no default on the part of the Noticee No.2 in meeting with the market obligations. There is nothing on record that there was any instance of remiss in the conduct of Noticee No. 2 that might have aroused suspicion that it is doing anything suspicious. There is nothing on record to suggest that Noticee No.3 was in any manner involved in any manipulation. I also rely on the order of Hon'ble SAT in the appeal no. 176/2011 in the matter of SMC Global Securities Limited, wherein, SAT has held that

*"due skill, care and diligence can only mean that broker shall act in such a way that a person of ordinary prudence would act in the normal circumstances in carrying out activities and functions relating to its business and remain careful and diligent so that nothing untoward happens in the market or over the activities with it"*

- 17.5. In view of the above, allegation of violation of 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 does not stand established against Noticee No. 3.

- 18. Issue No. II: Does the violations, if any, attract monetary penalty**
- a. Under Section 15 A (b) of SEBI Act by Noticee No. 1,**
  - b. Under section 15HA of SEBI Act by Noticee No. 2 and**
  - c. Under Section 15 HB of SEBI Act against Noticee No. 3.**

Since violations not established against Noticees hence not liable for penalty

- 19. Issue No. III: If so, what should be the quantum of monetary penalty?**

Since noticees not held liable for penalty, hence not applicable.

**ORDER**

20. In view of the above, after considering all the facts and circumstances of the case, the material available on record, the submission made by the Noticees, I, in exercise of the powers conferred upon me under 15-I of the SEBI Act read with Rule 5 of Rules, I hereby drop the Adjudication proceedings against all three noticees and accordingly dispose off the SCN issued.
21. In terms of Rule 6 of the Rules, copy of this order are sent to the Noticees and also to the Securities and Exchange Board of India.

**Date: October 31, 2017**  
**Place: Mumbai**

**SAHIL MALIK**  
**ADJUDICATING OFFICER**