

**BEFORE THE ADJUDICATING OFFICER  
SECURITIES AND EXCHANGE BOARD OF INDIA  
(ADJUDICATION ORDER NO: Order/SM/AR/2018-19/2556)**

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

*In respect of:*

**Ms. S. Jayalakshmi  
(PAN: AAOPS9304B)**

Old No. 78-81,  
New No. 153,  
Firhaven Estate,  
Santhome High Road,  
Raja Annamalaipuram,  
Chennai 600028

*In the matter of*  
**M/s Arihant Foundations & Housing Ltd**

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**FACTS OF THE CASE**

1. Securities and Exchange Board of India (hereinafter referred to as '**SEBI**') had conducted an investigation in the scrip of Arihant Foundations & Housing Ltd. (hereinafter referred to as '**AFHL**' / '**the Company**') for the period June 1, 2009 to August 24, 2009 (hereinafter referred to as '**investigation period**' / '**IP**'). As per the investigation report, the scrip of AFHL was listed on Bombay Stock Exchange (hereinafter referred to as '**BSE**') and National Stock Exchange (hereinafter referred to as '**NSE**') during the aforementioned investigation period. During the course of the investigation, it was observed that Ms. S. Jayalakshmi (hereinafter referred to as '**Noticee**') had increased the price of the scrip of AFHL during the above stated investigation period by consistently placing buy orders in the scrip at a higher price on BSE. In view

of the alleged role of the Noticee in increasing the scrip price of AFHL, it is alleged that Noticee has violated the provisions of Regulations 3, 4(1), and 4(2)(e) of SEBI (Prohibition of Fraudulent and Unfair Trade Practices relating to Securities Market) Regulations, 2003 (hereinafter referred to as '**PFUTP Regulations**'). It is further observed that the Noticee had allegedly failed to comply with the disclosure requirements specified under the provisions of Regulation 7(1) of SEBI (Substantial Acquisition of Shares and Takeovers) Regulations, 1997 (hereinafter referred to as '**SAST Regulations**') and also under the provisions of Regulation 13(3) of SEBI (Prohibition of Insider Trading) Regulations, 1992 (hereinafter referred to as '**PIT Regulations**') w.r.t her transactions in the scrip of AFHL during the investigation period.

2. It was, *inter-alia*, observed by SEBI during the course of investigations that the Noticee through her transactions in the scrip of AFHL at BSE contributed to the increase in the scrip price of AFHL by Rs. 65.25 /- as a buyer, and also contributed to price fall of Rs. 18.20/- as a seller. It was observed during the course of investigations that the trades of the Noticee during investigation period resulted in net increase in the scrip price of AFHL by Rs. 47.05/-. In view of the above observations, it is alleged that the Noticee increased the scrip price of AFHL by consistently placing buy orders in the scrip at a higher price, thereby, allegedly violating the provisions of Regulations 3(a)(b)(c)(d), 4 (1) and 4 (2) (e) of the PFUTP Regulations.
3. It is further observed that as on the quarter ending June 2009, the Noticee was holding 8.27% shares of AFHL. However, for the quarter ended September 2009, it was observed that the shareholding of the Noticee in AFHL was 10.47%, which is an increase of more than 2% when compared to the shareholding of the Noticee in AFHL during the quarter ended June 2009. Therefore, the Noticee was required to make the necessary disclosure in the prescribed format under Regulation 7(1) of SAST Regulations to the company and stock exchanges as she had crossed the threshold limit of 10% of the total shareholding in the company as on the quarter ended September 2009. Further, the Noticee was also required to make appropriate disclosure to the

company under Regulation 13(3) of the PIT Regulations as a result of change in her shareholding in AFHL by more than 2% of the total shareholding of the company during the period June 2009 to September 2009. However, it is alleged that Noticee has failed to make the requisite disclosures under the abovementioned provisions of law.

4. Therefore, in light of the above mentioned observations/violations committed by the Noticee in the scrip of AFHL during the investigation period, adjudication proceedings were initiated against the Noticee under the provisions of section 15HA of the SEBI Act, 1992 (hereinafter referred to as '**SEBI Act**') for her alleged violation of provisions of Regulations 3(a)(b)(c)(d), 4 (1) and 4 (2) (e) of the PFUTP Regulations and also under section 15 A(b) of the SEBI Act for her alleged violation of provisions of Regulation 7(1) of SAST Regulations and 13(3) of PIT Regulations.

#### **APPOINTMENT OF ADJUDICATING OFFICER**

5. Ms. Barnali Mukherjee was appointed as the Adjudicating Officer in the matter vide communique dated June 28, 2013 to inquire into and adjudge under the provisions of section 15-I(1) of the 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**') under the provisions of sections 15HA and 15A(b) of the SEBI Act for the aforementioned alleged violation of the provisions of law by the Noticee. Subsequently, the undersigned was appointed as the Adjudicating Officer in the said matter vide Order dated June 22, 2015.

#### **SHOW CAUSE NOTICE, REPLY AND PERSONAL HEARING**

6. Show Cause Notice ref. no. EAD-6/BM/RSL/17823/2013 dated July 22, 2013, (hereinafter referred to as '**SCN**') was issued to the Noticee, in terms of Rule 4(1) of the Adjudication Rules, to show cause as to why an inquiry should not be held against the Noticee and why penalty, if any, should not be imposed

on her under the provisions of sections 15HA and 15A(b) of the SEBI Act for the aforementioned alleged violation of the relevant provisions of law by the Noticee. The said SCN alleged the following with respect to the trading/dealings of the Noticee in the scrip of AFHL:-

- a. *Investigation observed that the top buy client was Ms. S Jayalakshmi accounting for 54.56% of the market volume and the top sell client was Ms. Laxmi M Chaturvedi accounting for 22.68% of the market volume during the investigation period.*
- b. *On analysis of the trades at BSE, investigation observed that the Noticee (top buy client) bought 2,13,492 shares during the period of investigation. Of these one of the top counter parties from whom the Noticee had bought the shares was Laxmi M Chaturvedi (top sell client). The Noticee was seen to have bought 88,323 shares accounting to 41.37% of her total buy quantity from Laxmi M Chaturvedi. Investigation observed that all the buy trades of the Noticee from Laxmi M Chaturvedi were done in 12 days i.e., from July 01 to Aug 21, 2009.*
- c. *During the period of analysis, the Noticee purchased 2,13,492 shares in 340 trades in 23 trading days in the market and sold 26,684 shares in 40 trades over three days. Through the buy transactions, investigation observed that the Noticee increased the scrip price of AFHL by Rs 65.25 over the LTP*
- d. *Investigation further observed that the in respect of trading between the Noticee and Laxmi M Chaturvedi, it was noted that Laxmi M Chaturvedi bought shares from other clients in the market and sold the same to the Noticee. On observing the price at which Laxmi M Chaturvedi sold to the Noticee, investigation observed that it was mostly at a higher price. On comparing the number of shares traded between the Noticee and Laxmi M Chaturvedi with the number of shares traded for the day, investigation observed that their trade constituted more than 20%. On Aug 20, 2009, investigation observed that their trade constituted 98.13% to the days trade.*

- e. *The investigation observed that the sale transactions of Laxmi M Chaturvedi with the Noticee took place at rates higher than at which Laxmi M Chaturvedi has bought shares from the market.*
- f. *Investigation has observed that the trades between the Noticee and Laxmi Manoharlal Chaturvedi happened on 12 days involving 18 trades. There were total of 16 buy orders and 15 sell orders. On comparing the time difference between placement of buy and sell orders it was seen that in case of four trades the orders were placed with one minute of each other. On July 21, 2009 at 14:56:51, Laxmi M Chaturvedi sold 25,000 shares to the Noticee and the time difference between the buy and sell orders was 49 seconds.*
- g. *During the investigation period, the order book at the time of placing of buy orders by the Noticee was analyzed to compare the price at which the Noticee had placed the buy orders with the top 5 pending sell orders available at the time. Investigation observed that the buy orders of the Noticee were placed at prices above the highest of the top 5 pending sell order prices. This ensured that the pending sell order of Laxmi M Chaturvedi got matched with the buy order of the Noticee*
- h. *Hence, investigation alleged that the Noticee through the buy transactions contributed to the price increase of Rs. 65.25 while resulting in reduction of 18.2 as s seller. On the net, investigation alleged that the trades resulted in net increase in the price of the scrip by 47.05 during the investigation period, in view of the above, it is alleged that the Noticee increased the price of the scrip by buying the shares at a higher price thereby allegedly violating Regulations 3, 4 (1), 2 (e) of PFUTP Regulations, 2003.*
- i. *From the shareholding of the Company, it was observed that in June 2009 the Noticee was holding 8.27% shares of the Company. It was observed that for the period ended September 2009, the shareholding of the Noticee was 10.64% showing a change from 8.27% of last quarter, i.e., more than 2% compared to June 2009. The particulars of the changes in shareholding of the Noticee during the investigation period and the disclosures required is as given below:*

<i>Period</i>	<i>Event</i>	<i>Disclosure</i>
<i>Sept 2009</i>	<i>crossed 10%</i>	<i>No disclosure made, as req under SAST 7(1)</i>
<i>June to Sept</i>	<i>change &gt;2%</i>	<i>No disclosure made, as req under PIT 13(3)</i>

- j. *In view of the above, investigation alleged that the Noticee failed to make the required disclosures under Regulation 7(1) of SAST- Regulation, 1997 and Regulation 13 (3) of PIT Regulation, 1992.*
- k. *The aforesaid alleged violation under PFUTP Regulations, PIT and SAST Regulations make the Noticee liable for monetary penalty under Section 15 HA and 15 A (b) of SEBI Act*
7. The Noticee vide her letter dated August 27, 2013 requested for certain additional documents related to the matter which were provided to her vide letter dated October 22, 2013. Subsequently, vide letter dated November 20, 2013, Noticee submitted her detailed reply to the SCN and inter alia mentioned the following:-
- a. *I would like to state that I am not directly involved in the day-to-day management of any of my business, assets and personal effects, which are being managed by my advisors. I only take a call on the investment avenues and the execution of the investment such as placing orders with the brokers is looked into by my advisors.*
- b. *In order to show my link and the trades allegedly matched with Ms. Laxmi Chaturvedi, I have not been provided with a complete order and trade log.*
- c. *Further, I have also been alleged of executing trades above LTP and placing orders above the best 5 sell orders, but have not been provided with a complete copy of the order log, which also contains the order book position, which shows the status of the pending buy and sell order in the system along with the quantity being offered by these parties, which are*

*very much essential to analyse the reasons as to why I had entered the transactions at a price over LTP.*

- d. The SCN has missed out on certain essential tenets and could be termed as vague and incomprehensible. These facts stated in the SCN show that proper appreciation of my trading has not been done by SEBI and as a result the charges levied against me are devoid of merit. It is submitted that since the charges levied are not clear, I find it difficult and impossible to understand the allegations, as a charge of PFUTP Regulations can be established only if any act which was manipulative in nature could be attributed to me. In the SCN, the allegations levelled are of nature of increase in prices which cannot be attributed to me.*
- e. With regard to para 2 and 3 of the SCN, It is submitted that the investigation carried out by SEBI is a matter of record, however the SCN does not elaborate as to why the period from June 1, 2009 to August 24, 2009 has been chosen as the period of investigation. Further, during the same period of time I have also under taken trades at National Stock Exchange, but they have not been examined by SEBI thereby preventing me to show corroborative evidences to prove my innocence.*
- f. The aforesaid objections become more pertinent as the actual price rise/up-ward momentum in the scrip had actually started in the period prior to the investigation period itself. It is to be noted that prior to the investigation period the price of the scrip of AFHL went up from Rs. 30.45 to 104.45 i.e. a jump of more than 3 times and an increase of 343.02%, the price of the scrip over a period of 3 months. While in the investigation period the price of the scrip witnessed a jump of less than 2 times only*
- g. It is to be noted that, I was a major investor in the scrip even before the start of the investigation period and had held a combined shareholding of 3,50,000 shares in the scrip of AFHL at the end of December 2008 i.e. 4.96% of the total shareholding of AFHL. I had purchased a huge amount of shares in November, 2007 at a price of Rs. 600/- which is much higher than the price at which I subsequently bought the shares. It is to be noted that after buying shares at such high price, it was logical for me to bring*

down the acquisition cost since the price of AFHL had gone down after my purchase. I was keeping a constant watch on price movement of the scrip since I was convinced about the fundamentals and wanted to acquire more shares and accordingly I did make further acquisition in 2008 and increased my holding to 3,50,000 shares. There was a positive surge in the price of the scrip coupled with the fact that the company had made various price sensitive corporate announcements viz. (a) declaration of a 10% dividend to the shareholders on March 20, 2009 (b) a issue of 15,50,000 convertible warrants to the promoters and body corporate in the month of May, 2009. Based on the positive environment, I decided to further increase my holding in the scrip and it is in view of the same only that I acquired a total of 2,13,492 shares during the relevant period and sold only a meagre 26,684 shares back in the market i.e. 12.49% of my total purchase during the relevant period. It is to be noted that even today I am holding 7,96,202 equity shares i.e. 9.26% of the total equity capital of the Company. On July 21, 2009, I had purchased 1,06,105 shares through bulk deal and this was made public through the BSE website.

- h. However, with regard to the total sale volume contributed by Ms. Laxmi is concerned, it is submitted that as I have no links or relationship with Ms. Laxmi and therefore I cannot be called upon to answer the same. However, it is to noted that as Ms. Laxmi was the top seller and I was the top buyer, it is quite common that our trades would match with each other on a number of occasion and therefore no negative inference should be drawn merely from the fact that I have bought 88,323 shares from Ms. Laxmi. Since the trading on my behalf was done by my advisors, I suspected that some of my advisors could have leaked the information about my trading to Ms. Laxmi. I have subsequently terminated the services of few of my advisors. In such case, I am the one who has incurred such loss and Ms. Laxmi has gained on my cost. SEBI should endeavor to punish Ms. Laxmi and the advisor who was leaking information, instead of an innocent person like me.



- i. *It is submitted that placing of orders above LTP is a very common phenomena and traders who buy shares in bullish market, on several occasions, put trades above LTP so as to ensure that their trades get executed and they receive the shares so as to cash on the continuing increase in the price of the scrip. It is an accepted trading strategy which is employed whenever any person is desirous of buying stock in sums larger than the best available sell prices. If everyone is required to enter the trades at LTP, there would be no change in the price of shares. The order price would depend on the market sentiments and investor outlook and thus it is very common to see orders being placed below LTP in a bearish market and above LTP in a bullish market.*
- j. *It is to be noted that a majority of my trading was entered into with the purpose of long term investments and were purchased on the basis of the best available prices in the market. The fact that I am still holding a majority of my shares clearly goes on to show that I had invested in the company with a long term perspective of investment and not with an intent of executing trades above LTP.*
- k. *It is submitted that even in the present matter, apart from the fact that a part of our trades have matched; there is nothing on record or even an allegation to suggest or show that I had any link with Ms. Laxmi. In absence of any link shown by the SCN, it would be incorrect to make any allegation on my trading.*
- l. *It is submitted that a combined reading of the aforesaid definitions clearly shows that an acquirer includes a person acting in concert and therefore a person acting in concert's holding will also be included while making a disclosure under Regulation 7(1) of the SAST Regulations. It is in view of the same only that I as a matter of policy always used to give disclosures under the SAST regulation after combining my shareholding with that of SPEL. SPEL was also a shareholder of AFHL during the relevant period and had a total 217880 shares i.e. 3.09% of total equity of the company during the relevant period.*

- m. It is in continuance of the same practice only that I had given a disclosure on April 24, 2009 to BSE under Regulation 7(1) of the SAST Regulations as we had jointly crossed 10% threshold as provided in the Regulation 7(1) of SAST. The same was disclosed by BSE on its website on April 25, 2009 In this regard, annexed hereto and marked as Annexure "A" and "B" are copies of the disclosure made by me to BSE on April 24, 2009 and a printout of the relevant disclosure as published by BSE.*
- n. However, it is to be noted that on an individual basis I had crossed the threshold of 10% on July 21, 2009 when my shareholding had increased from 9.17 to 10.08%. But even on this occasion I had given a disclosure jointly along with Sterling Projects and Engineering Limited for increase from 12.26% to 13.77%. In this regard, annexed hereto and marked as Annexure "C" and "D" is a copy of the disclosure made by me to BSE on July 21, 2009 and a printout of the relevant disclosure as published by BSE.*
- o. As regards the violation of Reg 13(3) of the PIT Regulations, I would like to reiterate that I had followed the utmost transparency in making disclosures about the transaction I had entered into which is evident from the fact that I had made regular disclosures to AHFL regarding my trading. Such disclosures were not mandated by the law, but I provided it so that at no stage any allegation of concealing my trading is levelled against me. A sample of the disclosures made by me is annexed as Annexure "E".*
- p. It can be clearly seen from the disclosures made by me that every single transaction has been disclosed and any charge of non-disclosure cannot be levied against me. The title of Reg 13(3) reads as "Continual disclosure" and in my case, I tried to disclose on transaction basis to the company rather than threshold percentage basis. I have tried to be utmost transparent in my dealings and I am surprised that even after making disclosures so diligently, SEBI has alleged that I did not make disclosures. I have tried to comply with the applicable laws in spirit and hence made continued disclosures.*

8. Pursuant to my appointment as Adjudicating Officer in the matter, an opportunity of personal hearing was provided to the Noticee on March 29, 2016. The Authorised representatives of the Noticee viz. Mr. Nirman Dharam Sharma and Shri Satyam Sudarshan Sancheti, Advocates appeared for the personal hearing on the stipulated date and reiterated the earlier submissions made by the Noticee in the said matter. During the course of the personal hearing, the Noticee was advised to submit certain documents in support of her contentions. Pursuant to the hearing, Noticee submitted two more letters dated July 12, 2016 and July 10, 2017 wherein she reiterated her earlier submissions and also furnished additional documents, which were sought from her during the course of the personal hearing held on March 29, 2016.

### **CONSIDERATION OF ISSUES, EVIDENCE AND FINDINGS**

9. I have carefully perused the facts and circumstances of the case, the submissions made by the Noticee, the material on record, and the allegations levelled against the Noticee in the SCN. It is alleged that Noticee has violated the provisions of Regulations 3(a), (b), (c), (d), 4(1), 4(2)(a) and 4(2)(e) of the PFUTP Regulations, Regulation 13(3) of the PIT Regulations and Regulation 7(1) of the SAST regulations.
10. Before dealing with the aforesaid charges in seriatim, the relevant legal provisions of law, the contraventions of which have been alleged in this case against the Noticee are mentioned as under:

#### **PFUTP Regulations**

##### **3. Prohibition of certain dealings in securities**

*No person shall directly or indirectly—*

*(a) buy, sell or otherwise deal in securities in a fraudulent manner;*

*(b) use or employ, in connection with issue, purchase or sale of any security listed or proposed to be listed in a recognized stock exchange, any manipulative or deceptive device or contrivance in contravention of the provisions of the Act or the rules or the regulations made there under;*

*(c) employ any device, scheme or artifice to defraud in connection with dealing in or issue of securities which are listed or proposed to be listed on a recognized stock exchange;*

*(d) engage in any act, practice, course of business which operates or would operate as fraud or deceit upon any person in connection with any dealing in or issue of securities which are listed or proposed to be listed on a recognized stock exchange in contravention of the provisions of the Act or the rules and the regulations made there under.*

**4. Prohibition of manipulative, fraudulent and unfair trade practices**

*(1) Without prejudice to the provisions of regulation 3, no person shall indulge in a fraudulent or an unfair trade practice in securities.*

*(2) Dealing in securities shall be deemed to be a fraudulent or an unfair trade practice if it involves fraud and may include all or any of the following, namely:—*

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

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

**SAST Regulations, 1997**

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

*Acquisition of 5 per cent and more shares or voting rights of a company.*

*7. (1) Any acquirer, who acquires shares or voting rights which (taken together with shares or voting rights, if any, held by him) would entitle him to more than five per cent or ten per cent or fourteen per cent [or fifty four per cent or seventy four per cent] shares or voting rights in a company, in any manner whatsoever, shall disclose at every stage the aggregate of his shareholding or voting rights in that company to the company and to the stock exchanges where shares of the target company are listed.*

11. I find that based on the investigations conducted by SEBI, the conclusions that were drawn in the investigation report are as under -:

- a. Noticee has contributed to the artificial price rise in the scrip of AFHL in a fraudulent manner by allowing her trading account to be used by another person to deal/ trade on her behalf in the shares of AFHL.
- b. Noticee has failed to make necessary disclosures which were required under the provisions of SAST Regulations and PIT Regulations.

12. In view of the above, I will now proceed to record my findings/observations as under:-

**(A) Whether Noticee's trading account was used to repeatedly buy shares of AFHL at a price higher than the last traded price ( LTP) resulting in artificial increase in the scrip price of AFHL?.**

13. Based on a snap investigation conducted by BSE and upon observing that the scrip price of AFHL had risen from Rs. 109.65 on June 01, 2009 to Rs.235.00 on July 22, 2009, SEBI conducted an investigation into the trading/dealings of various persons / entities in the scrip during the Investigation period at BSE viz. June 01, 2009 to August 24, 2009. It was observed that during the Investigation period, the scrip of AFHL was traded on 61 days during which period 2,514 trades for a total of 3,91,299 shares were traded on BSE.
14. I note that, during the investigation period, Noticee had purchased 2,13,492 shares of AFHL in 340 trades spanning over a period of 23 trading days and sold 26,684 shares of AFHL in 40 trades on 3 trading days. I observe that the top counterparty to the shares purchased by the Noticee was Ms. Laxmi Manoharlal Chaturvedi (hereinafter referred to as '**Ms Laxmi**') who sold 88,323 shares (accounting to 41.37% of the Noticee's total purchases in the scrip of AFHL). I note that all the buy trades of the Noticee in the scrip of AFHL from Ms. Laxmi were done on 12 trading days during the investigation period. I further note that the total contribution of the Noticee to the price rise in the scrip of AFHL over the Last Traded Price (LTP) during the investigation period was Rs 65.25.
15. I find from the observations made in the investigation report that one Mr. Manish Chaturvedi (hereinafter referred to as '**Mr. Manish**') was the person who had placed the orders on behalf of the Noticee in the scrip of AFHL. Mr. Manish is also the son of Ms. Laxmi, which clearly demonstrates the connections between the Noticee and Ms. Laxmi i.e. the trades/orders in the scrip of AFHL in the account of both the Noticee and Ms Laxmi were placed by the same person i.e Mr Manish (in his capacity as the authorized person on behalf of the Noticee and apart from being the son of Ms Laxmi).
16. From the examination of the trades in the scrip of AFHL that were executed by the Noticee and Ms. Laxmi during the above stated investigation period, I

find that a repetitive pattern in the trades were observed wherein Ms. Laxmi initially purchased the shares of AFHL from other clients in the market and subsequently she sold majority of shares to the Noticee mostly at a price higher than the last traded price. I further note that on the days when the Noticee and Ms. Laxmi have traded in the scrip, their trades constituted to more than 20% of the total market volume of AFHL that was recorded on BSE. Further, on August 20, 2009, the trades between Ms Laxmi and the Noticee constituted 98.13% to the total market volume of AFHL on the said date.

17. Upon analysis of the trades of the Noticee, I find that a significant number of her trades in the scrip of AFHL were placed above the LTP. The Noticee, through her buy transactions, had contributed to a total price increase of Rs. 65.25 during the investigation period whereas, as a seller, she has contributed to the reduction in the scrip price of AFHL to the tune of Rs.18.2 during the entire investigation period. Therefore, I note that, on net basis, the trades of the Noticee had resulted in the net increase in the scrip price of AFHL by Rs. 47.05 during the entire investigation period.
18. I have also perused the trades of the Noticee and Ms Laxmi wherein Noticee was purchasing the shares of AFHL and Ms Laxmi was selling the shares. I find that such trades happened on 12 days involving 18 trades. On comparing the time difference between the placement of the buy and sell orders w.r.t these 18 trades in the scrip of AFHL, I note that in case of four trades, the orders were placed within a time gap of one minute of each other. For example, a trade in the scrip took place on July 21, 2009 at 14:56:51 when Ms. Laxmi sold 25,000 shares to the Noticee and the time difference between the buy and sell orders placed by the Noticee and Ms. Laxmi was just 49 seconds.
19. Few such instances wherein shares of AFHL were first purchased by Ms. Laxmi from the market and thereafter the Noticee purchasing these shares from Ms. Laxmi at a higher price are mentioned below by way of illustration:

Trade Date	Buy quantity of Ms. Laxmi from market	Range of buy price of Ms. Laxmi from the market	Buy quantity of Noticee from Ms. Laxmi	Range of buy price of the Noticee from Ms. Laxmi
01/07/2009	2479	110.00 - 118.05	2379	118.85
03/07/2009	789	124.00 - 131.00	512	131.25
06/07/2009	1591	126.10 - 136.00	100	137.75
16/07/2009	1688	186.00 - 195.50	500	196.45
17/07/2009	2965	201.00 - 203.85	3780	204.3
20/07/2009	3835	207.90 - 212.95	3010	213.35
21/07/2009	3589	218.70 - 223.50	32421	223.50 - 224.00
22/07/2009	641	231.00 - 231.50	5641	234.9
19/08/2009	8040	201.95 - 209.95	8040	211.4

Thus, from the above Table, I note that the buy transactions of the Noticee in the scrip of AFHL from Ms. Laxmi (who was the seller) took place at rates higher than the rate at which Ms. Laxmi had purchased the shares from the market. Further, it also clearly emerges that Noticee has acquired almost all the shares which were purchased by Laxmi.

20. Based on the material available on record, I have also perused the day wise pattern of the orders placed by the Noticee for a few days and observe the following:

- a. **July 01, 2009:** I note that on July 01, 2009, Ms. Laxmi bought 2,479 shares of AFHL during the time period 10:00:06 till 11:50:20, and sold these shares during the time period 11:54:17 to 11:55:03. Meanwhile, the Noticee had placed a buy order for 2,000 shares at 11:52:53 at Rs. 118.3. As the aforesaid buy order of the Noticee did not get traded, she placed another buy order at 11:54:17, for 2,000 shares at Rs. 118.9. I note that out of these 2000 shares which were placed by the Noticee for purchase, trade for 1,780 shares got matched with that of Ms. Laxmi. The Noticee then placed another buy order for 2,000 shares at 11:55:03 at Rs 118.9 of which 599 shares got matched with Ms. Laxmi. I note from the trading

pattern and the order placement mechanism employed by the Noticee and Ms. Laxmi that Ms. Laxmi was buying shares at rates higher than the last traded prices and subsequently, the Noticee was purchasing majority of these shares from Ms. Laxmi at even higher price.

- b. **July 15, 2009:** I note that on July 15, 2009, Ms Laxmi placed several buy orders in the scrip of AFHL between the price ranges of Rs.177 to Rs.186.7 and consequently established higher price with her buy orders. It is observed that Ms. Laxmi repeatedly, kept on placing new buy orders at successively higher price as the buy orders were getting traded. Once the price of AFHL reached Rs.186.7 at 14:44:51, Ms. Laxmi placed a sell order at Rs. 187.1 at 14:46:08 for 3,250 shares, which was the only sell order of Ms Laxmi for the day. I note that around the same time when Ms. Laxmi placed her sell order, Noticee had also placed two buy orders at 14:47:22 and 14:47:47 for Rs.187.10. As a result, the sell order of Ms. Laxmi for 3,250 shares got executed with the buy orders of the Noticee at 14:47:23 and 14:47:47 for the entire quantity of 3,250 shares at Rs. 187.1
- c. **July 21, 2009:** I note that Ms. Laxmi on July 21, 2009 placed 12 buy orders and four sell orders. The buy orders were placed by her during 09:58:44 to 14:04:49. Thereafter, the sell orders were placed by her during 14:05:28 to 14:56:02 which got traded at price range from Rs. 220 at 11:53:09 to Rs. 223.50 at 14:04:49. Ms. Laxmi, then placed a sell order at Rs. 224 at 14:05:28 for 7390 shares, which got traded with the Noticee's trades for complete 7,390 shares at 14:06:50 at Rs. 224. Thereafter, Ms. Laxmi placed another sell order at 14:56:02 for 25,000 shares at Rs. 223.5 which got matched with the buy order of the Noticee for 27,000 shares placed at 14:56:51 for Rs 223.5. Thus, I find that, on July 21, 2009, Noticee and Ms. Laxmi, as a result of their trading, in the shares of AFHL took up the price of the scrip of AFHL from Rs 220 to Rs 223.5

21. I find from the above observations/findings that the Noticee was acting in close coordination with Ms. Laxmi and were trading in the scrip of AFHL in a concerted manner wherein Ms. Laxmi was pushing up the scrip price of AFHL



by repeatedly placing orders at successive higher levels and then Noticee, through her trades was supporting such price by purchasing the shares from Ms. Laxmi at further higher prices. Clearly, from the above, I conclude that the Noticee has traded in the scrip of AFHL in a fraudulent and manipulative manner wherein she had purchased the shares of AFHL at higher prices only to support the scrip price established by Ms. Laxmi. The manipulative intent behind the coordinated trades of the Noticee and Ms. Laxmi is further proved beyond doubt in view of the fact that the Noticee had authorised Mr. Manish ( the son of Ms Laxmi) to operate her trading account and to also place trades on her behalf in the scrip of AFHL during the investigation period. As already observed above, Ms Laxmi was the main counterparty to the trades of the Noticee in the scrip of AFHL during the investigation period.

22. In this context, I have also perused the order book in the scrip of AFHL and compared the buy orders ( including the time of placement of these orders) with the top 5 pending sell orders in the scrip that were available at the time of the placement of the aforementioned buy orders by the Noticee. I find that, on most of the occasions, the buy orders of the Noticee were placed at rates even above the highest rate of the top 5 pending sell order rate. I am of the view that the activity of the Noticee, which is illustrated in the table given below, of repeatedly placing buy orders at price higher than that of the rates shown in the pending sell orders ensured that the pending sell orders of Ms. Laxmi got matched with the buy order of the Noticee.

Noticee's buy trades from Ms. Laxmi							top 5 pending sell orders in the market		
Trade Date	Trade Time	Trade Rate	Buy Order time	Sell time anlys	ord for	Buy order qty	Buy order price	Top 5 sell order range	Top 5 sell qty
1-Jul-09	11:54:17	118.85	11:54:17	11:46:15		2000	118.9	118.35- 118.6	60
3-Jul-09	14.35:36	131.25	14:36:36	14:26.16		2000	131.3	131.2- 131.3	2097
14-Jul-09	13:14:25	170	13:14:25	13:00:39		3000	178.2	178-178.2	978
15-Jul-09	14:47:23	187.1	14:47:22	14:46:08		5000	187.1	186.7- 187.05	2168

	14:47:47	187.1	14:47:47	14:46:08	5000	187.1	187.1	703
21-Jul-09	14:06:50	224	14:06:49	14:05:28	10000	224	223.95- 224	7995
	14:56:51	223.5	14:56:51	14:56:02	27000	223.5	223-224	34465
22-Jul-09	11:18:55	234.9	11:18:55	11:17:05	6000	234.9	227.5- 234.5	255
19-Aug-09	14:56:35	211.4	14:56:35	11:24:10	9000	211.4	210-211.4	8440
21-Aug-09	9:57:46	227.75	9:57:46	9:55:31	28000	227.75	225-227.75	28100

23. In view of the above observations/findings, I am convinced that the Noticee has dealt in the scrip of AFHL with manipulative intent. The Noticee has acted in concert with Ms. Laxmi with the sole objective of artificially increasing/supporting the scrip price of AFHL, which is amply evident from the illustrations shown above. The Noticee has contended that she had not executed the trades with manipulative intent and that she was still holding the shares of AFHL, which she had acquired during the investigation period. I do not find any merit in the contentions of the Noticee. The observations made above clearly shows that orders were placed by her in connivance with Ms. Laxmi in such a manner that it gets repeatedly matched with the orders of Ms. Laxmi and that too at rates higher than the prevailing LTP. I also find it difficult to accept the fact that Noticee was placing the buy orders in the scrip of AFHL at rates which were higher than the best rates that were already existing in the pending order book. In my assessment, such practice of the Noticee to repeatedly place the buy orders at rates which were higher than the best available rate in the pending order book does not conform to the fair and transparent principles of trading in the stock market. In the instant case, it is pertinently noted that the pending sell orders of Ms Laxmi were deleted by her and fresh sell orders were then placed by Ms Laxmi at higher rates and thereafter, the buy orders of the Noticee resulted into trades. The above shows that both Laxmi and the Noticee were acting in a concerted manner w.r.t their trading in the scrip of AFHL. Thus, from the above observations, it is evident that Noticee was deliberately buying the shares of AFHL at higher price with an intent to establish the price (maintain higher price) in the scrip rather than purchasing the shares at lowest available price as is normally expected of a rational investor. The above observations clearly shows the

manipulative intent behind the transactions of both the Noticee and Ms Laxmi in the scrip of AFHL.

24. Another contention of the Noticee was that the trades in the scrip of AFHL were done in her trading account by Mr. Manish Chaturvedi as she had authorised him to trade/deal in her trading account, on her behalf. In this regard, I note that Noticee has placed on record an authorization letter signed by her wherein she had authorized Mr. Manish Chaturvedi and one Mr. S. Krishnakumar for buying/selling of securities / contracts on the exchanges. Once again, I do not find any merit in the argument of the Noticee. I am of the view that the beneficial owner (BO) of any trading account in the stock market cannot wash his or her hands from the liability arising out of the misdeeds/acts committed in such trading account by the concerned person who has been authorized by the BO. In this regard, it is also pertinent to quote the following observations of Hon'ble SAT in its order dated October 31, 2013 in the matter of SEBI vs Bhanwar Lal Paliwal (Appeal No. 36 of 2013):

*“From KYC of Noticee it is observed that Jitendra Jain had signed as introducer. Triveni executed trades in account of Noticee and trades were synchronized/structured, circular in nature that too each time with clients of the Mehta group. This entire pattern can't be mere coincidence. Noticee claimed that he was not aware of trades and broker has done unauthorized trades, if that be so Noticee should have taken action against the broker and filed complaint for alleged unauthorized trade. Admittedly, Noticee has not initiated any action against the broker. Circumstances brings out clearly that appellant lend his name and allowed broker to mis-utilize his account for trading and manipulating in scrip of ASCL and thus equally responsible for manipulation in scrip of ASCL. His relation with Triveni, Sunil Mehta, Jitendra Jain and synchronizing trades with clients of Mehta group makes his manipulative role all more clear. Hence, submissions made by appellant are not acceptable.”*

25. From the aforementioned observations, it is clear that even if a person / entity authorizes other persons/entities to act on his/her behalf (for trading or any other purpose) or lends his/her name or account for any activity, such person/entity shall be responsible for the liability arising out of the misdeed/activity done by such persons/entities to whom such authorization has been given. In the instant matter, Noticee has admittedly, authorised Mr. Manish to deal in the shares on her behalf and to also operate her account. I am of the view that Noticee should have been fully aware of the risks associated with such activities and authorization given to such third persons/entities to operate her trading account. In view of the above reasons, I conclude that Noticee is fully responsible for the manipulative trading/dealings in her account in the scrip of AFHL.

26. Thus, I conclude that Noticee has contributed to the price rise in the scrip of AFHL in a significant way. As already mentioned in the previous paragraphs, Noticee was the major buyer in the scrip of AFHL during the investigation period and majority of her purchases in the scrip got matched with the sell transactions of the connected entity viz. Ms. Laxmi. I am of the view that the contribution to the price rise of Rs 47.05 in the scrip of AFHL by the Noticee cannot be viewed lightly in the context of the overall price movement in the scrip of AFHL during the investigation period. Therefore, I am of the view that the contribution of the Noticee to the price rise in the scrip was quite significant and clearly shows that there was manipulative intent on the part of the Noticee to increase / sustain the scrip price of AFHL during the investigation period. In view of the facts discussed above, I hold that Noticee has fraudulently contributed to the price rise in the scrip of AFHL and has, therefore, violated the provisions of Regulations 3, 4(1), and 4(2)(e) of PFUTP Regulations.

**(B). Whether the Noticee has failed to make disclosures required under SAST Regulations and PIT Regulations w.r.t her transactions in the scrip of AFHL?**

27. The allegation against the Noticee is that she had failed to make the necessary disclosures under Regulation 7(1) of SAST Regulations and

Regulation 13 (3) of the PIT Regulations w.r.t her acquisition of shares of AFHL during the period July 2009 - September 2009.

28. I note from the material available on record that the shareholding of the Noticee in the company had increased from 3,93,088 shares (5.58% of the total shareholding of AFHL) in March 2009 to 7,38,126 (10.47% of the total shareholding of AFHL) in September 2009 as given in the table below:-

		Mar-09		Jun-09		Sep-09	
Sl. No.	Name of the Shareholder	No. of Shares held	%	No. of Shares held	%	No. of Shares held	%
1	S Jayalakshmi	393,088	5.58	583,317	8.27	738,126	10.47

29. I observe that the disclosure requirements under the SAST Regulations are triggered when an entity's shareholding in a company crosses the threshold limit of 10% of the total share capital of the company. In the instant matter, I find from the material on record that the Noticee was holding 583,317 shares of AFHL as on June 30, 2009, which represented 8.27% of the total share capital of AFHL. I find that the Noticee had acquired 1,54,809 shares of AFHL on net basis during the period July 01, 2009 to September 30, 2009, which resulted in Noticee's shareholding in AFHL crossing the threshold limit of 10% of the total share capital of the company during the above stated period. The shareholding of the Noticee in AFHL increased from 8.27% as on June 2009 to 10.47% as on September 30, 2009 as a result of her transactions in the scrip of AFHL during the period July 01, 2009 to September 30, 2009. Therefore, the Noticee was required to make the necessary disclosures to the Company and to BSE in the prescribed reporting format within two working days of her acquisition of shares in terms of Regulation 7(1) of the SAST Regulations.

30. I further observe that the disclosure requirements under the PIT Regulations are triggered when an entity's shareholding in a company changes by more than 2% of the total share capital of the company from the last disclosure made by that entity under PIT Regulations. As the shareholding of the Noticee

in AFHL increased from 8.27% as on July 01, 2009 to 10.47% as on September 30, 2009 i.e. there was a change in shareholding of 2.20%, the Noticee was required to make the necessary disclosures to the Company in the prescribed reporting format within two working days of her acquisition of shares in terms of Regulation 13(3) of the PIT Regulations.

31. The Noticee has contended that it had made the relevant disclosures to the Company and to stock exchange for all the transaction done by it in the scrip of AFHL during the above stated period. However, such disclosures were made by the Noticee along with her associate company viz. Sterling Projects and Engineering Limited (hereinafter referred to as '**SPEL**'), as persons acting in concert ('**PACs**'). I have also perused the disclosures made by the Noticee along with SPEL as PAC and find that Noticee along with SPEL (as PAC) made the disclosure u/r 7 (1) of SAST Regulations in respect of the transactions done by them during the investigation period in the scrip of AFHL. I further note that since the disclosures by the Noticee and SPEL have been made as PACs, they have always mentioned their combined shareholding in the company in the disclosure formats.

32. In the instant matter, I am of the view that when the Noticee's individual shareholding in AFHL had crossed the threshold limit of 10% of the total share capital of the company, the Noticee was separately required to make the necessary disclosures mandated u/r 7(1) of SAST Regulations to both the stock exchange and to the Company. It is on record that Noticee's individual shareholding in AFHL crossed the prescribed threshold limit of 10% as on September 30, 2009. However, in the instant matter, the Noticee made the relevant disclosure along with her PAC under the provisions of Regulation 7(1) of SAST Regulations. In this context, it is pertinent to quote the relevant observations of Hon'ble SAT in its order dated April 29, 2014 in the matter of *G. Suresh vs. SEBI (Appeal No. 39 of 2014)* – wherein following was observed by Hon'ble SAT:-

*“The question of the Appellant holding shares along with person acting in concert with him aggregating to more than 15% is irrelevant for the purpose of making declarations under Regulations 7(1) read with Regulation 7(2). If an acquirer acquires shares when acting in concert with others which acquisition exceeds the limit prescribed, declarations have to be made by the acquirer and person acting in concert as well. True and timely disclosures by an acquirer of shares in a company or an important regulatory tool intended to serve a public purpose of disseminating this information to the company as well as to Stock Exchange expeditiously. Such disclosures are very important as they help investors to take an informed decision in investing in the scrip of said company.”*

33. Therefore, in the instant matter, even though the Noticee made the disclosures along with her PAC, she was required to make separate disclosures u/r 7(1) of SAST Regulations at the time when her individual shareholding in the company had crossed the threshold limit of 10% of the total share capital of AFHL i.e September 30, 2009. I find that Noticee has failed to make the necessary disclosure. Therefore, I conclude that the Noticee has violated the provisions of Regulation 7(1) of SAST Regulations.
34. As regards the disclosure obligation cast u/r 13(3) of PIT Regulations, which the Noticee was mandated to make to the company when her shareholding in AFHL increased from 8.27% as on July 01, 2009 to 10.47% as on September 30, 2009 i.e. when it witnessed a change of 2.20%, the Noticee has contended that she had made the relevant disclosures at all times and in support of her contention, she submitted the disclosure formats as annexure ( annexure E to her letter dated November 20, 2013). I have perused the disclosure formats mentioned in the said annexure which has been mentioned by the Noticee and find that the relevant disclosures claimed to have been made by the Noticee were pertaining to the obligation cast on the Noticee under Regulation 7(1) of SAST Regulations and not under the PIT Regulations. I have already dealt with these observations in my previous paragraphs and therefore not inclined to make any further observations in the matter. Therefore, in view of

the above observations, I conclude that Noticee has failed to make the necessary disclosures u/r 13(3) of the PIT Regulations. In view of the same, I hold that Noticee has violated the provisions of Regulation 13(3) of the PIT Regulations. Therefore, in conclusion, I hold that the Noticee has violated the provisions of Regulation 7(1) of SAST Regulations and Regulation 13 (3) of PIT Regulations w.r.t her acquisition of shares of AFHL during the period July 2009 - September 2009 and her failure to make the necessary disclosures mandated under the provisions of these Regulations.

35. In view of the violation of the statutory provisions of law by the Noticee , as established above, Noticee is liable for monetary penalty under the provisions of Sections 15HA and 15A(b) of the SEBI Act, which reads as follows :

**15HA. Penalty for fraudulent and unfair trade practices.**

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

**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;*

36. In this regard, the provisions of Section 15J of the SEBI Act and Rule 5 of the Adjudication Rules require that while adjudging the quantum of penalty, 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.*

37. With regard to the above factors to be considered while determining the quantum of penalty, it may be noted that the examination conducted by SEBI in the said matter has not quantified the profit/loss for the violations committed by the Noticee. No quantifiable figures or data are made available on record to assess the disproportionate gain or unfair advantage and amount of loss caused to an investor or group of investors as a result of the default committed by the Noticee. I am of the view that such activities of Noticee are serious in nature which has the cascading adverse effect towards the investors/shareholders. The placement of such buy orders by the Noticee which supported Ms. Laxmi in offloading her shares at higher level on a consistent basis above the LTP shows the manipulative intent on the part of the Noticee in artificially rigging the scrip price of AFHL during the investigation period. The plea taken by the Noticee that her trading account was operated by Mr Manish cannot be accepted and the same is set aside as the Noticee was responsible for the manipulations done in her account. It is also noted that the trading activity of the Noticee was intended for the purpose of setting a new high price for each trade in the scrip of AHFL during the investigation period, details of which have been elucidated in the paragraphs above. Clearly, such unlawful activities distort the market equilibrium and erodes the confidence of the investors in the securities market and therefore, cannot be viewed lightly. Hence, I am of the view that commensurate penalty for the violations committed by Noticee needs to be imposed, taking into consideration the seriousness and the gravity of the violations committed by Noticee. Besides, as brought out above, the Noticee has also failed to make the necessary disclosures under SAST Regulations and PIT Regulations w.r.t her transactions done in the scrip of AFHL during the investigation period.

## **ORDER**

38. After taking into consideration all the facts and circumstances of the case, reply of the Noticee and the material available on record, I, in exercise of the powers conferred upon me under Section 15-I of the SEBI Act read with Rule 5 of the Adjudication Rules, hereby impose a total penalty of Rs 3,00,000/- (Rupees Three Lakh only) on the Noticee viz. S Jayalakshmi, as per the following:

<b>Provisions of law violated</b>	<b>Penal Provisions</b>	<b>Penalty Amount (Rs)</b>
Regulations 3 (a) to (d) and Regulations 4(1) and 4(2)(e) of SEBI (Prohibition of Fraudulent and Unfair Trade Practices relating to Securities Market) Regulations, 2003	Section 15 HA of the SEBI Act, 1992	2,00,000/-
Regulation 7(1) of SEBI (Substantial Acquisition of Shares and Takeovers) Regulations, 1997 and  Regulation 13(3) of SEBI (Prohibition of Insider Trading) Regulations, 1992	Section 15 A(b) of the SEBI Act, 1992	1,00,000/-

I am of the view that the said penalty is commensurate with the default committed by the Noticee.

39. The Noticee shall remit / pay the said amount of penalty within 45 days of the receipt of this order either by way of Demand Draft in favour of "SEBI - Penalties Remittable to Government of India", payable at Mumbai, OR through e-payment facility into Bank Account, the details of which are given below-

Account No. for remittance of penalties 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

40. The Noticee shall forward the said Demand Draft or the details / confirmation of penalty so paid through e-payment to the Division Chief of Enforcement Department (EFD- DRA - 2) of SEBI. The format for forwarding details / confirmation of the e-payments made to SEBI shall be in the form as provided at Annexure A of Press Release No. 131/2016 dated August 09, 2016 shown at the SEBI Website which is mentioned as under:

1. Case Name:	
2. Name of Payee:	
3. Date of payment:	
4. Amount Paid:	
5. Transaction No:	
6. Bank Details in which payment is made:	
7. Payment is made for: (like penalties /disgorgement/recovery/Settlement amount and legal charges along with order details)	

41. In terms of Rule 6 of the Adjudication rules, copies of this order are sent to the Noticee viz. Ms. S. Jayalakshmi and also to the Securities and Exchange Board of India.

**Place: Mumbai**  
**Date: March 29, 2019**

**SURESH B MENON**  
**ADJUDICATING OFFICER**