

**BEFORE THE ADJUDICATING OFFICER
SECURITIES AND EXCHANGE BOARD OF INDIA
[ADJUDICATION ORDER NO. Order/JS/YK/2025-26/31691]**

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) RULES, 1995

In respect of:

Noticee	PAN
Narendra Ramshankar Dubey	CLXPD5755P

In the matter of trading activities of certain entities in the scrip of Max Heights Infrastructure Ltd.

BACKGROUND

1. Max Heights Infrastructure Ltd. (hereinafter referred to as “**MHIL**”) is a company listed in BSE Ltd. (hereinafter referred to as “**BSE**”). BSE, based on its internal alert, carried out an investigation in respect of trading activities in the scrip of MHIL. Thereafter, the Securities and Exchange Board of India (hereinafter referred to as “**SEBI**”) conducted further investigation in the matter. The investigation undertaken in the matter was for the period from October 31, 2022 to March 15, 2023 (hereinafter referred to as “**Investigation Period/IP**”).
2. Pursuant to the investigation, it was alleged that Mr. Narendra Ramshankar Dubey (hereinafter referred to as “**Noticee**”) had contributed to a positive market Last Trade Price (LTP) of Rs. 346.57 (16.56%) by placing small buy orders (in the range of 1 to 10 shares) despite the availability of large sell orders in the market. Hence, it was alleged that Noticee had manipulated the price of the scrip of MHIL and indulged in an act which created misleading appearance of trading in the scrip of MHIL during the IP. Therefore, it was alleged that Noticee had violated the provisions of section 12A (a), (b), (c) of the Securities and Exchange Board of India Act, 1992 (hereinafter

referred to as “**SEBI Act**”) and regulations 3(a), (b), (c), (d), 4(1), 4(2)(a) and 4(2)(e) of the SEBI (Prohibition of Fraudulent and Unfair Trade Practices relating to Securities Market) Regulations, 2003 (hereinafter referred to as “**PFUTP Regulations**”).

APPOINTMENT OF ADJUDICATING OFFICER

3. Pursuant to the superannuation of the erstwhile Adjudicating Officer (hereinafter referred to as “**AO**”) who had been appointed so vide communiqué dated September 13, 2024, the undersigned was appointed as AO in this matter vide communiqué dated April 04, 2025 under section 15-I of the SEBI Act read with rule 3 of SEBI (Procedure for Holding Inquiry and Imposing Penalties) Rules, 1995 (hereinafter referred to as “**Rules**”), to inquire into and adjudge under the provisions of section 15HA of the SEBI Act for the aforementioned violations alleged to have been committed by Noticee.

SHOW CAUSE NOTICE, REPLY AND HEARING

4. Show Cause Notice Ref. No. SEBI/HO/EAD-2/NH/YK/2024/34607 dated November 06, 2024 (hereinafter referred to as “**SCN**”) was issued to Noticee by erstwhile AO in terms of rule 4 of the Rules read with section 15-I of the SEBI Act to show cause as to why an inquiry should not be held against Noticee and why penalty, if any, should not be imposed on him in terms of the provisions of section 15HA of the SEBI Act for the aforementioned violations alleged to have been committed by Noticee.
5. The SCN dated November 06, 2024, *inter alia*, alleged the following:
 - a. It was observed that Noticee was one of the top 10 LTP contributors among buyers in the scrip of MHIL during the IP. The details of the LTP contribution of Noticee during the IP were tabulated below:

Table 1

Name	All LTP Rate	All Traded Qty	All No. of Trades	Pos LTP Rate	Pos Traded Qty	Pos No. of Trades	Neg LTP Rate	Neg Traded Qty	Neg No. of Trades	Zero Traded Qty	Zero No. of Trades	%LTP
Noticee	325.42	52,361	512	399.71	13,913	232	-74	13,978	121	24,470	159	19.10%
Others	412.83	51,936	655	447.94	14,577	236	-35	5,425	84	31,934	335	21.40%
Total Top 10	738.25	1,04,297	1,167	847.65	28,490	468	-109	19,403	205	56,404	494	40.51%
Market Total	85.23	38,91,175	13,249	2,092.49	2,85,960	1,697	-2,007	4,69,207	2,018	31,36,008	9,534	100.00%

- b. From the aforesaid Table, it was observed that Noticee had contributed Rs.399.71 to market positive LTP, i.e., 19.10% to market positive LTP.
- c. It was further observed from the trading pattern of Noticee that most of his trades were small trades, i.e., quantity between 1 to 10 shares. The analysis of small trades by the Noticee were tabulated below:

Table 2

Buyer Name	No. of trades (LTP >0)	Positive LTP Contribution when buy order qty. was of 1 share only		Positive LTP Contribution when buy order qty. was between 2-10 shares		Positive LTP Contribution when buy order qty. were more than 10 shares		Total Positive LTP contribution (Rs.)	Total Positive LTP contribution in %	Market positive LTP contributed through small trades (1 to 10 shares) (Rs.)	Market positive LTP contributed through small trades (1 to 10 shares) in %
		Positive LTP contribution	No. of trades	Positive LTP contribution	No. of trades	Positive LTP contribution	No. of trades				
Mr. Narendra Ramshankar Dubey	232	341.79	165	15.85	11	42.07	56	399.71	19.10%	357.64	17.09%
Market Total	1697	831.48	381	271.41	173	989.60	1143	2092.49	100%	831.48	39.74%

- d. From the aforesaid Table, it was observed that, through 232 positive LTP trades, Noticee contributed to a positive LTP of Rs. 399.71. It was further observed that in 165 trades contributing positive LTP of Rs. 341.79 (16.33% of total market positive LTP), buy order quantity was 1 share only, and in 11 trades contributing positive LTP of Rs. 15.85, buy order quantity was between 2 to 10 shares. Hence, it was observed that in the majority of the trades, Noticee had placed buy orders mostly in the range of 1 to 10 shares even though sell orders were available with quantities in the range of 1 to 35,000 shares.
- e. It was further observed that through such 176 small trades (1 to 10 shares), Noticee had contributed Rs. 357.64 during the IP, i.e., 17.09% of market positive LTP. It was further observed that out of 176 small trades, 171 small trades were such where sellers order quantity was greater than buyers order quantity, which resulted in a positive LTP of Rs. 346.57, i.e., 16.56% of market positive LTP.
- f. It was further observed that the contribution to first trade by Noticee were as follows:

Table 3

Client Name	Total Number of First Trades	Traded Quantity First Trades	Number of First Trades at Positive LTP	Net LTP	Positive LTP
Noticee	7	210	6	15.37	15.37
Market total	94	19,220	66	73.35	113.71

- g. From the aforesaid Table, it was observed that Noticee was a buyer in seven first trades and contributed Rs. 15.37 to market positive LTP.

- h. Hence, it was alleged that despite the availability of large sell orders, Noticee was deliberately placing a small quantity of buy orders at higher prices. An illustration of the top 10 LTP contributing trades out of such small trades is given below:

Table 4

Sr. No.	Date of transaction	Trade Volume	Buy order volume	Sell order volume	LTP contribution (Rs)	LTP contribution (%) to Net LTP
1	23/12/2022	1	1	20,000	2.85	3.34
2	23/12/2022	1	1	20,000	2.85	3.34
3	03/01/2023	1	1	50	1.3	1.53
4	03/01/2023	1	1	200	1.9	2.23
5	05/01/2023	1	1	50	2.55	2.99
6	05/01/2023	1	1	27	2.85	3.34
7	09/01/2023	1	1	50	1.85	2.17
8	09/01/2023	1	1	1,590	1.6	1.88
9	09/01/2023	1	1	64	4.85	5.69
10	09/01/2023	1	1	1,400	3.75	4.40
Total		10	10	43,431	26.35	30.92

- i. It was further observed from the statement of Noticee recorded on June 24, 2024 that Noticee had traded through Choice Equity Broking Private Limited by using the app on phone. On being asked about the reason for trading in small quantity, he, *inter alia*, stated as under:
- "I was buying the shares of the company as and I had funds, there was no specific reason to buy small quantity of shares. I used to place order from my phone using the app of Choice Broker to trade. The minimum quantity for placing order in the app was one. So I used to place order for one share. There was no specific reason to buy in small quantities."*
- j. In view of the above, it was alleged that Noticee had placed buy orders at higher prices and contributed to a positive market LTP of Rs. 346.57, i.e., 16.56%, through small buy orders (1 to 10 shares), despite the availability of large sell orders in the market. Hence, it was alleged that Noticee had manipulated the price of the scrip of MHIL and indulged in an act which created a misleading appearance of trading in the scrip of MHIL during the IP. Therefore, it was alleged that Noticee had violated the provisions of section 12A (a), (b), (c) of the SEBI Act and regulations 3(a), (b), (c), (d), 4(1), 4(2)(a), and 4(2)(e) of the PFUTP Regulations.
6. The SCN was duly served upon Noticee in consonance with the Rules. Noticee submitted his reply vide letter dated December 06, 2024. Thereafter, a hearing was held on January 09, 2025 before the erstwhile AO. Noticee along with his authorized representative (hereinafter referred to as "**AR**"), Mr. Ajinkya Kudukar, attended the hearing and reiterated the submissions made by Noticee vide letter dated December

06, 2024. Noticee was granted time until January 24, 2025 to make further submissions in the matter. Noticee made additional submissions vide letter dated January 23, 2025.

6. Thereafter, pursuant to the appointment of the undersigned as AO, another opportunity of hearing was granted to Noticee. The hearing was held on April 25, 2025 wherein AR of Noticee had requested for additional 2 weeks' time to file further submissions which was acceded to and AR was granted time until May 09, 2025. Noticee made additional submissions vide letter dated May 09, 2025. Subsequently, another opportunity of hearing was granted to Noticee. The hearing was held on June 09, 2025 wherein AR of Noticee reiterated the submissions made by Noticee vide letters dated December 06, 2024, January 23, 2025 and May 09, 2025.
7. The relevant extract of Noticee's replies dated December 06, 2024, January 23, 2025 and May 09, 2025, are reproduced as under:

Vide letter dated December 06, 2024

- a.) *The Notice contends that despite sell order being available with quantity in range of 1 to 35,000 shares, our client has placed buy order in range of 1-10 shares at higher prices and thus contributed to positive market LTP of Rs 346.57. At this juncture, our client refers to the statement of examination of oath recorded on June 24, 2024, under Section 11C (15) and 11C (7) of the SEBI Act, 1992, by Mr. xxxxx xxxxxx, Deputy General Manager (Investigating Authority) wherein our client deposed that "our client bought the shares as price of MHIL scrip was rising "and "there was no reason to buy small quantities of shares". Moreover, our client deposed that "our client used to place order from his phone using app of "Choice "and as per the matrix, the minimum quantity for placing order in the app was "one", and with belief "that share price will increase" our client kept buying the scrips even with "higher price". Moreover, it was rationally explained and disclosed by our client that MHIL scrips were purchased to make profit as price was increasing, however, our client had incurred losses in trading in MHIL stock.*
- b.) *Our client states that Annexure-2 refers to relevant extracts of Investigation Report. Our client states that our client is not served with the complete set of investigation report. The Investigation report runs into 33 pages as discernible at bottom of the page, and our client is served with incomplete set of investigation report. Moreover, the investigation report refers to a report prepared and submitted by BSE in para (1) ISD observation at Page No. 3 of 33 of the Investigation Report. Hence, our client states that BSE report has not been served to our client, depriving our client to represent in fair and transparent manner.*
- c.) *Our client states that SEBI, being a regulator is duty bound to disclose all the relevant materials, in order to ensure fair trial and transparency, and same is upheld and reiterated by the Hon'ble Supreme Court in matter of "T. Takano vs SEBI (Civil Appeal No. 487- 488 of*

2022)” wherein it was held that Noticee shall have right to disclosure of materials relevant to the proceeding initiated against them as such disclosure ensure fairness in proceeding and promote transparency of the investigative bodies and judicial institution. Our client states that non-supply of the BSE Report, being the fundamental and inevitable document, basis of which this present proceeding has been initiated, shall deprive the Noticee to fair and just representation. Further, the Supreme Court of India, in the matter of “Reliance Industries Limited vs SEBI (Appeal NO. 1167 of 2022)” expounded that selective disclosure of the relevant and material document in the proceeding initiated by SEBI, cannot be countenanced in law.

- d.) Our client is entitled to all the crucial documents which provides sufficient grounds and forms basis of the Board’s opinion, in determination whether any alleged violation has been committed by the Noticee. Regulation 10 of PFUTP Regulation empowers the Board to pass necessary direction or take such action as contemplated under Regulation 11 and 12 of the PFUTP Regulation.
- e.) Moreover, our client states that Regulation 5, PFUTP Regulations mandates that Board shall has a ‘reasonable ground to believe’ that transaction in securities are being dealt with in a manner detrimental to the investors or the securities market ‘in violation of these regulations’. Based on the preface of the investigation report, the initial exercise by BSE in submitting a ‘report’ identifying suspected violation” of PFUTP Regulations by suspected entities was basis of “reasonable ground” to initiate the present inquiry, hence, in absence of disclosure of the BSE Report, our client right to fair representation and principle of ‘natural justice’ and procedural fairness is being compromised. Hence, non-supply of the said document will detriment the interest and shall cause grave prejudice to our client as the Board has authority to pass strict and adversarial orders against the Noticee as provided under Regulation 10 of PFUTP Regulation.
- f.) Our client further states that Page 4 of 33 of the Investigation report extract, and referring to Table – 4 of the Investigation Report indicating the ‘Promoter Shareholding’ outlines that the details and management of the MHIL during the investigation period wherein it is manifestly clear and discernible that our client does not holds any managerial or employee position in MHIL nor is a related entity or connected person with the promoters of MHIL. Further, our client is a Managing Director in B Castle Modular Pvt Ltd and director at Maa Vindhyawasni Real Estate Pvt Ltd. Moreover, the Investigation Report at Page No. 10 of 33, noted and recorded that SEBI found no connection with other Top 10 LTP contributors as highlighted under Para 14.1 of the Investigation Report at Pg No. 10 of 33. Moreover, our client deposed on oath and same is recorded as answer to questionnaire (8) in the statement on oath (Annexure -5) that our client is not connected to or related to any person who is the shareholder in MHIL.
- g.) Further, our client states that the Board in its investigation report recorded that our client has not connection with remaining LTP contributors. Hence, the essential ingredients as required to be satisfied under Section 12A of SEBI Act, has not be met with.
- h.) Our client states that our client placed orders for minuscule quantities, even for one share, in order to verify ongoing LTP in MHIL scrips considering the increase in the LTP at the time of placing buy orders in miniscule quantities. Hence, the placing of buy order in range of 1-10 shares as alleged, was in inducement of increase in price of scrips to generate profits and not to detriment the other investor or securities market. In fact, our client had incurred losses during sale of the scrip as evident from the pictorial representation below para 4.3 in the Show Cause Notice wherein, the prices of MHIL scrips steeped down.

- i.) Our client states that every trade causes a variation in the last traded prices, which is called LTP contribution to a trade. Mere LTP contribution cannot be sole basis of price manipulation, as every trader cause LTP to move. Moreover, allegation on prima -facie basis alleges buying of scrips in small range at higher buyers than or equal to sell orders cannot be held as violation of PFUTP Regulations. Our client states that report nowhere alleges about connivance between our client and other 10 LTP contributors or shareholders in MHIL, with manipulative intent to mislead the appearance in price of MHIL scrips or detriment the security market.
- j.) In absence of any trade connection or sufficient evidence to prove collusion with counter party in top 10 LTP contributors, our client cannot be charged or alleged to have manipulative intent to detriment the security market. Moreover, the principle of “preponderance of probabilities” cannot be exercised in absence of any finding of collusion between buyer and seller. Further, the charge contributing to LTP in absence of collusion of meeting of mind to defraud cannot be sustained, and the investigation report and notice is silent and does not allege the same.
- k.) Moreover, Regulation 3 of PFUTP Regulations penalises entity/entities dealing with securities in “fraudulent manner” by a person indulged in a “manipulative, fraudulent” or “unfair trade practice, “, the term “fraud” has been defined under Regulation 2 (c) which states that “act committed in a deceitful manner or not” by person “with his connivance” or by his agent “while dealing with “securities market” in order to induce another person to deal in securities , whether or not “ there is any “ wrongful gains or avoidance of any loss” . Moreover, it is mentioned “fraudulent” shall be construed accordingly”. Our client states that our client had neither acted in connivance nor induced any person to deal in securities and same is discernible basis of investigation report which nowhere alleges any act of connivance. Moreover, our client has incurred loss and not secured any “wrongful gains”. Hence, the material ingredient which is sine-qua non to initiation of proceedings under PFUTP Regulations has not been satisfied.
- l.) Our client denies the allegation of buying, selling and dealing in scrip in fraudulent manner or employing any manipulative and deceptive device in contravention to provision of SEBI Act, Rules and Regulations.
- m.) Our client states that Section 15J of SEBI Act, provides factors that needs to be taken into consideration while adjudicating quantum of penalties under Section 15-I of SEBI Act. The factors canvassed are amount of disproportionate gain or unfair advantage, wherever quantifiable, made as a result of default, amount of loss caused to investor as result of default, and repetitive nature of default. Our client states that our client had not made any wrongful gains. Further, our client has not induced or caused any loss to investor, and Notice does not allege so nor our client is repetitive defaulter. Hence, our client states that the proceeding initiated under PFUTP Regulation is baseless and deserved to be dismissed.

Vide letters dated January 23, 2025 and May 09, 2025

- a.) I state that the Noticee vide reply dated December 06,2024, (Reply) responded to the Show Cause Notice dated November 06,2024. Based on Noticee preliminary objection to the selective disclosure and non-supply of the BSE Report, Noticee has been supplied with BSE Report vide letter dated December 17, 2024 issued by SEBI providing copy of relevant extract of BSE Report. However, it is pertinent to mention that the said BSE Report was suppressed and with-held at the time of issuance of Show Cause Notice. Moreover, no sufficient cause has been disclosed in the contents of letter dated December 17,2024 as to why the BSE Report dated May 18,2023 (BSE Report) was not provided with Show Cause Notice.

- b.) *The Show Cause Notice indicates the investigation period from October 31 October, 2022 to March 15,2023 (Investigation period) in the Show Cause Notice as indicated in Para 4.2, Page No. 3, of the Show Cause Notice.) However, the examination period undertaken and as mentioned in BSE Report is between October 31, 2022 to January 09, 2023 i.e price rise period ('examination period') (refer to Para 8 of the BSE Report- Price Volume Analysis) and the examination period is reiterated and indicated in the description of the table provided as part and parcel of Annexure-5. Hence, no trade and volume analysis are provided in the BSE Report from period January 10,2023 to March 15,2023, to support the allegation as made out in investigation report or Show Cause Notice for investigation period from October 31, 2022, to March 15,2023. Hence, this inadequate and non-disclosure of information with respect to the trading pattern for the remaining investigation period which is causing prejudice to my client as the information is directly related to the allegation of manipulation of price and trade patter and details of my client.*
- c.) *Without prejudice to the above contentions, I refer to the email dated January 18,2024, issued by xxxxxxxx xxxxxx, Assistant Manager, Investigation Department (xx-xx), SEBI, wherein the said personnel had referred to table indicating the trade and volume analysis trades executed by my client from October 31, 2022, to January 09,2023 and January 10,2023 to February 10,2023.*
- d.) *As can be seen from the said table, out of 15 LTP trades from October 31, 2022, to January 09,2023, only 10 LTP trades were executed for buy quantity of 1 share within 70 days (approx.) contributing to total positive LTP Rs. 26.35 (as shown in Table No. 5 of the Show Cause Notice) and remaining 5 trades were for more than 10 shares quantity. However, what is important to note herein is the volumes of shares and trades between 31, 2022, to January 09,2023 as indicated in Annexure-3, it can be observed 7774 trades were executed against 2652013 total volumes of market shares traded between the said period and only in the said dates of transaction as indicated in Table No.5, buy orders of 1 shares each on 10 instances were placed against 7774 total volume of trades between 31, 2022, to January 09,2023. I am confining this submission only to the shares traded within 1-10 buy order quantity as the charges framed in the show cause notice is confined to 1-10 shares buy order.*
- e.) *Similarly, from the period between January 10,2023 to February 10,2023., total number of trades executed was 3409 against 7,07,429 total volume of shares over span of 30 days, wherein at 67 instance, one single buy order was placed contributing to Rs.159.9 LTP. It is considerably miniscule against 3409 total trades and the same cannot be said to be manipulation as the price of the scrips of MHIL was significantly rising due to decision by the management of the MHIL to split shares, which influenced market sentiments and induced trades in high volumes.*
- f.) *I state that I am emphasizing about the volumes of sell orders, trades executed by my client and subsequent placing of buy orders, which was during the course of price of the scrip going in upward directions and same is discernible from Annexure -3 of the Show Cause Notice. However, this show cause notice is selectively choosing to observe the LTP trades in small quantity which were exceptional trades and are ignoring other relevant information pertaining to total number of trades done by my client during the alleged investigation period.*

- g.) Further, based on the information available at public domain, it is to be noted that the price of the scrip was in upward momentum as result of the decision by the Board of Max Heights Infrastructure at its meeting held on December 06, 2022, thereby approving stock split from existing equity share of Rs 10 each into five equity shares of Rs 2 each. This information is available at public domain. However, the shareholder and members of the MHIL, by majority 99% voting, voted against the split of the shares and the result of voting from February 15, 2023, to March 16, 2023 (voting period) was declared on March 16, 2023. This information is available and extracted from Pg 67 of 217 of the Annual Report of MHIL as available at its company website. Hence, this being the primary reason and same is indicated in pictorial representation 1, page 3 of the show cause notice, influenced the market sentiment causing or inducing the gullible and genuine trades like my client, to trade in the scrips of MHIL.
- h.) At this juncture, I submit and reiterate that neither the investigation report nor show cause notice alleges or established any direct or indirect connection between my client and the promoters or members of MHIL. Further, trading in miniscule quantity is not impermissible and the charge of manipulating the charges of scrip in absence of collusion between seller and buyer. To support the said contentions, I refer to the judgements of Hon'ble Securities Appellate Tribunal in the matter of Nishith M Shah HUF vs SEBI, Appeal No. 97 of 2019, Judgement dated January 16, 2020.
- i.) The above said judgment and principle expounded by the Hon'ble SAT was referred and re-applied in the matter of "Bhagwat Singh Kitawat v/s SEBI, Appeal No. 418 of 2018, Judgement dated January 28, 2020.
- j.) Hence, I submit that the above expounded principle shall be applied in the present matter as well as the Show Cause Notice failed to establish any element of collusion between my client with promoter, sellers and other LTP contributors.
- k.) Without prejudice to the above said contention, table 5, at page no.6 in the show cause notice has indicated the details of seller and trade volumes, bought order and sell orders, LTP contributions. It is imperative to note the dates of these buy orders transaction in small quantity and available sell order volumes. I submit that the said table indicates 4 dates of transactions i.e December 23, 2022, January 03, 2022, January 05, 2023 and January 09, 2023. It is discernible that total sell order volume in these dates were 43,431 and volume of buy orders placed by my client in these different dates were in aggregate 10 out of 43,431 sell order volume, contributing to total LTP contribution Rs 26.35/-. At this juncture, I refer to Annexure-3 of the Show Cause Notice which indicates the details of volumes of scrips trade, open price, close prices, turnover etc.
- (i) On December 22, 2022 the scrip open price was Rs 56.85 and closed at Rs 56.85, with 455 total number of shares traded against 1,23,164 total volume of market shares. The very next day i.e December 23, 2022, the scrip opened at Rs 59.65 and closed at Rs 58.5 with 504 shares were traded against 2,66,108 volume of market shares.
- (ii) On January 03, 2023, the scrip open price was Rs 76.85 and closed at Rs 79.6 with total number of 456 trades against 79,795 volume of market shares.
- (iii) On January 05, 2023, the scrip opened at Rs 81.55 and closed at Rs 85.25, with 475 traded shares against 1,31,168 volumes of shares.

(iv) On January 09,2023, the scrip opened at Rs 89.05 and closed at Rs 86.05, with 395 volumes of shares traded against 96,112 volume of total market shares.

- l.) The purpose of highlighting the above data was with aim to indicate the number of volume of shares traded by my client against total volume of market shares or sell orders. I state and submit that based on the above facts, the following points to be considered while adjudication.
- (i) The pricing momentum of scrips in upward direction from 31 October 2022 till March 14,2023 was caused due and influenced by the board of directors' decision on December 06,202 to split the shares which subsequently was rejected by the members or promoter and shareholders of MHIL on March 16,2023.
- (ii) The volume of trades in MHIL scrips as indicated in Annexure 3 of the Show Cause Notice evidence that the volume of sell orders (in thousands and lakhs) available at market during the small quantity trades as referred in table no.5 and evident from Annexure -3 of the Show Cause Notice, was placed before buying of the shares by my client and hence, the allegation of manipulation of price by way of placing small order quantity is disproportionate, biased and unfair.
- m.) In terms of LTP contribution, as indicated in table no.2 of the show cause notice, total number of traded quantities is 52,361, out of which 232 positive LTP trades resulted into contributing Rs 399.71 LTP Rate. Based on the Annexure -3 of the Notice, 38,91,175 of MHIL was traded during the patch from October 31,2022 to March 15,2023, out of the said shares, my client has traded for 13,184 (if we sum the number of trades as per Annexure 3 of the Notice) which is 0.0033% of the total shares traded during the patch. However, if we note the contents of the Table No.2 in the show cause notice, it is alleged that 52,361 is total traded quantity by my client against total market trade of 38,91,175 which seems to be incorrect and contrast to the Annexure -3 as relied in the Show Cause Notice. Without prejudice to the same, basis of table No.2, out of total market trade of 38,91,175, my client has traded 52,361 (if we refer to table no.2 of the Notice), which is 0.013% of total shares during patch. Further in absence of details pertaining to buy rate and dates of alleged transaction alleging manipulation through 232 positive LTP trades over period of 135 days and ignoring the other relevant traded quantity in shares more than 10, the notice is infirmed thereby prejudicing my client right to fairly oppose and contest these proceeding.
- n.) Further, none of the documents such as BSE Report, Show Cause Notice, and Investigation Report alleges or draws any adverse inference against my client with respect to the trades in collusion with other LTP contributors, promoters or shareholders. Further, based on Annexure-3, all buy orders were already placed by my client corresponding to the sell orders placed in large quantity. 232 LTP trades against 38,91,175 total market traded quantity is 0.00005% of the market shares. Hence, the allegations of manipulation of price by placing small buy orders, by ignoring the other trade volumes and trading patterns of my client and allegation of fraud seems to be unjustified, exorbitant, irrational, and biased. Moreover, there is no embargo in law restraining placement of order at market lot, which is one share in instant case. The allegation of placing buy orders for higher price than LTP is explanatory based on the financial decision taken by the MHIL board of directors, which was subsequently voted against by the promoters of MHIL.

CONSIDERATION OF ISSUES AND FINDINGS

8. Before dealing with the issues involved, I would like to address the preliminary objections raised by the Noticee.
9. Noticee submitted that the complete investigation report had not been provided along with the SCN. In this regard, Noticee has relied upon the judgments of Hon'ble Supreme Court in the matter of T. Takano v. SEBI (Civil Appeal No. 487- 488 of 2022) and Reliance Industries Limited v. SEBI (Criminal Appeal No. 1167 of 2022). Noticee further contended that BSE report was not provided along with the SCN and was provided to him only after he had highlighted the same in his reply dated December 06, 2024.
10. In this regard, with respect to the submission of Noticee concerning BSE report, it is noted from the material on record that in his reply dated December 06, 2024, Noticee, *inter alia*, contended that investigation report as provided to him referred to a report submitted by BSE and a copy of the said BSE report was not provided to him along with the SCN. Considering his submission, the erstwhile AO had provided the relevant extracts of the BSE report to the Noticee along with the hearing notice dated December 17, 2024. Further, a copy of relevant extracts of BSE report was again provided to Noticee during the hearing held on January 09, 2025 before the erstwhile AO and he was granted time until January 24, 2025, to file additional submissions, if any. The Noticee filed his additional submissions vide letter dated January 23, 2025.
11. Thereafter, pursuant to appointment of undersigned as AO in the matter, an opportunity of hearing was provided to the Noticee on April 25, 2025, wherein AR of Noticee reiterated that BSE report was not provided along with the SCN and argued that had it been supplied earlier, his reply would have been different. In the interest of natural justice, Noticee was granted time till May 09, 2025 for filing additional submissions. In his additional reply dated May 09, 2025, Noticee merely reiterated

his submissions filed on January 23, 2025. Thereafter, one more hearing was held on June 09, 2025.

12. In view of the above, it is clear that sufficient opportunities were provided to Noticee to submit his response after the supply of BSE report as well as opportunities of personal hearing. Noticee has failed to demonstrate any prejudice caused to him due to the subsequent supply of BSE report. Accordingly, the submission of Noticee in this regard is devoid of merit.
13. In regard to the submission of Noticee that complete investigation report was not provided to him along with the SCN, it is noted that extracts of investigation report that are relevant and relied upon in the present proceedings were duly provided to him along with the SCN. Reference is drawn to the judgment of Hon'ble Supreme Court in the matter of *Kavi Arora v. SEBI* (Special Leave Petition (Civil) No. 15149 of 2021 decided on September 14, 2022), wherein Hon'ble Supreme Court held that:
"49. It is well settled that the documents which are not relied upon by the Authority need not be supplied as held in Natwar Singh (supra) where this Court held:-
"48. On a fair reading of the statute and the Rules suggests that there is no duty of disclosure of all the documents in possession of the Adjudicating Authority before forming an opinion that an inquiry is required to be held into the alleged contraventions by a noticee. Even the principles of natural justice and concept of fairness do not require the statute and the Rules to be so read. Any other interpretation may result in defeat of the very object of the Act. Concept of fairness is not a one way street. The principles of natural justice are not intended to operate as roadblocks to obstruct statutory inquiries. Duty of adequate disclosure is only an additional procedural safeguard in order to ensure the attainment of the fairness and it has its own limitations. The extent of its applicability depends upon the statutory framework."
14. In this context, I would also like to refer to the order of Hon'ble SAT in the matter of *Madhyam Agrivet Industries Ltd. v. SEBI* (Appeal No. 258 of 2024 decided on May 22, 2024), wherein Hon'ble SAT held that:-
"It is held herein that it is sufficient to disclose materials relied upon for issuance of show cause notice."

15. Noticee further contented that in the absence of details pertaining to buy rate and dates of the alleged 232 positive LTP trades over 135 days, the SCN is infirm and has prejudiced his right to fairly defend himself. In this regard, it is noted that the said contention is factually incorrect. The record shows that Noticee was provided with a copy of the trade log of all trades executed in the scrip of MHIL during the IP, including details of all trades executed by Noticee as part of Annexure 4 to the SCN. The said trade log contains the details of buy rate and dates of the transactions. Hence, the Noticee's submission in this regard is devoid of merit.
16. Noticee further submitted that while the SCN mentions the investigation period as October 31, 2022 to March 15, 2023, the BSE report covers only the period October 31, 2022 to January 09, 2023. No trade and volume analysis were provided in the BSE report for the period January 10, 2023 to March 15, 2023 which is causing prejudice to Noticee as the said information is related to the allegation levelled against him. In this regard, it is pertinent to note that based on BSE report, SEBI independently conducted further investigation in the matter covering the period from October 31, 2022 to March 15, 2023. It is further noted that supporting documents forming the basis of the price-volume analysis and trading analysis in the SCN were duly provided to Noticee as Annexure 3 (day wise price volume data) and Annexure 4 (trade log) to the SCN respectively. Hence, the submission of Noticee in this regard is without any merit.
17. Noticee further submitted that there exists inconsistency between Table 2 of the SCN and Annexure 3 thereto. According to Table 2, the total traded quantity of the Noticee during the IP is reflected as 52,361 shares against the total market volume of 38,91,175 shares. However, as per Annexure 3, while the total market volume in the scrip of MHIL during the IP is also shown as 38,91,175 shares, the trades attributable to the Noticee are stated as 13,184 shares.

18. In this regard, it is pertinent to clarify that Annexure 3 to the SCN merely provides the day-wise price–volume data of MHIL at BSE during the IP. It reflects the aggregate trading in the market in the said scrip and is not intended to represent the trades of any particular entity. The entity-wise details, including that of Noticee, are contained in Annexure 4 of the SCN, i.e., the trade log. From the perusal of Annexure 4, it is evident that the Noticee had purchased a total of 52,361 shares of MHIL during the IP.
19. Therefore, there was no inconsistency in the SCN as alleged by Noticee. In fact, even before Table 2, the SCN had specifically referred to Annexure 4 for the details. Accordingly, the comparison sought to be made by Noticee between Table 2 of the SCN And annexure 3 thereto is misplaced and devoid of merit.
20. In view of the aforesaid discussions, I find no merit on the preliminary objections raised by Noticee.
21. I shall now proceed to deal with the issues involved on merits. After careful perusal of the material on record, I note that the issues that arise for consideration in the present case are as follows:
- I. Whether Noticee had violated the provisions of section 12A (a), (b), (c) of the SEBI Act and regulations 3(a), (b), (c), (d), 4(1), 4(2)(a) and 4(2)(e) of the PFUTP Regulations?**
 - II. Does the violation, if any, on the part of Noticee attract monetary penalty under section 15HA of the SEBI Act?**
 - III. If so, what would be the quantum of monetary penalty that can be imposed on Noticee after taking into consideration the factors stipulated in section 15J of the SEBI Act?**

22. Before proceeding further, it is pertinent to refer the relevant provisions of law, allegedly violated by Noticee. The same are reproduced as under:

“SEBI Act

Prohibition of manipulative and deceptive devices, insider trading and substantial acquisition of securities or control.

12A. No person shall directly or indirectly—

(a) use or employ, in connection with the issue, purchase or sale of any securities listed or proposed to be listed on a recognized stock exchange, any manipulative or deceptive device or contrivance in contravention of the provisions of this Act or the rules or the regulations made thereunder;

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

(c) engage in any act, practice, course of business which operates or would operate as fraud or deceit upon any person, in connection with the issue, dealing in securities which are listed or proposed to be listed on a recognised stock exchange, in contravention of the provisions of this Act or the rules or the regulations made thereunder;

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 manipulative, fraudulent or an unfair trade practice in securities markets.

(2) Dealing in securities shall be deemed to be a manipulative fraudulent or an unfair trade practice if it involves any of the following:—

(a) Knowingly 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 including, influencing or manipulating the reference price or bench mark price of any securities;”

Issue I. Whether Noticee had violated the provisions of section 12A (a), (b), (c) of the SEBI Act and regulations 3(a), (b), (c), (d), 4(1), 4(2)(a) and 4(2)(e) of the PFUTP Regulations?

23. It is noted from the SCN that the allegations in respect of Noticee pertain to trading activities carried by Noticee in the scrip of MHIL during the IP. Noticee was one of the top 10 LTP contributors among buyers in the scrip of MHIL during the IP. The details of the LTP contribution of the Noticee during the IP is tabulated below:

Table 5

Name	All LTP rate	All traded quantity (qty)	All no. of trades	Positive (pos) LTP rate	Pos traded qty	Pos no. of trades	Negative (Neg) LTP rate	Neg traded qty	Neg no. of trades	Zero traded qty	Zero no. of trades	%LTP
Noticee	325.42	52,361	512	399.71	13,913	232	-74	13,978	121	24,470	159	19.10%

24. From Table 5, it was observed that Noticee had contributed Rs. 399.71 to market positive LTP, i.e., 19.10% to market positive LTP. It was further observed from the trading pattern of Noticee that most of his trades were in miniscule quantity ranging from 1 to 10 shares. The analysis of small trades by the Noticee is tabulated below:

Table 6

Buyer Name	No. of trades (LTP >0)	Positive LTP Contribution when buy order qty. was of 1 share only		Positive LTP Contribution when buy order qty. was between 2-10 shares		Positive LTP Contribution when buy order qty. were more than 10 shares		Total Positive LTP contribution (Rs.)	Total Positive LTP contribution in %	Market positive LTP contributed through small trades (1 to 10 shares) (Rs.)	Market positive LTP contributed through small trades (1 to 10 shares) in %
		Positive LTP contribution	No. of trades	Positive LTP contribution	No. of trades	Positive LTP contribution	No. of trades				
Noticee	232	341.79	165	15.85	11	42.07	56	399.71	19.10%	357.64	17.09%

25. From Table 6, it was observed that through 176 buy trades in miniscule quantity (1 to 10 shares), Noticee had contributed a positive LTP of Rs. 357.64 during the IP, i.e., 17.09% of market positive LTP. It was further observed that out of 176 small trades, in 171 small trades, the sellers order quantity was greater than buyers order quantity, which resulted in a positive LTP of Rs. 346.57, i.e., 16.56% of market positive LTP. An illustration of the top LTP contributing trades out of such small trades is given below:

Table 7

Sr. No.	Date of transaction	Trade Volume	Buy order volume	Sell order volume	LTP contribution (in Rs.)	LTP contribution (%) to net LTP
1	23/12/2022	1	1	20,000	2.85	3.34
2	23/12/2022	1	1	20,000	2.85	3.34
3	03/01/2023	1	1	50	1.3	1.53
4	03/01/2023	1	1	200	1.9	2.23
5	05/01/2023	1	1	50	2.55	2.99
6	05/01/2023	1	1	27	2.85	3.34
7	09/01/2023	1	1	50	1.85	2.17
8	09/01/2023	1	1	1,590	1.6	1.88
9	09/01/2023	1	1	64	4.85	5.69
10	09/01/2023	1	1	1,400	3.75	4.40

26. In view of the above, it was alleged that by placing buy orders of such miniscule quantity (1-10 shares) at a price higher than the LTP and despite the availability of large sell orders, Noticee had indulged in manipulative trading practice wherein he contributed a total of 16.56% to total market positive LTP by placing small buy orders.

27. Noticee in his replies submitted that although buy orders were placed in small quantities of 1–10 shares at higher prices, such trades were genuine and executed through the Choice App where minimum order size was one share. Noticee stated that such trades were undertaken with a *bona fide* belief of profit, but ultimately led to losses. In this regard, from the material on record, it is noted that Noticee had executed 165 buy trades of single share each and 11 buy trades ranging from 2 to 10 shares at a price higher than LTP. It is further noted that Noticee was placing such buy orders in minuscule quantities when there were pending sell orders of higher quantities available. Thus, while executing trades in minuscule quantities may not be

manipulative *per se*, execution of such large number of trades of 1-10 share each in the abovementioned manner and that too at a price higher than LTP, does not appear to be normal trading activity.

28. Noticee further submitted that the board of MHIL, in its meeting held on December 06, 2022, had approved the proposal for a stock split, which allegedly caused an upward momentum in the price of the scrip and prompted him to trade in it, though the said proposal was subsequently rejected by the shareholders. In this regard, it is pertinent to note from the trade log covering the investigation period (Annexure 4 to the SCN) that the Noticee commenced buying in the scrip of MHIL only from December 23, 2022, i.e., after a period of 17 days from the board's approval of the stock split proposal. Furthermore, an analysis of the trading pattern shows that the Noticee placed buy orders in minuscule quantities (in the range of 1–10 shares) at prices higher than the LTP, despite the availability of large sell orders in the market. An illustration of such trades was provided in Table 7 of this order. If his trades were indeed driven by the announcement of the stock split, the Noticee has failed to explain why he acted only after such a considerable period from the date of the announcement and, more importantly, why such trades were executed in abnormally small quantities and at prices above LTP, a pattern inconsistent with genuine investment behaviour. Hence, the contention of the Noticee that his trades were influenced by the board's approval of stock split proposal cannot be accepted.

29. Noticee further submitted that his trades, when compared to the total market volume in the scrip, were minimal. It was further contended that not all of his trades were taken into account, rather, only a part of his trades that were in minuscule quantity, have been considered in the present proceedings. In this regard, it is pertinent to note that the case against Noticee is not with respect to his overall traded volume but his contribution to the market positive LTP in the scrip. It is observed that Noticee's contribution to the market positive LTP stood at 19.10% and his contribution to the market positive LTP through small trades (in the range of 1–10 shares) stood at

17.09%. Thus, despite his relatively small trading volume, the Noticee, through numerous trades of minuscule quantities, was able to significantly influence the price of the scrip. In this regard, I would like to place reliance on the following decisions of Hon'ble SAT:

(a.) In the matter of *Adamina Traders Pvt. Ltd. v. SEBI*¹, Hon'ble SAT held that-

"8. It was contended that out of 6519 trades only 554 trades were found to the positive LTP and, the LTP in 176 trades was very negligible which cannot lead to a conclusion that the appellant indulged in manipulation of price. We are unable to accept this argument as we find from the trading pattern of the appellant that on most occasions the appellant was placing buy orders of miniscule quantity ranging from 1 to 10 shares above LTP though large orders were pending in the system. These miniscule trades of one share per day led to increase price of the scrip by Rs. 50.23 which amounted to Rs. 26.34% of the total market positive LTP.

9. Thus, in the instant case, the pattern of trading, namely, placing buy orders in small quantities which led to increase in the price of the scrip was clearly fraudulent and manipulation of the price of the scrip which was violative of Regulations 3 and 4 of the PFUTP Regulations. Thus, the finding given by the WTM does not suffer from any error of law."

(b.) In the matter of *Tarunkumar Brahmabhatt v. SEBI*², Hon'ble SAT held that-

"The contention of the appellants that there was no manipulation in the price of the scrip and that the transaction was minimal which cannot influence the market and therefore there cannot be any manipulation is not correct. We find from the record that the appellants individually and collectively have contributed LTP majorly to the market positive LTP. Due to the LTP contribution by the appellants the price of the scrip increased in Patch-1 and Patch-2 namely between March 27 to April 04, 2014 and from June 10 to June 27, 2014."

30. In view of the above, Noticee's contention regarding his share of volume and his other trades during the IP does not merit any consideration.

31. Noticee further contended that mere LTP contribution cannot be sole basis of price manipulation. He argued that he had neither acted in connivance nor induced any person to deal in securities and no connection of Noticee with the promoters,

¹ Appeal No. 331 of 2020 dated December 15, 2021

² Appeal No. 322 of 2019 dated April 28, 2021

members, counter party or other LTP contributors of MHIL had been established in the SCN. In support of his contention, Noticee has relied on the Judgments of Hon'ble SAT in the matter of Nishith M Shah HUF v. SEBI³ and Bhagwat Singh Kitawat v. SEBI⁴.

32. In this regard, it is noted that both the matters relied upon by Noticee pertains to the trades executed by an entity as a seller, however, in the present matter, the trades executed by the Noticee, which are alleged to be manipulative, are all buy trades. Hence, the facts and circumstances of the present case is different from the cases relied upon by Noticee and accordingly, the reliance placed by Noticee in those cases is misplaced. In this context, I would also like to refer to the judgment of Hon'ble SAT in the matter of *Dhiren Dharamdas Agrawal HUF v. SEBI* (Appeal No. 50 of 2022 dated September 05, 2022), wherein Hon'ble SAT held that-

*"....We also find that the buy order were above the LTP. It makes no sense for a buyer to buy at a higher price when the shares are available at a lower price. **Thus, placing buy orders above LTP amounts to manipulating the price of the scrip and also creates misleading appearance of trading.***

.....

It was urged that the appellant was not connected with the Company or with the co-promoters nor was connected with the counter party nor was connected with other entities as indicated in the show cause notice. In this regard, the appellant has relied upon a decision of this Tribunal in the matter of Sapna Dilip Bombaywala vs SEBI (Appeal no. 143 of 2020 decided on June 24, 2020) and in the matter of M/s Nishith M. Shah HUF vs SEBI (Appeal no. 97 of 2019 decided on January 16, 2020). In our opinion the said decisions are distinguishable and are not applicable to the facts in question. Even if there is nothing to establish any connection between buyer and seller, we are of the opinion that in the instant case the trades executed by the appellant were clearly manipulative and therefore violative of Regulation 3 & 4 of the PFUTP Regulations." (Emphasis Supplied)

³ Appeal No. 97 of 2019 dated January 16, 2020

⁴ Appeal No. 418 of 2018 dated January 28, 2020

33. In view of the above, it is a well-settled legal position that it is not mandatory to establish a direct connection or collusion of a buyer with other parties in order to prove that the trades are manipulative. If the trading pattern demonstrates a misleading appearance of trading or manipulating the price of the scrip, the requirement is sufficiently met. Hence, the submission of Noticee in this regard is misplaced.

34. In regard to the submission of Noticee that he had not induced any person to deal in securities, I would like to place reliance on the decision of Hon'ble SAT in the matter of *Saumil Bhavnagari v. SEBI*⁵, wherein Hon'ble SAT held that-

"... It must not be forgotten that every trade establishes the price of the scrip and the noticee's trading at higher than LTP resulted in the price of the scrip going up and were done with a view to set the price at a desired level and thereby influencing the innocent/gullible investors. By purchasing at a higher price in most of his trades, the noticee had given the wrong impression about the price of the scrip in the market." (Emphasis supplied)

35. In this context, I would also like to refer to the following orders of Hon'ble SAT:

(a.) In the matter of *Lakhi Prasad Kheradi v. SEBI*⁶, Hon'ble SAT held that-

"9. Facts recorded in paras 15 to 17 of the impugned order clearly establish that the trades executed by the appellant had the effect of net positive LTP of Rs. 85.35. Very fact that the appellant had indulged in self trades/ LTP/ NHP without giving any justifiable reason, clearly justifies the inference drawn by the AO that the trades executed by the appellant were manipulative trades.

10. As held by the Apex Court in the case of SEBI V/s Kishore R. Ajmera reported in (2016) 6 SCC 368, in the absence of direct evidence, by taking into account immediate and proximate facts and circumstances surrounding the events on which the charges/allegations are founded it is open to an AO to arrive at a reasonable conclusion that the trades executed were manipulated trades." (Emphasis Supplied)

(b.) In the matter of *Tarunkumar Brahmbhatt v. SEBI*⁷, Hon'ble SAT held that-

"From the trades executed by the appellants which has been depicted in detail in the impugned order we notice that the appellants placed buy orders above

⁵ Appeal No. 28 of 2014 dated March 21, 2014

⁶ Appeal No. 232 of 2017 dated June 21, 2018

⁷ Appeal No. 322 of 2019 dated April 28, 2021

the LTP and that some of the trades were the first trades of the day. It is common sense that when an investor buys he would like to buy a scrip at the lowest possible price and when he wants to sell he would like to get the highest possible price. Why should a person/ investor buy a share at a higher price than what is available on the stock exchange at a lower price unless there is a motive. In the instant case, the trading pattern of the appellants clearly indicates that they were placing buy orders above the LTP which led to market contribution to the positive LTP and also created a new high price (NHP).” (Emphasis Supplied)

(c.) In the matter of *Sorabh Mahesh Gupta v. SEBI*⁸, Hon'ble SAT held that-

“8. The trading pattern of the appellant by placing buy orders in miniscule quantities is not an isolated case but is a consistent case whereby the appellant has executed 2132 and 2855 trades on the BSE and NSE platform. This execution of miniscule trades is not a normal trading activity when large numbers of sell orders were available. This peculiar pattern of trading adopted by the appellant were clearly manipulative in nature and were undertaken to cause upward price movement of the scrip.

9. From the above it is clear that appellant was executing large number of miniscule quantity of trades at a higher price than the LTP when large quantities sell orders were available in the order book. Such pattern of trading is not a normal trading activity in as much as it is common sense that a buyer would buy a scrip at the lowest possible price and, therefore, it does not stand to reason as to why the appellant was buying the shares at a higher price.”

36. In view of the aforesaid findings and taking into account the decisions of the Hon'ble SAT, it is noted that Noticee had consistently placed buy orders in minuscule quantities, largely for single shares, despite availability of substantial sell orders. Such trading activity contributed to positive market LTP of Rs. 346.57, which represents 16.56% of the total market positive LTP during the IP. I, therefore, hold that Noticee, through his trading pattern, manipulated the price and created a misleading appearance of trading in the scrip of MHIL. Accordingly, it stands established that Noticee had violated the provisions of section 12A (a), (b), (c) of the SEBI Act and regulations 3(a), (b), (c), (d), 4(1), 4(2)(a) and 4(2)(e) of the PFUTP Regulations.

⁸ Appeal No. 306 of 2023 dated April 24, 2023

Issue II. Does the violation, if any, on the part of Noticee attract monetary penalty under section 15HA of the SEBI Act?

Issue III. If so, what would be the quantum of monetary penalty that can be imposed on Noticee after taking into consideration the factors mentioned in section 15J of the SEBI Act?

37. Noticee submitted that he had not made any wrongful gain, caused no investor loss and is not a repetitive defaulter. Hence, the proceeding initiated under PFUTP Regulations against him deserve to be dismissed. In this regard, it is pertinent to note that factors stipulated in section 15J of the SEBI Act are relevant for determination of quantum of penalty and not for establishing violation. In this context, I would like to place reliance on the following orders of Hon'ble Supreme Court and Hon'ble SAT:

a.) In the matter of **SEBI v. Shriram Mutual Fund**⁹, Hon'ble Supreme Court held that-

"In our considered opinion, penalty is attracted as soon as the contravention of the statutory obligation as contemplated by the Act and the Regulations is established and hence the intention of the parties committing such violation becomes wholly irrelevant. A breach of civil obligation which attracts penalty in the nature of fine under the provisions of the Act and the Regulations would immediately attract the levy of penalty irrespective of the fact whether contravention must made by the defaulter with guilty intention or not."

b.) In the matter of **Komal Nahata v. SEBI**¹⁰, Hon'ble SAT held that-

"Argument that no investor has suffered on account of non-disclosure and that the AO has not considered the mitigating factors set out under Section 15J of SEBI Act, 1992 is without any merit because firstly penalty for noncompliance of SAST Regulations, 1997 and PIT Regulations, 1992 is not dependent upon the investors actually suffering on account of such non-disclosure".

c.) In the matter of **Akriti Global Traders Ltd. v. SEBI**¹¹, Hon'ble SAT held that-

"Argument of appellant that the delay was unintentional and that the appellant has not gained from such delay and therefore penalty ought not to have been imposed is without any merit, because, firstly, penal liability arises as soon as provisions

⁹ [2006] 68 SCL 216 (SC)

¹⁰ Appeal No. 5 of 2014 dated January 27, 2014

¹¹ Appeal No. 78 of 2014 dated September 30, 2014

under the regulations are violated and that penal liability is neither dependent upon intention of parties nor gains accrued from such delay”.

38. In view of the aforesaid discussions, the submission of Noticee in this regard is devoid of merit. As it is established that Noticee had violated the provisions of section 12A (a), (b), (c) of the SEBI Act and regulations 3(a), (b), (c), (d), 4(1), 4(2)(a) and 4(2)(e) of the PFUTP Regulations, he is liable for payment of a monetary penalty in terms of section 15HA of the SEBI Act. Section 15HA of the SEBI Act is reproduced below:

“Penalty for fraudulent and unfair trade practices.

15HA. *If any person indulges in fraudulent and unfair trade practices relating to securities, he shall be liable to a penalty which shall not be less than five lakh rupees but which may extend to twenty-five crore rupees or three times the amount of profits made out of such practices, whichever is higher.”*

39. While determining the quantum of penalty under section 15HA, the following factors stipulated in section 15J of the SEBI Act are taken into account:

“Factors to be taken into account while adjudging quantum of penalty.

15J. *While adjudging quantum of penalty under 15-I or section 11 or section 11B, the Board or 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.”

40. The material available on record has neither quantified the amount of disproportionate gain or unfair advantage, if any, made by Noticee nor the amount of loss, if any, caused to an investor/clients as a result of the default of Noticee. As regards the repetitive nature of the default, there is nothing on record to show that the nature of default by Noticee is repetitive.

41. The aforementioned factors have been taken into consideration while adjudging the penalty.

ORDER

42. Having considered all the facts and circumstances of the case, the material available on record, the factors mentioned in preceding paragraphs and in the exercise of powers conferred upon me under section 15-I of the SEBI Act read with rule 5 of the Rules, I hereby impose a penalty of Rs. 5,00,000/- (Rupees Five Lakh only) on Noticee under section 15HA of the SEBI Act.
43. I am of the view that the said penalty is commensurate with the lapses/omissions on the part of Noticee.
44. Noticee shall remit/pay the said amount of penalty within 45 days of receipt of this order through online payment facility available on the website of SEBI, i.e., www.sebi.gov.in on the following path, by clicking on the payment link: ENFORCEMENT -> Orders -> Orders of AO -> PAY NOW.
45. In terms of the provisions of rule 6 of the Rules, a copy of this order is being sent to Noticee and also to the SEBI.

Date: September 26, 2025

Place: Mumbai

JAI SEBASTIAN

ADJUDICATING OFFICER