

BEFORE THE ADJUDICATING OFFICER

SECURITIES AND EXCHANGE BOARD OF INDIA

[ADJUDICATION ORDER NO. PG/AO- 68/2010]

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

In respect of

Hitendra Chaturbhai Makwana

(PAN. N.A.)

In the matter of Alka India Ltd.

FACTS OF THE CASE IN BRIEF

1. Securities and Exchange Board of India (hereinafter referred to as “**SEBI**”) conducted investigation into the trading in the scrip of Alka India Limited, formerly known as Alka Spinners Ltd. (hereinafter referred to as “**AIL/Company**”) during the period August 14, 2003 to March 26, 2004 (hereinafter referred to as “**investigation period**”).
2. The shares (face value – Re. 1/- per share) of the Company are listed on Bombay Stock Exchange (hereinafter referred to as

“**BSE**”), Ahmedabad Stock Exchange (hereinafter referred to as “**ASE**”), Saurashtra Kutch Stock Exchange, Rajkot (hereinafter referred to as “**SKSE**”) and Jaipur stock Exchange (hereinafter referred to as “**JSE**”). It was observed that no transaction in the said scrip was reported at ASE, SKSE and JSE during the investigation period. Hence, for the purpose of investigation the trades done at BSE were considered.

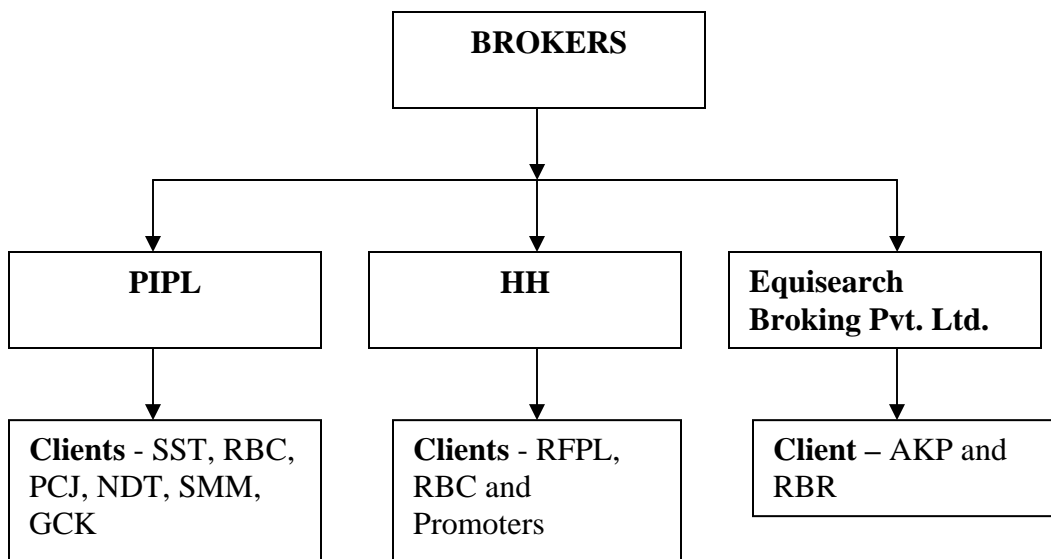
3. As per information available on the BSE website, the paid up capital of AIL as on June 30, 2003 and December 31, 2003 was Rs. 25 crores divided into 25,00,00,000 shares of Rs 1/- each. This information is available in public domain. Satish Panchariya, Arun Panchariya, Ramswaroop B Panchariya & Ashok R Panchariya are the promoters and Kailashben J Patel & Durgaram Umaram Dudi are the Persons Acting in Concert (**PAC**) with promoters of AIL.
4. The price of the shares of AIL decreased gradually over the period of 8 months from Rs.2.34 (August 14, 2003) to Re. 0.28 (March 23, 2004), in 157 trading days at BSE. However, there were intermittent spurts in AIL share price during the period.
5. It was alleged that certain corporate announcements including better quarterly results along with some other premature misleading positive announcements like acquisition of units, export orders, dividend, preferential allotment, etc., were made with an intent to allure the investors and create liquidity in the scrip so that the Promoters/ related entities and other entities including Hitendra Chaturbhai Makwana (hereinafter referred to as “**Noticee / HCM**”) could directly/ indirectly off-load shares of AIL in the market. HCM resides at 107, Bhagesh Nagar, Nr. Santoshi Nagar, Amraiwadi, Ahmedabad - 380026. Certain brokers, viz., Parklight Investment

Pvt. Ltd. and M/s Harikishan Hiralal (Now known as Shree Hari Hira Stock Broking (P) Limited) broker-BSE, also assisted the promoter/related entities/other entities to offload shares by creating artificial demand in the scrip by placing large buy orders at very low prices and later canceling them.

6. The entities involved in the alleged manipulation are as under:

S. No.	Abbreviation	Names	Category
1.	PIPL	Parklight Investments Pvt. Ltd.	Broker
2.	HH	Harikishan Hiralal	Broker
3.	SRP	Satish Ramswaroop Panchariya	Promoter
4.	AP1	Arun R Panchariya	Promoter
5.	AP2	Ashok R B Panchariya	Promoter
6.	RP1	Ramswaroopji B Panchariya	Promoter
7.	RP2	Radha S Panchariya	Promoter
8.	SP1	Saritadevi Panchariya	Promoter
9.	SP2	Shantadevi R Panchariya	Promoter
10.	DUD	Durgaram Umaram Dudi	PAC
11.	KJP	Kailashben J Patel	PAC
12.	CSL	Cavalier Securities Ltd.	Promoter related entity
13.	PTIL	Panchariya Textile Industries Ltd.	Promoter related entity
14.	NVS	Nilesh Vinodchandra Sheth	Other entity
15.	HCM	Hitendra Chaturbhai Makwana	Other entity
16.	RBC	Ratnaram Bhavraram Choyal	Other entity
17.	RBR	Ratnaram B Rabari	Other entity
18.	PCJ	Pravin C Jain	Other entity
19.	SMM	Shivram Motilal Meena	Other entity
20.	GCK	Giridharbhai Chaiturao Karu	Other entity
21.	AKP	Ashwin K Patel	Other entity
22.	RVJ	Rajput Vikramsingh Jaggusingh	Other entity
23.	SST	Sanjay Shankarlal Thakkar	Other entity
24.	NDT	Narendra D Tiwari	Other entity
25.	RFPL	Right Finstock Pvt. Ltd	Other entity

7. The aforesaid entities have traded amongst one another on off market basis in AIL shares. Amongst the aforesaid entities following entities have traded in AIL shares at BSE.



8. The findings of the investigation led to the allegation that the Noticee had violated regulation 3 (a), (b), (c) & (d) of SEBI (Prohibition of Fraudulent and Unfair Trade Practices Relating to Securities Markets) Regulations, 2003 (hereinafter referred to as “**PFUTP Regulations**”) and consequently, liable for monetary penalty under Section 15 HA of Securities and Exchange Board of India Act 1992 (hereinafter referred to as “**SEBI Act**”).

APPOINTMENT OF ADJUDICATING OFFICER

9. Mr. V S Sundaresan was appointed as Adjudicating Officer vide order dated October 10, 2008 under section 15 I of the SEBI Act read with rule 3 of SEBI (Procedure for Holding Inquiry and Imposing Penalty by Adjudicating Officer) Rules, 1995 (hereinafter referred to as the ‘**Rules**’) to inquire into and adjudge the abovementioned violations under section 15HA of the SEBI Act. Consequent upon the transfer of Mr. V.S. Sundaresan, the undersigned was appointed as the adjudicating officer vide Order dated November 12, 2009.

SHOW CAUSE NOTICE, REPLY AND PERSONAL HEARING

10. Show Cause Notice No. EAD-5/VSS/TZ/153304/2009 dated February 04, 2009 (hereinafter referred to as "**SCN**") was issued to the Noticee under rule 4 of the Rules to show cause as to why an inquiry should not be held against him and penalty be not imposed under section 15HA of SEBI Act for the alleged violations specified in the said SCN. However, the same returned undelivered. Thereafter, an advertisement regarding the aforesaid SCN was published in the newspapers, Hindustan Times, Sakal, Damini & Sandesh on April 10, 2010. It was informed in the newspapers that the SCN has been made available on the SEBI website (www.sebi.gov.in) under the heading "Unserved Summons/Notice". Moreover, the Noticee was also given an option to collect the same from SEBI, Head office, Mumbai.
11. Vide letter dated April 13, 2010 the Noticee had sought copy of the aforesaid SCN. Accordingly, same was sent to him vide letter dated May 7, 2010. However, the same returned undelivered. Thereafter the said SCN was delivered to the Noticee through affixture vide letter dated October 4, 2010.
12. In the interest of natural justice and in order to conduct an inquiry in terms of rule 4(3) of the Rules, the Noticee was granted an opportunity of personal hearing on October 26, 2010, vide notice dated October 4, 2010. The same was affixed at the last known address of the Noticee. The Noticee neither appeared for the aforesaid hearing nor made any submissions

13. Thereafter, another opportunity of hearing was granted to the Noticee on November 15, 2010 vide hearing notice dated October 29, 2010. The same was sent the Noticee through SEBI Western Regional Office and was also affixed at the last known address of the Noticee. However, said hearing was adjourned to December 8, 2010 vide hearing notice dated November 9, 2010. The same was sent the Noticee through SEBI Western Regional Office and was also affixed at the last known address of the Noticee. However, the Noticee neither appeared nor made any submissions.
14. The Noticee is well aware of the said proceedings, which is evidenced by his letter dated April 13, 2010 seeking copy of the SCN. I am of the view that ample opportunities have been given to the Noticee to explain his case. As per rule 4(7) of the Rules, if any person fails, neglects or refuses to appear as required by sub-rule (3) before the Adjudicating Officer, he may proceed with the inquiry in the absence of such person after recording the reasons therefor. Despite having been given ample opportunities as stated above, the Noticee has failed to avail the opportunity of personal hearing. I am, therefore, compelled to proceed with the matter *ex-parte* based on the material available on record.

CONSIDERATION OF ISSUES AND FINDINGS

15. The issues that arise for consideration in the present case are :
- a. Whether the Noticee had violated regulation 3 (a), (b), (c), (d) of PFUTP Regulations?
 - b. Does the non-compliance, if any, attract monetary penalty under section 15HA of SEBI Act?

- c. If so, what would be the monetary penalty that can be imposed taking into consideration the factors mentioned in section 15J of SEBI Act?
16. Before moving forward, it is pertinent to refer to the provisions of regulation 3 (a), (b), (c), (d) of PFUTP Regulations, which reads as under:-

PFUTP REGULATIONS, 2003

“3. Prohibition of certain dealings in securities

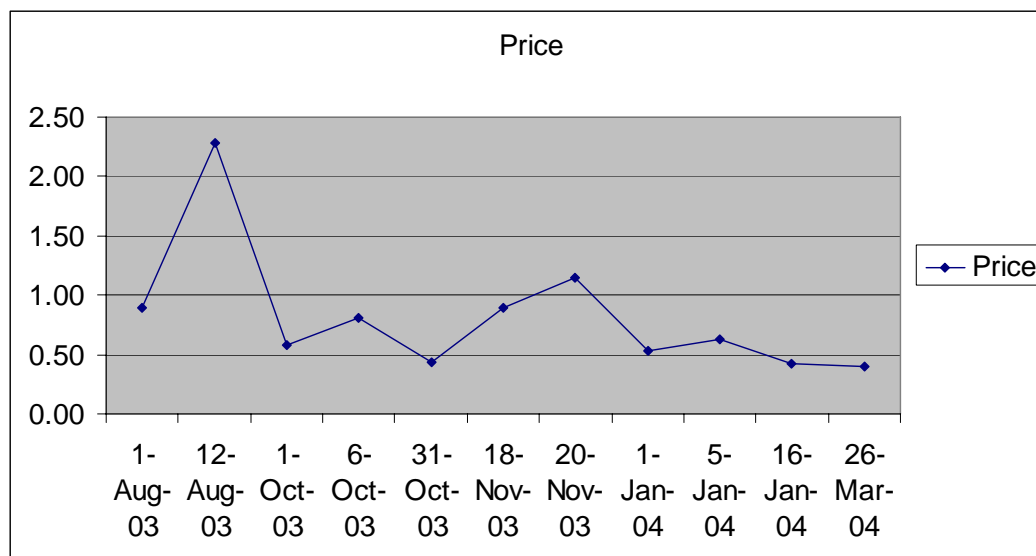
No person shall directly or indirectly-

- (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.”*

MANIPULATIVE TRADING

17. Upon perusal of the documents available on record, I find the following:

18. There was sudden/temporary spurt in the price of shares of AIL immediately after every corporate announcement was made by the Company. This temporary rise in price during such corporate announcements is graphically depicted below:



19. As regards AIL making misleading announcements, the same has been established vide Adjudication Order No. VSS/AO- 189/2009 dated November 13, 2009 passed in respect of Satish Ramswaroop Panchariya in the matter of Alka India Ltd. which is available on SEBI website www.sebi.gov.in.
20. It was during such occasions when the price of shares of AIL rose temporarily, that the promoters / their related entities / PACs / other entities including the Noticee directly/indirectly offloaded their shares of AIL in the market.
21. The details of transactions made by the promoters/their related entities/PACs/other entities vis a vis the said corporate announcements are as under:

Trading vis a vis misleading announcements

Sr. No	Date	News text	Implication on price of the scrip	Trading by major entities on BSE	Off market transactions
1	AIL (Alka Spinners Ltd) informed to exchange on August 2, 2003. Published in Economic times on August 5, 2003 with caption "Another textile turns around"	Results for the quarter ended June 2003: The Board of Directors of Alka Spinners Ltd at their meeting held on July 30, 2003 has approved the results for the quarter ended June 2003.	Price of the scrip started rising on from next trading day of August 4, 2003 (opening price of Rs.1.06) reached a high of Rs.2.82 on August 12, 2003 and closed at Rs.2.19 on August 13, 2003. Previous close was Rs.0.89 on August 1, 2003	Vikramsingh J Rajput sold 9525000 shares on Aug 6, 7, 8,11 12 2003	Vikramsingh J Rajput had received 30,00,000 shares from Panchariya Textiles Industries Ltd (having the same address as Alka India Ltd) in off-market on August 12, 2003
		Total income and net profit of the company had shown sudden rise during the quarter ended June 30, 2003 as compared to the quarter ended March 31, 2003. Total income and net profit were Rs.25.8 crore and Rs.3.77 crore respectively during the quarter ended June 30, 2003 as compared to total income of Rs.1.91 crore and net loss of Rs.31.8 lakh during the quarter ended March 31, 2003.	Ashwin Kanjibhai Patel sold 2915677 shares on Aug 8 and 12 2003	Ashwin Kanjibhai Patel had received 1,15,69,000 shares from Cavalier Securities Ltd (had common director with Alka India Ltd) on August 7, 2003	
2	Informed to Exchange on October 6, 2003	Results for the quarter ended September 2003:	On 6 th October 2003, the scrip opened at Re. 0.73 and touched its applicable upper circuit rate (20%) of Re. 0.81 (previous close was Re. 0.68).	Girdharbhai Chaiturao Karu Sold 3827959 on 4 days during 06/10/2003 to 14/10/2003	Girdharbhai Chaiturao Karu had received 50,00,000 shares from Ashwin Patel on October 10, 2003, 5,00,000 shares from Cavalier Securities Ltd on October 9, 2003, 25,00,000 shares from Ratnaram B Rabari on September 9, 2003 and 5580000 shares from Nilesh Vinodchandra Sheth on September 29, 2003
		The Board of Directors of Alka Spinners Ltd at their meeting held on October 6, 2003 has approved the results for the quarter ended September 2003. The company has registered a net profit of Rs 3.44 crore for the quarter ended September 2003, as against a net profit of Rs 2.43 lacs in the same period last year.	Thereafter on 8 th , 10 th and 13 th October 2003 also, price of the scrip has touched its applicable upper circuit limit.	Sanjay Thakkar sold 799551 on Oct 13, 2003	Sanjay Thakkar had received 50,00,000 shares from Giridharbhai Chaiturao Karu on October 9, 2003

		The net profit for the previous quarter ended June 2003 was 3.77 crores.		Narendra Tiwari sold 3343056 shares on Oct 9 and 15, 2003	Narendra Tiwari received 25,00,000 shares from Hitendra Makwana on October 9, 2003, 17,37,000 shares from Sarojkanwar Shekhawat on October 9, 2003, 1084896 from Vikramsingh Rajput and 725576 shares from Shivram Motilal Meena on October 20, 2003. He also received shares from other entities around this period.
				Pravin C Jain sold 3153134 shares on Oct 10 and 16, 2003	Pravin C Jain received 5500000 shares from Ashwin Patel on October 10, 2003, 4,00,000 shares from Shivram Motilal Meena on October 20, 2003 and 9644000 shares from Lila Laboratories Ltd in September 2003
3	Informed to Exchange on November 18, 2003	Alka Spinners Board declares Results for Year ended September 2003 and dividend:	On 18 th November 2003, the scrip opened at Re. 0.9 and touched its intra day high of Re. 0.92 (8.64% higher as compared to previous close of Re. 0.86).	Narendra Tiwari sold 7943246 shares on Nov 18, 19 and 20, 2003	Narendra Tiwari received 4032000 shares from Nilesh V Sheth on Nov 20, 2003, 1900000 shares from Sanjay Thakkar and 1200000 shares from Pravin Jain on Nov 21, 2003
	12:15:50 PM	The Board of Directors of Alka Spinners Ltd at their meeting held on November 18, 2003 has approved the results for the year ended September 2003. The company has registered a net profit of Rs 4.47 crore for the year ended September 2003, as against a net profit of Rs 2 lacs in the same period last year.	On 19 th November 2003, the scrip opened at Re. 1.06 and touched its applicable upper circuit rate (20%) with first trade (previous close was Re. 0.89).	Girdharbhai Chaiturao Karu Sold 30792540 on 16 days during 21/11/2003 to 15/12/2003	Girdharbhai Chaiturao Karu received 2,79,95,000 shares from Right Finstock during Nov 27 to Dec 12, 2003, 3300000 shares from Dharamveer Shekhawat on Nov 25, 2003. Right Finstock received 8,57,22 743 shares from various entities including persons acting in concert with the promoters during Nov 27 2003 to Feb 3, 2004 and transferred 8,52,20,150 shares to Giridhar Karu, Narendra Tiwari, Shivram Meena and Pravin Jain during Nov 27, 2003 to Feb 4, 2003.

		The Board of Directors also has recommended a dividend of 15% for the financial year ended September 30, 2003 for the approval of shareholders at AGM.		Ratanaram Rabari sold 1000000 shares on Nov 18, 2003	Ratanaram Rabari received 9300600 shares from Panchariya Textiles Industries ltd on August 13, 2003 and 2500000 shares from Giridharbhai C Karu on Sept 3, 2003
4	Informed to Exchange on January 3, 2004	Alka Spinners - Outcome of AGM:	On 5 th January 2004 (next trading day after 3 rd January 2004), the scrip opened at Re.	Pravin C jain sold 3176511 shares on Jan 5, 2004	Pravin C jain received 19036500 shares from Right Finstock Pvt ltd Dec 16, 2003 to January 6, 2004
	12:13:16 PM	Alka Spinners Ltd has informed BSE that at the Annual General Meeting held on December 31, 2003, the shareholders have approved the following business matters:	0.6 and touched its intra day high of Re. 0.65 (14.04% higher as compared to previous close of Re. 0.57).	Narendra D Tiwari sold 13539286 shares on Jan 6, 7 and 8, 2004 and sold 4403600 shares on Jan 20 and 22, 2004	Narendra D Tiwari received 37409350 shares from Right Finstock Pvt ltd during Jan 7-21 2004, 1618000 shares from Cavalier Securities on Jan 7, 2004
		1. Increase in Authorised Share Capital of the company from Rs 250 million to Rs 1000 million. 2. To issue and allot in one or more lots on preferential or as Right Issue basis not exceeding 25,00,00,000 equity shares of Rs 1/- at a price not less than Re 1/- per share. 3. Issue of Non-Cumulative Redeemable 6% Preference Share of Rs 100/- each not exceeding Rs 250 million	Price of the scrip reached a high of Rs.0.68 on January 6, 2004 and started falling after that and closed at Rs. 0.35 on January 15, 2004.	Panchariya group entities sold 26906111 shares on 6 days during Jan 9 to 16, 2004	Total pay in for settlement number 206 (due on 20th January 2004), on account of sale transactions of promoter group was for 15,40,485 shares, for which altogether 6,98,088 shares were received in member Harikishan Hiralal's pool account from them and remaining 8,42,397 shares were credited to members pool account from demat account number 10013034 which belongs to Narendra Tiwari to meet the entire pay in obligation of promoter group
				Cavalier Securities Ltd. sold 18,09,804 shares (9,92,761 shares on 15th January 2004 and 8,17,043 shares on 3rd February 2004)	Had off-market transaction with Panchariya group entities in May- June 2004. Had also off-market transactions with various entities throughout the investigation period
5	Informed to Exchange on March 24, 2004	Alka Spinners Board to consider Scheme of Amalgamation:	On 25 th March 2004, the scrip opened at Re. 0.31		

	5:10:50 PM	Alka Spinners Ltd has informed BSE that a meeting of the BoD of the company will held on March 26, 2004 to transact the following business:	and touched its intra day high of Re. 0.34 (17.24% higher as compared to previous close of Re. 0.29).		
		1. To consider the proposal of amalgamation of Janice Textiles Ltd with the Company.			
		2. To consider and approve the Scheme of Amalgamation.			
6	Informed to Exchange on 3/26/2004 6:00:57 PM	Alka Spinners Board approves proposal of amalgamation of Janice Textiles with the Company: Alka Spinners Ltd has informed BSE that the Board of Directors at its meeting held on March 26, 2004 has approved the proposal of amalgamation of Janice Textiles Ltd with the Company pursuant to the Companies Act, 1956 and subject to approval of the shareholders and that of the Hon'ble High Courts of Gujarat & Mumbai.	On 26 th March 2004, the scrip opened at Re. 0.36 and touched its intra day high of Re. 0.40 (17.65% higher as compared to previous close of Re. 0.34).		
		The share exchange ratio was 25 equity shares of Alka India Ltd. of Re. 1 each in exchange of one equity share of Rs. 10 each fully paid up of Janice textiles Ltd.	On 29 th March 2004 (next trading day after 26 th March 2004), the scrip opened at Re. 0.46 and touched its applicable upper circuit rate (20%) for Re.0.48 (previous close was Re. 0.40).		

Trading Details

22. The Noticee transferred / sold 2500000 and 2000000 shares (Total 4500000 shares) of AIL on October 9, 2003 and January 21, 2004

respectively to Narendra Tiwari and Right Finstock Pvt. Ltd. in off market transactions.

23. Narendra Tiwari and Right Finstock Pvt. Ltd. further offloaded shares of AIL in market, taking advantage of certain misleading positive announcements made by the Company.
24. Further the Noticee had also acquired 2500000 shares of AIL in off market from Cavalier Securities Ltd. on August 12, 2003.

Link amongst the Noticee, promoters, persons acting in concert, promoter related entities, other entities and brokers.

25. The promoter group offloaded 11.48% holding in the Company immediately after the AGM held on December 31, 2003. This group traded on six trading days during the period from January 9, 2004 to January 16, 2004 and altogether sold 2,69,06,111 shares at an average rate of Re.0.42, aggregating to 86.41% of market volume on those six days.
26. The Noticee, through off market transactions during the investigation period, received huge quantity of AIL shares from Cavalier Securities Ltd. He also transferred AIL shares to Right Finstock Pvt. Ltd. and Narendra Tiwari. These clients also transacted in off-market with one another and other entities related to promoter around the same period.
27. I also find that the Noticee had transferred shares of AIL in off market transactions to Narendra Tiwari and Right Finstock, who offloaded shares of AIL on market and also took advantage of the misleading announcements. Narendra Tiwari delivered 8,42,397 shares of AIL to

the broker M/s Harikishan Hiralal to meet part delivery obligation of the promoter group entities. This indicates that Narendra Tiwari was linked to the promoter group entities.

28. Off market transactions are mutual transactions and can happen only between known entities as there is no ready mechanism to ensure their settlement. It logically follows that these entities who did huge transactions in AIL shares were known / linked to each other.
29. As per regulation 2 (1) (c) of PFUTP Regulations, *"fraud" includes any act, expression, omission or concealment committed whether in a deceitful manner or not by a person or by any other person with his connivance or by his agent while dealing in securities in order to induce another person or his agent to deal in securities, whether or not there is any wrongful gain or avoidance of any loss...."*
30. I find that the Company had made various announcements viz. better quarterly results along with some other premature misleading positive announcements like acquisition of units, export orders, dividend, preferential allotment just to allure the investors and create liquidity in the scrip so that promoters/ their related entities could off-load shares in the market directly or through some front entities and thus did not act in a bona fide manner. The Noticee transferred 4500000 AIL shares to Right Finstock Pvt. Ltd. and Narendra Tiwari in off market mode. The aforesaid entities further offloaded the shares in the market in the wake of premature / misleading announcements being made by AIL's management.
31. In view of the foregoing, I find that the Noticee has traded in the scrip of AIL in off market with entities which are either
 - (a) related to the promoters, or

- (b) entities who have traded with promoter related entities, or
- (c) entities who have traded with PAC/s or both.

32. Further, these entities have not only traded in off market mode in the shares of AIL but have also strategically offloaded shares in market soon after the publication of misleading announcements made by AIL. Considering the fact that numerous transactions have taken place amongst these entities and the size thereof indicates that they are all connected to each other and were trading in the scrip of AIL in off-market and on-market mode with the purpose of either taking advantage of the misleading announcements or aiding/ abetting the promoters/its related entities/PACs in taking advantage of the misleading announcements made by AIL.
33. The activity of transferring these listed shares in the off market mode was a deliberate device to hide the identity of the real sellers from the general public. The quantum of shares transferred /traded, the number of transactions conducted and the timing of transactions indicate that this was a planned strategy. The Noticee received shares of AIL in off market and sold a huge quantity in the market. In view of the foregoing, I am of the view that the Noticee had acted as a conduit for the promoters/ their related entities/PACs in order to enable them to indirectly offload shares of AIL in market and take advantage of the misleading announcements made by AIL. Thus, the Noticee has aided and abetted the promoters/PACs/promoter related entities in indirectly offloading shares of AIL had contributed to misleading the general investors and has himself made unfair gains by doing the same and has thus violated regulations 3(a), (b), (c), (d) of PFUTP Regulations.

LEVY OF PENALTY

34. The Hon'ble Supreme Court of India in the matter of *SEBI Vs. Shri Ram Mutual Fund* [2006] 68 SCL 216(SC) held that *"In our considered opinion, penalty is attracted as soon as the contravention of the statutory obligation as contemplated by the Act and the Regulations is established and hence the intention of the parties committing such violation becomes wholly irrelevant..."*.
35. Thus, the violation of regulation 3 (a), (b), (c), (d) of PFUTP Regulations by the Noticee, make him liable for penalty under section 15HA of SEBI Act, 1992 which read 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."

36. In view of the foregoing, I am convinced that it is a fit case to impose monetary penalty under section 15 HA of the SEBI Act.
37. While determining the quantum of penalty under section 15HA, it is important to consider the factors stipulated in section 15J of SEBI Act, which reads as under:-

"15J - Factors to be taken into account by the adjudicating officer

While adjudging quantum of penalty under section 15-I, 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.”*

38. The Noticee by acting as a conduit and aiding and abetting entities like Right Finstock Pvt. Ltd and Narendra D Tiwari who have acted as front entities to the promoters/promoter related entities/PACs, has contributed in misleading the general investors. The general investors could not know identity of the actual entities behind the sale of substantial quantity of shares offloaded in the market and were thus misled. It is not possible to ascertain the exact loss to the investors except for the fact that they would have been misled that the high trading volumes in ALL shares were on account of general investor interest.

ORDER

39. After taking into consideration all the facts and circumstances of the case, I hereby impose a penalty of ₹ 2,00,000/- (Rupees Two Lakhs only) under section 15HA of SEBI Act, for the violation of regulation 3 (a), (b), (c), (d) of PFUTP Regulations. In my view, this penalty will be commensurate with the violations committed by it.
40. The Noticee shall pay the said amount of penalty by way of demand draft in favour of “SEBI - Penalties Remittable to Government of India”, payable at Mumbai, within 45 days of receipt of this order. The said demand draft should be forwarded to Mrs. Medha Sonparote, Deputy General Manager, Investigations Department - 1, Securities

and Exchange Board of India, SEBI Bhavan, Plot No. C – 4 A, “G” Block, Bandra Kurla Complex, Bandra (E), Mumbai – 400 051.

41. In terms of rule 6 of the Rules, copies of this order are sent to the Noticee and also to SEBI.

Date: **December 23, 2010**

Place: **Mumbai**

Piyoosh Gupta

Adjudicating Officer