

BEFORE THE ADJUDICATING OFFICER

SECURITIES AND EXCHANGE BOARD OF INDIA

[ADJUDICATION ORDER NO. PKB/AO -49/2010]

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: Pravin Kumar Jain

(PAN: ADFPJ0754L)

In the Matter of Betala Global Securities Ltd.

FACTS OF THE CASE IN BRIEF

1. The investigation in the scrip of Betala Global Securities Limited (hereinafter referred to as the “**company**”) was taken up by Securities and Exchange Board of India (hereinafter referred to as “**SEBI**”) to examine the trading in the scrip of the company for the period from May 2, 2003 to November 21, 2003 (hereinafter referred to as “**investigation period**”) subsequent to an investigation by the Bombay Stock Exchange (hereinafter referred to as “**BSE**”) examining the trading pattern in the scrip of the company. SEBI conducted investigation into trading in the scrip of the company to ascertain whether any provision of the SEBI Act, 1992 and various rules and regulations made thereunder had been violated as there was a sharp rise in price of the scrip during the investigation period.
2. It was observed that the company was incorporated in 1994 and after a public issue; the company got listed in 1996. It was also observed that the company had meager income and incurred losses in all the quarters of Financial Year 2002-2003. It was observed that during the first two quarters of Financial Year 2003-2004 also the company incurred losses.

3. It was observed that the price of the scrip increased from Rs. 34.05 on May 02, 2003 to Rs. 120 on November 13, 2003 (reflecting a price rise of around 254%) and thereafter, the scrip closed at Rs. 109.25 at the end of the investigation period, i.e., on November 21, 2003. It was observed that during the investigation period a total of 1,54,18,430 shares of the company were traded. It was further observed that there were no major announcements or news items relating to the company during the investigation period.

4. It was observed that during the investigation period, a group of clients connected to each other i.e., Mahesh Mistry, Dharmendra S. Thapa, Pravin Kumar Jain, Suman Saini, Jalaj I Batra, Nicholas Gomes, Piyush Shah, Dimple Shah, Harish Kapadia, Vinod Khetan, M/s Shri Sai Shraddha Leasing & Hire Purchase Finance Private Limited, M/s Arihant Securities and M/s Shiner Trading Co. Pvt. Ltd. (hereinafter collectively referred to as “**Mahesh Mistry Group**”) have traded in the shares of the company through various trading members and mostly through Jitendra Harjivandas Securities Pvt. Ltd., Action Financial Services (India) Ltd., Ramaben Samani Finance Pvt. Ltd., etc.

5. It was observed that during the investigation period, majority of the dealings in the scrip of the company was accounted for by entities belonging to the Mahesh Mistry Group. It was also observed that some of the entities belonging to the Mahesh Mistry Group had common address i.e., 52, 3rd Floor, Marine Street, Mumbai -400 002. The group contributed around 67% of the total volume during the investigation period. It was further observed that out of the total of 70,55,322 shares traded between members of Mahesh Mistry Group, orders for 35,88,474 shares were synchronized and in many trades the entities belonging to the Mahesh Mistry Group were counterparties to each other. The details with regard to connection between the entities belonging to Mahesh Mistry Group as available on record are as follows:

Serial No.	Name of the entity	Related to	Nature of Relationship	Clients codes
1.	Mahesh Mistry	Piyush Shah	Piyush Shah introduced Mahesh Mistry to the broker Jitendra Harjivandas.	M170, 5995, 57001, M175, 4302, B13004, 052M
2.	Dharmendra Thapa	Pravin Jain	Introduced by Pravin Kumar Jain	4308, B13046, 2545, 052D008,
3.	Jalaj J Batra	Pravin Jain	Introduced by Pravin Kumar Jain	57086, E5J030, 4334

Serial No.	Name of the entity	Related to	Nature of Relationship	Clients codes
4.	Piyush Shah	Dimple Shah	Dimple Shah is the wife of Piyush Shah.	PP3, T52
5.	Shiner Trading Co	Pravin Jain	Dharmendra Thapa, director of Shiner Trading Co	S061
6.	Suman Saini	Pravin Jain	Introduced by Pravin Kumar Jain	2543,5411, S051
7.	Dimple Shah	Pravin Jain	Introduced by Pravin Kumar Jain	5894
8.	Harish Kapadia	Pravin Jain	Introduced by Pravin Kumar Jain	5895
9.	Vinod Khetan	Pravin Jain	Introduced by Pravin Kumar Jain	V134, 4258
10.	Pravin Kumar Jain		Introduced Mahesh Mistry, Nicolas Gomes, Dharmendra Thapa, Jalaj Batra, Suman Saini, Piyush Shah, Dimple Shah, Harish Kapadia, Vinod Khetan	E5P701
11.	Sai Shraddha Leasing & Hire Purchase Finance Pvt Ltd.	Pravin Jain	Dharmendra Thapa and Suman Saini are directors.	2533
12.	Arihant Securities	Pravin Jain	Pravin Kumar Jain has signed in KYC	C211, 4320
13.	Nicholas Gomes	Pravin Jain	Introduced by Pravin Kumar Jain	5410

6. It was observed from the last traded price analysis (hereinafter referred to as “LTP Analysis”) that in total 15,48,302 shares of the company were traded at a price different from the last traded price, which constituted 10.04% of the total volumes traded in the scrip during that period. It was also observed that the price range of such trades fluctuated from Rs. (-)11.20 to Rs. 9.60 and that the total price rise due to such price difference, as coming out in the LTP Analysis, was calculated to be Rs. 77 for the investigation period. It was further observed that during the investigation period, for a time difference below 60 seconds, there have been 36,121 trades resulting in quantity of 81,81,055 shares amounting to 53.06% of the total traded quantity.
7. Subsequent to the examination of trades executed during the investigation period, it was observed that there were 117 instances in which the trades were executed with a price difference of Rs. 3 or more than the previous traded price and out of which the clients forming part of Mahesh Mistry Group trading through different brokers accounted for 97 such instances, i.e., around 83% of

incremental trades executed with a price difference of Rs. 3 or more than the previous traded price was accounted for by clients forming part of Mahesh Mistry Group.

8. During the investigation period, Shri Pravin Kumar Jain (hereinafter referred to as “**Noticee**”) as a member of Mahesh Mistry Group, purchased 7,28,696 shares and sold 1,39,250 shares, inter-alia, through sub-broker E Stocks of broker Mangal Keshav Securities. On net basis, the Noticee had bought 5,89,446 shares of the company.
9. Therefore, to ascertain Noticee’s connection/role in the instant matter, and to enquire about the acquisition of shares by the Noticee, the Investigating Authority of SEBI (hereinafter referred to as “**IA**”) issued summons dated February 17, 2006 under Section 11C(3) & 11C(5) of SEBI Act, 1992 requiring the Noticee to be personally present before the Investigating Authority and to submit information. It was observed that the Noticee vide letter dated June 23, 2006 requested for a week to appear before the IA. Thereafter, SEBI vide letter dated June 26, 2006 advised the Noticee to appear before the IA on July 6, 2006. Subsequently, a letter of the Noticee was received by SEBI on July 6, 2006 whereby the Noticee submitted his medical report and requested for more time to appear before the IA. However, subsequent to the said letter, the Noticee neither appeared nor submitted the information to the IA. In light of the aforesaid, it was alleged that the Noticee did not provide the requisite information as required under the summons and failed to comply with the summons dated February 17, 2006.
10. It was also observed during the course of investigation that during the investigation period the Noticee as a part of Mahesh Mistry Group had done substantial transactions in the scrip of the company. In light of the aforesaid, it was alleged that the trading pattern indulged into by the Noticee alongwith the entities of Mahesh Mistry Group was in the nature of circular trades as they were the main entities who traded amongst themselves during the investigation period by executing synchronized trades without any intention to effect transfer of beneficial ownership. It was further alleged that the Noticee, in connivance with other entities of Mahesh Mistry Group, employed as well as aided and

abetted in employing manipulative and deceptive devices of trading which led to creation of artificial volumes and influenced the price of the scrip of the company during the investigation period.

APPOINTMENT OF ADJUDICATING OFFICER

11. Shri D. Sura Reddy was appointed as the Adjudicating Officer vide Order dated July 22, 2008 to inquire and adjudicate under Section 15HA of the SEBI Act, 1992 the alleged violation of the provisions of Regulation 3(a), (b) and 3(c) read with 4(2) (a), (b) and 4(2) (e) of SEBI (Prohibition of Fraudulent and Unfair Trade Practices relating to Securities Markets) Regulations, 2003.
12. Subsequent to the transfer of Shri D. Sura Reddy, I was appointed as the Adjudicating Officer vide Order dated December 10, 2008.

SHOW CAUSE NOTICE, HEARING & REPLY

13. A show cause notice (hereinafter referred to as "SCN") in terms of the provisions of Rule 4(1) of SEBI (Procedure for Holding Inquiry and Imposing Penalties by Adjudicating Officer) Rules, 1995 {hereinafter referred to as "Rules"} was issued to the Noticee on November 10, 2009, seeking reply of the Noticee as to why an inquiry should not be held against the Noticee in respect of the violations alleged to have been committed by him. The said SCN was sent by hand delivery but the same returned undelivered. Subsequently, a copy of the said SCN was forwarded to the Noticee by Registered Post – Acknowledgement Due vide letter dated November 30, 2009; and the same was duly delivered to the Noticee (proof of delivery/acknowledgement is present on record). Thereafter, by letter dated December 11, 2009 the Noticee requested for some time to reply to the SCN. The request of the Noticee was considered and vide letter dated December 16, 2009 the Noticee was advised to submit reply within January 04, 2010. However, the Noticee did not submit any reply to the aforesaid SCN.
14. Hence, after carefully considering the aforesaid SCN issued to the Noticee, I decided to conduct an inquiry in the matter and grant opportunity of personal hearing to the Noticee. Accordingly, an opportunity of personal hearing was granted to the Noticee and the Noticee was advised to attend the hearing on January 28, 2010. The said Notice of Inquiry dated January 14, 2010 was sent by

hand delivery but the same returned undelivered. For abundant caution, a copy of this Notice of Inquiry was also sent by Registered Post – Acknowledgement Due and the same was duly delivered on January 18, 2010 (proof of delivery/acknowledgement is present on record). Thereafter, by letter dated January 28, 2010 the Noticee requested for some more time to appear for hearing.

15. Subsequently, in the interest of natural justice, one more opportunity of personal hearing was granted to the Noticee and the Noticee was advised to attend the hearing on February 22, 2010 vide Notice of Inquiry dated January 29, 2010. This Notice of Inquiry was sent by Registered Post – Acknowledgement Due but the same returned undelivered with comments “left”. Thereafter, the said Notice of Inquiry January 29, 2010 was resent by hand delivery and the same was duly received by the Noticee on February 12, 2010. The Noticee appeared for hearing on the scheduled date, i.e., February 22, 2010 and submitted as follows:

“I was involved only for few months in this scrip when the price was in the range of Rs. 44-54. After that I disassociated from the group as I noticed that some mal practice was going on.”

16. As no reply was received from the Noticee in respect of the aforesaid SCN, the Noticee was granted another opportunity of personal hearing on April 06, 2010 vide Notice of Inquiry dated April 01, 2010. During the course of Adjudication Proceedings, certain typographical errors were observed in the data relating to buy order time and sell order time of trades executed from July 14, 2003 to July 18, 2003 as provided to the Noticee in Annexure V of the SCN. Hence, a corrected copy of the aforesaid trades was furnished to the Noticee as an enclosure to the aforesaid Notice of Inquiry dated April 01, 2010 and at the time of hearing also the Noticee was advised to make submissions, if any, in this regard. The Noticee submitted as follows:

“I am innocent in this matter and not involved in any manipulation. Whatever has happened is done by Mr. Jalaj Batra & I was working under him only.”

CONSIDERATION OF ISSUES

17. After a careful examination of the SCN, the submissions of the Noticee and the documents available on record, I have the following issues for consideration, viz.,

- A. Whether the Noticee has violated the provisions of Regulation 3(a), (b) and (c), 4(2) (a), (b) and (e) of SEBI (Prohibition of Fraudulent and Unfair Trade Practices relating to Securities Markets) Regulations, 2003?
- B. Whether the Noticee is liable for monetary penalty under section 15HA of the SEBI Act, 1992?
- C. What quantum of monetary penalty should be imposed on the Noticee, taking into consideration the factors mentioned in Section 15J of the SEBI Act, 1992?

FINDINGS

18. On perusal of the materials available on record and giving regard to the facts and circumstances of the case, I record my findings hereunder.

ISSUE 1: Whether the Noticee has violated provisions of Regulation 3(a), (b) and (c), 4(2) (a), (b) and (e) of SEBI (Prohibition of Fraudulent and Unfair Trade Practices relating to Securities Markets) Regulations, 2003?

19. Before proceeding further, it will be appropriate to refer to the provisions of Regulation 3(a), (b), (c), 4(2) (a), (b) and (e) of SEBI (Prohibition of Fraudulent and Unfair Trade Practices relating to Securities Markets) Regulations, 2003 which read as follows:

Regulation 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 thereunder;

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

Regulation 4: Prohibition of manipulative, fraudulent and unfair trade practices

(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;

(b) dealing in a security not intended to effect transfer of beneficial ownership but intended to operate only as a device to inflate, depress or cause fluctuations in the price of such security for wrongful gain or avoidance of loss;

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

20. The details of trading done by the Mahesh Mistry Group (as brought out in paragraph 4 & 5 of this order) of clients in the scrip of the company during the investigation period is as follows:

S. No.	Clients	Quantity Bought	Quantity Sold
1.	Mahesh Mistry	42,28,840	14,03,990
2.	Jalaj Batra	15,12,109	9,70,557
3.	Pravin K Jain	7,28,696	1,39,250
4.	Arihant Securities (Prop. Pravin K Jain)	11,565	9,62,191
5.	Dharmendra Thapa	5,08,855	41,00,071
6.	Suman Saini	1,92,094	2,99,358
7.	Shri Sai Shraddha Leasing & Hire Purchase Finance Pvt. Ltd.	2,56,140	3,27,949
8.	Nicholas Gomes	90,075	1,54,500
9.	Shiner Trading Co. Pvt. Ltd.	1,31,000	-
10.	Dimple Shah	54,300	8,100
11.	Piyush Shah	10,05,936	10,05,194
12.	Harish Kapadia	5,87,867	4,95,616
13.	Vinod Khetan	4,02,174	1,07,174
	Total	97,09,681	99,73,950

21. It is observed that in total the Noticee traded in 8,67,946 shares among which Noticee bought 7,28,696 shares and sold 1,39,250 shares, inter-alia, through sub-broker E Stocks of broker Mangal Keshav Securities. On net basis, the Noticee had bought 5,89,446 shares of the company during the investigation period. It is also observed from the materials available on record that the Noticee acted as introducer to most of the entities of Mahesh Mistry Group. It is further observed that the Noticee was the proprietor of M/s. Arihant Securities, another group entity of Mahesh Mistry Group.

22. From the materials available on record it is observed that the Noticee alongwith other members of Mahesh Mistry Group, used to trade actively in the scrip of the company. It is also observed that the broker Jitendra Harjivandas Securities Pvt. Ltd. got a call from the BSE Surveillance Department regarding fictitious and non-genuine trades and on verification of such trades, they found out that the

Noticee was one of the entities, dealing and making payments on behalf of certain other entities of Mahesh Mistry Group, namely Mahesh Mistry, Harish Kapadia and Dimple P Shah. This shows that the entities of Mahesh Mistry Group acted as a consortium of people who were making payments and deliveries on a common basis on behalf of each other for their liability, reinforcing the finding that the Mahesh Mistry Group was acting in concert while trading in the scrip of the company during the investigating period.

23. It is observed that during the course of statement recording before the IA, Shri Piyush Shah submitted that Vinod Khetan introduced the Noticee with Shri Piyush Shah after which the Noticee enquired about Shri Piyush Shah's trading account details and told Shri Piyush Shah to commence trading on behalf of the Noticee in lieu of some brokerage as Shri Piyush Shah was a remiser with broker Jitendra Harjivandas Securities Pvt. Ltd. During the course of statement recording before the IA, when Shri Piyush Shah was alleged with charges of aiding and abetting by acting in concert with members of Mahesh Mistry Group for doing circular and matched trading, it is observed that Shri Piyush Shah agreed to have aided and abetted the Noticee alongwith other members of the Mahesh Mistry Group in acts and deeds as a co-partner in circular and matched trades and then in manipulating the price of the scrip to obtain personal gains.

24. Further during the course of statement recording before the IA, it was also submitted by Shri Piyush Shah that on instructions of the Noticee he used to place buy orders at the circuit limit, so as to maintain the circular trading in the scrip, which eventually jacked up the prices. It has been further submitted by Shri Piyush Shah that Harish Kapadia was introduced by him and the same account was also used for manipulation and circular trading by the Noticee alongwith other members of the Mahesh Mistry Group. It is also observed that during the course of statement recording before the IA, Shri Piyush Shah submitted that Dharmendra Thapa and Mahesh Mistry were doing necessary paperwork (bank, Demat dealings) for the Noticee and Jalaj Batra who all are part of the Mahesh Mistry Group. At this juncture it is pertinent to note that a copy of the recorded statement of Shri Piyush Shah before the IA was provided to the Noticee as "Annexure VII" of the SCN. However, during the entire

Adjudication Proceedings the Noticee has never disputed any of the statements made by Shri Piyush Shah against the Noticee, as mentioned above.

25. From the above it appears to me that the Noticee was one of the main people in the Mahesh Mistry Group who in collusion other entities of Mahesh Mistry Group like Jalaj Batra, Piyush Shah, Vinod Khetan, etc. indulged in fraudulent and manipulative trading activity while dealing in the scrip of the company. This is also clear from the submissions made by the Noticee at the personal hearing on April 06, 2010 wherein he accused Shri Jalaj Batra as responsible for the entire thing and stated that he was working under Shri Jalaj Batra.
26. From the materials available on record, it is observed that during the investigation period, in many trades the entities belonging to the Mahesh Mistry Group were counterparties to each other. It is also observed that entities belonging to the Mahesh Mistry Group including the Noticee entered into synchronised trades wherein they traded among themselves and in all such instances the buy and sell orders have been placed in a time gap of few seconds. At this juncture, it is important to consider the method and the manner in which these trades have been executed during the investigation period. The motive, thereafter, automatically falls in line. In trades like cross deals, reversed transactions, circular trades, and synchronized trades, the orders are placed so as to ensure a matching of the buy and the sell quantity and the buy and the sell price with the counter party, with whom a prior tacit understanding exists. The buy and the sell orders are placed at almost the same time between the counter brokers, with just a difference of a few seconds.
27. The trading pattern of the Mahesh Mistry Group including the Noticee reveals a proximity in the inputting of orders in such a way that there is almost perfect matching in all the trades, with all the three parameters, viz., quantity, price and most importantly, the time required to conclude the trades, which clearly indicates synchronization in the logging in of the orders. The matching of these trades between the entities of Mahesh Mistry Group was not noted in a solitary incident or two; instead, a large number of synchronized trades got matched regularly during the investigation period. It is my considered belief that frequency of such trades ensured consistent matching of the orders purely for the

purpose of projection of the volumes of the shares of the company in a way that was not the market determined volumes, possibly to induce other persons to invest in the said scrip. This results in artificial appearance of trading at the stock exchange and also of artificial appearance of discovery of price, misguiding the general investors. It is pertinent to note that a total of 70,55,322 shares were traded between members of Mahesh Mistry Group, out of which orders for 35,88,474 shares were synchronized. It is also pertinent to note that such trading patterns lead to price fluctuations and creates a false appearance of trading in the securities market and thereby tending to mislead the gullible investors.

28. From the LTP Analysis, I note that in total 15,48,302 shares of the company were traded at a price different from the last traded price, which constituted 10.04% of the total volumes traded in the scrip during that period. I further note that the price range of such trades fluctuated from Rs. (-)11.20 to Rs. 9.60 and that the total price rise due to such price difference, as coming out in the LTP Analysis, has been calculated to be Rs. 77 for the investigation period. It was observed that there were 117 instances in which the trades were executed with a price difference of Rs. 3 or more than the previous traded price and out of which the clients forming part of Mahesh Mistry Group trading through different brokers accounted for 97 such instances, i.e., around 83% of incremental trades executed with a price difference of Rs. 3 or more than the previous traded price was accounted for by clients forming part of Mahesh Mistry Group. It was also observed that during the investigation period, for a time difference below 60 seconds, there had been 36,121 trades resulting in quantity of 81,81,055 shares amounting to 53.06% of the total traded quantity. In this regard, I note that the trades done by entities belonging to Mahesh Mistry Group in which price difference as per LTP Analysis was more than Rs. 2 and time difference was less than 60 seconds were provided to the Noticee as Annexure V of the SCN.

29. I note that the company had meager income and incurred losses in all the quarters of Financial Year 2002-2003. I also note that during the first two quarters of Financial Year 2003-2004 the company incurred losses. Besides, no major announcements or news item relating to the company was observed during the investigation period. It is thereby evident that the price movements and the volume of transactions in the shares of the company were artificial and were

designed to create a false market, when the shares lack the fundamentals. I observe that the abnormal increase in price of the scrip of the company (from Rs. 34.05 on May 02, 2003 to Rs. 120 on November 13, 2003; reflecting a price rise of around 254%) was not backed by any change in the fundamentals of the company and as such was artificial and designed to create false market. I also find that the financial performance of the company was not at all impressive to warrant such trading and price rise.

30. Regulation 3 of SEBI (Prohibition of Fraudulent and Unfair Trade Practices relating to Securities Markets) Regulations, 2003 prohibits a person from buying, selling or dealing in securities in a fraudulent, manipulative or deceptive manner. In order to establish the fraudulent nature of trades indulged in by the noticee, reference may also be made to the definition of fraud laid down in regulation 2 (1) (c) of the SEBI (Prohibition of Fraudulent and Unfair Trade Practices relating to Securities Markets) Regulations, 2003, which reads as follows:

"2 (1) (c) "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 to deal in securities, whether or not there is any wrongful gain or avoidance of any loss,"

Regulation 4(2)(a) of the aforesaid regulations, inter alia, prohibits a person from indulging in an act which creates false or misleading appearance of trading in the securities market. Regulation 4(2)(b) of the aforesaid regulations, inter alia, prohibits dealings in a security intended to operate as a device to inflate, depress or cause fluctuations in the price of such security for wrongful gains. Regulation 4(2) (e) of the aforesaid regulations prohibits a person to act in a way to manipulate the price of the security.

31. As detailed above, it appears that the intention of the Noticee was to create artificial volume in the scrip of the company and to impact volatility during the investigation period. Hence, it is difficult for me to believe that the Noticee was innocent in this matter and it is my considerate view that the acts of manipulative trading by the Noticee helped in creating artificial demand and thereby leading to a false appearance of trading in the scrip of the company as also as causing fluctuations in the price of the scrip of the company. In light of

the facts of the case and materials available on record I am convinced that the Noticee has violated the provisions of Regulation 3(a), (b) and (c), 4(2) (a) (b) and (e) of SEBI (Prohibition of Fraudulent and Unfair Trade Practices relating to Securities Markets) Regulations , 2003.

ISSUE 2: Whether the Noticee is liable for monetary penalty under Section 15HA of the SEBI Act, 1992?

32. The provisions of section 15HA of SEBI Act,1992 as prevailing at the relevant time is reproduced hereunder :

Penalty for fraudulent and unfair trade practices:

Section 15HA:

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.

33. After carefully considering the facts and circumstances of the case and violation committed by the Noticee, I am of the opinion that the Noticee is liable for monetary penalty under Section 15HA of the SEBI Act, 1992.

ISSUE 3: What quantum of monetary penalty should be imposed on the Noticee, taking into consideration the factors mentioned in Section 15J of the SEBI Act, 1992?

34. While imposing monetary penalty 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.”

35. I note that on the basis of data available on record, it is difficult, in cases of such nature, to quantify exactly the disproportionate gains or unfair advantage enjoyed by an entity and the consequent losses suffered by the investors. Further the amount of loss to an investor or group of investors also cannot be quantified on the basis of available facts and data. Even though the monetary loss to the investors cannot be computed, any manipulation in the volume or price of the stocks caused by vested interest always erodes investor confidence in the market so that investors find themselves at the receiving end of market manipulators. Artificial volume leads to artificial liquidity and it is well known that greater the liquidity, the higher is the investors' attraction towards investing in that scrip. Hence, anyone could have been carried away by the unusual fluctuations in the volumes and been induced into investing in the said scrip. Besides, this kind of activity seriously affects the normal price discovery mechanism of the securities market. People who indulge in manipulative, fraudulent and deceptive transactions, or abet the carrying out of such transactions which are fraudulent and deceptive, should be suitably penalized for the said acts of omissions and commissions. Considering the continuous effort of the Noticee in this aspect where the trading was carried out over a period of time, it can safely be surmised that the nature of default was also repetitive.

36. From the forgoing paragraphs it is now established that the Noticee has violated the provisions of Regulation 3(a), (b) and (c), 4(2) (a) (b) and (e) of SEBI (Prohibition of Fraudulent and Unfair Trade Practices relating to Securities Markets), Regulations, 2003. Considering the facts and circumstances of the case and the violations committed by the Noticee, I find that imposing a penalty of Rs. 3,00,000/- (Rupees Three Lakhs only) on Shri Pravin Kumar Jain would be commensurate with the violations committed by the Noticee.

ORDER

37. Considering the facts and circumstances of the case, I hereby impose a penalty of Rs. 3,00,000/- (Rupees Three Lakhs only) under Section 15HA on Shri Pravin Kumar Jain which will be commensurate with the violations committed by him.

38. The penalty shall be paid by way of demand draft drawn 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 shall be forwarded to Dr. Pradnya Saravade, Officer on Special Duty, Investigation Department, Securities and Exchange Board of India, Plot No. C4-A, 'G' Block, Bandra Kurla Complex, Bandra (E), Mumbai - 400 051.

39. In terms of the provisions of Rule 6 of the SEBI (Procedure for Holding Inquiry and Imposing Penalties by Adjudicating Officer) Rules 1995, copies of this order are being sent to the Noticee and also to Securities and Exchange Board of India.

Date: April 13, 2010
Place: Mumbai

P. K. Bindlish
Adjudicating Officer