BEFORE THE ADJUDICATING OFFICER

SECURITIES AND EXCHANGE BOARD OF INDIA

[ADJUDICATION ORDER NO. - SRP/JP/AO: 170 /2011]

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

In respect of:

Mr. Narendra Ganatra

PAN – AEMPG4315C

(In the matter of M/s. Gemstone Investments Limited)

BACKGROUND IN BRIEF

1. The Securities and Exchange Board of India (hereinafter referred to as **'SEBI'**) conducted investigations into the affairs, trading and dealings in the shares of Gemstone Investments Limited (hereinafter referred to as '**Company/GIL**') for the period from August 28, 2006 to August 21, 2008 on the basis of a report received from the Bombay Stock Exchange Ltd. (hereinafter referred to as **'BSE'**) regarding substantial reduction in the shareholding of the promoters of the Company and unusual spurt in price and traded volume of the scrip.

2. During investigations, it was, inter alia, observed by SEBI that i) Premchand K. Shah was the Chairman & Managing Director of the Company and ii) Sharman P Shah, iii) Nihal P. Shah, iv) Sharman Appliances Private Limited, v) Mradula V Shah and vi) Sushila P Shah were the promoters and persons belonging to promoter group of GIL. vii) Vijaykumar N Shah, viii) Shreya V Shah, ix) Bindi V Shah and x) Vanechand N Vora were persons related to promoters/directors of the Company. (For the sake of brevity hereinafter these entities are collectively referred to as "**promoter group entities.**") It was also observed that Mr. Narendra Prabodh Ganatra was familiar to the promoters/directors of the Company since the year 2005. Subsequently, he was appointed as one of the directors of the Company on August 1, 2007 and was looking after the day to day affairs of the Company.

3. It was also observed during investigations that a group of entities namely, i) Narendra Ganatra (hereinafter referred to as **"the Noticee"**), ii) Bhavesh Pabari, iii) Hemenat Sheth, iv) Ankit Sanchaniya, v) Bharat Thakker, vi) Prem Parikh, vii) Manish Joshi, viii) Rajesh

Bhanushali, ix) Vinayak Bhanage, (x) Kishore Chauhan, xi) Mala Sheth, xii) Bhupesh Rathod, xiii) Janak Vyas, xiv) Devendra Vadhaiya, xv) Jayesh Kuwadia, xvi) Ashish Ganatra and xvii) Nimesh Ganatra, who were allegedly connected/related to each other, have traded in the scrip of GIL on BSE under different client codes and have also engaged in off market deals in the shares of GIL. Amongst these entities, Mr. Narendra P. Ganatra i.e. the Noticee was the director of GIL. For the sake of brevity these entities are hereinafter collectively referred to as "**Narendra Ganatra Group**."

4. Based on the findings of the investigation it has been alleged that the said Narendra Ganatra Group entities, including the Noticee, had manipulated the scrip of GIL. They indulged in synchronized/circular/reversal trades etc. and thereby artificially increased the price/volumes of the shares traded in violation of the provisions 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

5. The undersigned has been appointed as Adjudicating Officer under section 15 I of the SEBI Act read with rule 4 of the SEBI (Procedure for Holding Inquiry and Imposing Penalties by Adjudicating Officer) Rules, 1995 (hereinafter referred to as **'Rules'**) vide order dated March 31, 2010 to inquire into and adjudge under sections 15HA of the SEBI Act, the alleged violation of the regulations 4(1) and 4 (2) (a), (b), (e) & (g) of the PFUTP Regulations, by the Noticee.

SHOW CAUSE NOTICE, HEARING AND REPLY

6. Show Cause Notice dated May 31, 2010 (hereinafter referred to as **'SCN'**) was issued to the Noticee under rule 4(1) of the Rules. The Noticee was asked to show cause as to why an inquiry be not held and penalty be not imposed on him under sections 15HA of the SEBI Act for the alleged violation of the provisions of the regulations 4(1) and 4 (2) (a), (b), (e) & (g) of the PFUTP Regulations.

7. The Noticee did not reply to the said SCN even after duly acknowledging the same. Therefore, based on the available information and the material on record, it was decided to conduct an inquiry in the matter and for the purpose an opportunity of hearing on August 03, 2010 was granted to the Noticee vide notice dated July 09, 2010. The Noticee did not appear for the hearing on the said date. However, in the meantime vide his letter dated July 27, 2010 he sought extension in time to submit his reply to the SCN and also requested to grant him another opportunity of hearing. In the interest of natural justice he was granted another opportunity of hearing on August 26, 2010 vide Notice dated August 04, 2010. The Noticee attended the hearing on August 26, 2010, along with his representative – Mr. Prakash K Shah,

advocate. The oral submissions made by the Noticee were recorded. The Noticee also submitted his detailed reply dated August 23, 2010 along with the enclosures stated therein.

8. The written submissions of the Noticee dated August 23, 2010 and the oral submissions made during the hearing on August 26, 2010, are mainly to the following effect :

- *That out of the entire period covered under the investigations, his trading in the scrip is confined only between November 06, 2006 to January 17, 2007 and in the price range of ₹ 6.90 to ₹ 17.00. As per para 6 of the SCN, during the investigation period the price of the scrip had risen from ₹ 2.94 on August 2006 to ₹ 45.45 on November 12, 2007 and thereafter, it came down to ₹ 14.85 on April 15, 2008 and again increased to ₹ 51.80 on August 21,2008. This indicates that price fluctuation during the period, when he had traded in the scrip, is very narrow in comparison to the market volatility. Further, that out of 446 days of trading and the total traded quantity of 2, 55, 37,175 shares, he has done trading only on 10 days and for buy and sell quantities of 25,100 shares only. (In support of his contention the Noticee has segregated his individual transactions from the entire details provided to him with the SCN and produced the same in a tabular format).*
- *That on August 01, 2007, he was appointed as an independent director of GIL and after the said appointment; he diligently performed all his duties as an independent director. Incidentally, on August 27, 2008, Mr. Premchand Shah, the then Managing Director of GIL resigned due to ill health and to fill the vacancy, he (the Noticee) was appointed as the Managing Director of GIL by passing of a special resolution in the Annual General Meeting of the members of the Company held on September 29, 2008.*
- *That since January 20, 2007 (date of his last sale transaction), he did not hold any shares of GIL and thereafter, had not done any transaction either on market or off market in the scrip of GIL.*
- *Except for Nimesh Ganatra, who is brother of the Noticee, the Noticee has denied his connection/relation with the other group entities as mentioned under para 4 of the SCN. He has also denied his connection/relation with the promoter group entities of GIL.*
- *On perusal of Annexure II to the SCN (which details the alleged relation/connection among the Narendra Ganatra Group entities), he could locate his connection / relation only with one Bhavesh Pabari, other than his brother Nimesh Ganatra. The so called relationship with Bhavesh Pabari is that of friendship and that he (the Noticee) had introduced him (Bhavesh Pabari) to the stock broker Ford Brothers Capital Market Ltd. It was merely an introduction of a person and nowhere in the KYC form it was stated to be a group/family account.*
- *That the common address was/is the address of Ami stock and share Brokers Pvt. Ltd., and the same was given only for the purpose of contact details/correspondences and that*

the said premises do not belong to the Noticee and that he never had any office at that address.

- *That with regard to the allegation of circular/reversal trades, the details of which are furnished in the table under para 13 of the SCN, his name is not appearing in the said table in the list of the clients and as far as his business is concerned, he is independent of and separate from any other person including his brother Nimesh Ganatra. Also, that in the details of off market transactions as shown in table under para 14 of the SCN, his name is not appearing.*
- *That he has not indulged in any fraudulent or an unfair trade practice while dealing in the scrip of GIL. All his transactions were carried out through the stock exchange mechanism during trading hours and were executed at the then prevailing market price and no actions were taken by stock exchange against him. Also, that all the buy orders placed with the stock broker in the scrip of GIL were within his financial capacities and on its execution; he had fulfilled his pay-in obligations. Similarly, all the sell orders placed with the stock brokers were delivery based and were limited only to the extent of his then existing holding in the scrip of GIL. For his trades in the scrip there was always real and effective transfer of beneficial ownership.*

- *That he has not been provided with the order log and trade log file for the relevant period hence, he is handicapped in making further submissions in this regard.*

- *That during the time when he had traded in the GIL scrip, he was not a Director of the Company and he had no access to any price sensitive information of the GIL and his volume of trading in GIL was very negligible to have any impact on the market. Further, that there is not a single transaction entered into by him which was reversed through another stock broker using different client codes as alleged and therefore, he had not created any artificial volume. His transactions of buy and sell of 25,100 shares did not raise the price of GIL scrip or was not to induce other investors to deal in the scrip.*

9. It would be appropriate to mention here that one of the contentions of the Noticee is that he has not been provided with the order log and trade log file for the relevant period hence, he is handicapped in making further submissions. In this regard, I have observed that all the relevant details/documents relied upon were provided to the Noticee in Annexures I to IX of the SCN and the same were duly received at the Noticee's end. Annexure VII to the SCN is the compilation data of the order and trade logs and difference of time and price etc. is mentioned therein, which suggest the difference of time between buy and sale orders alongwith the other relevant details. It would also be pertinent to mention here that the allegations in the SCN issued to the Noticee are in respect of a group of entities alleged to have acted in collusion,

and therefore, providing their individual trade details etc. may not give a true picture of the case, hence, such trade details provided to the Noticee are the details in respect of the group including the Noticee; and not only the alleged individual trades of the Noticee. I would also like to mention here that the SCN dated May 31, 2010 was duly received at the Noticee's end on June 05, 2010, but he did not care to respond to the same. He replied to the SCN after more than two and half months (vide letter dated August 23,, 2010) and that too, pursuant to issuance of two hearing notices. He sought extensions in submitting reply or attending hearings without specifying any valid and acceptable reason for the same. Further, it can be very reasonably inferred from the act and conduct of the Noticee that if some relevant documents, which according to the Noticee were very necessary and not provided to him along with the SCN, or some details were not understood from said trade/order logs, then the Noticee (if he is fairly contesting the same) could have strongly raised such issue during personal hearings. Alternatively, he could have gone in for inspection of documents, but he never insisted upon the same. Merely, making a passing reference on the issue of not providing the relevant documents, without further following up his presentation at the relevant stage can not be a supporting ground for the Noticee for his own deliberate failures. I am of the view that the above contention of the Noticee has no valid grounds and that all the relevant information/documents in support of the allegations were made available to the Noticee.

CONSIDERATION OF ISSUES AND FINDINGS

10. I have carefully examined the allegations against the Noticee, the submissions made by him and the material/evidences on record. The issues that arise for consideration before me in the present case are as under :

    a. Whether the Noticee is connected/related/linked in any manner with the Narendra Ganatra Group and the promoter group entities as mentioned in the SCN?
    b. Whether the Noticee had violated the provisions of the PFUTP Regulations by indulging in fraudulent and manipulative trade practices in the scrip of GIL in connivance with others?
    c. Does the contravention/violation of the aforesaid regulations, if any, committed by the Noticee attract monetary penalty under section 15HA of the SEBI Act?
    d. If so, what would be the monetary penalty that can be imposed taking into consideration the factors mentioned in section 15 J of the SEBI Act?

11. Before moving forward it would be pertinent to refer to the relevant provisions of the PFUTP Regulations, alleged to have been violated by the Noticee. The provisions of these regulations are reproduced hereunder:

    A. PFUTP Regulations

4. Prohibition of manipulative, fraudulent and unfair trade practice

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

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

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

(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;

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

12. I have carefully examined the alleged charges, reply of the Noticee and the same is dealt on merit issue wise as under.

Issue (1): <u>Whether the Noticee is connected or related in any manner with Narendra Ganatra Group Entities and/or Promoter Group Entities</u>

13. It has been alleged in the SCN that the Noticee is connected/related to Narendra Ganatra Group entities and in collusion with them and the promoters of GIL; he executed the alleged manipulative trades and thereby, artificially increased the price and volumes of the scrip. The Noticee has admitted that Nimesh Ganatra (one of the group entities) is his brother and another group entity namely, Bhavesh Pabari is his friend. However, he has contended that as far as his business and trading activities are concerned he is independent and separate from any other person. The Noticee has denied his relation/connection with the other entities of the "Narendra Ganatra Group" and also denied about his collusion with the promoter group entities while dealing in the shares of the Company.

14. In regard to the issue of connection/relation of the Noticee with the above said Narendra Ganatra Group entities, it is evident from the available records i.e. Annexure II attached with the SCN, that the Noticee is brother of Nimesh Ganatra (a group entity) and the same has also been admitted by the Noticee in his above said reply. It is also observed from the details provided in the said Annexure that the Noticee had introduced Nimesh Ganatra, Bhavesh Pabari and Manish Joshi (the Group entities) to their respective stock brokers and was also sharing the same address with Nimesh Ganatra and Bhavesh Pabari. The fact of sharing of same address has not been disputed by the Noticee and it has also been admitted by him that Bhavesh Pabari is his friend. These facts suggest that Nimesh Ganatra, Bhavesh Pabari,

Manish Joshi etc. were not strangers or casual acquaintances to the Noticee but they were known to the Noticee to such an extent that he was comfortable in sharing his address with some of them or introducing them to the stock broker. As has been detailed in the aforesaid Annexure II of the SCN, these entities were related/connected to the other entities of the group in some manner viz. sharing common address, having joint bank accounts, having fund and securities movement or off market deals with the other entities of the group etc. and thus suggest some linkage, connection or relation of the Noticee with the other entities of the Narendra Ganatra Group.

15. It is also observed from the available records and as admitted by the Noticee that he was appointed as one of the directors of GIL with effect from August 01, 2007 and subsequently he was made managing director around August 2008. These details strongly suggest that the Noticee was closely associated/connected with the Company and the promoter group of GIL. In this regard, I have noted that Premchand K Shah, who was the managing director of GIL prior to appointment of the Noticee as the managing director, has also not denied or disputed the Noticee's association with the Company and had stated before SEBI that the Noticee was introduced to him by his ex-tax consultant Shri Dhiraj Sahiyar, Mumbai in the later part of the year 2005 and sine then he (Premchand K Shah) took him (the Noticee) as co-promoter of the Company.

16. It is pertinent to mention here that in regard to violations of the PFUTP Regulations, the core of the allegations against the Noticee is that he allegedly acted in collusion and with prior understanding with the promoter group entities of GIL. He is related/connected with the other entities of the Narendra Ganatra Group and in connivance with them manipulated the price and volumes of the GIL scrip to induce other investors to trade in the scrip and to enable the promoter group entities to off load their stake at artificially risen prices. Therefore, it would be appropriate to mention here that in respect of the dealings and transactions of the Noticee, relation/ connection does not mean that the Noticee should be related to Narendra Ganatra Group entities or the promoter group entities by way of any familial relation or any other close relation; rather the relation/connection may be of any other kind i.e. professional/business relation etc. I am of the opinion that depending on the facts and circumstances of the case the persons who are related to each other by virtue of some professional/business relations etc. or otherwise are also related/connected entities if they are acting in collusion among themselves to enter into such transactions. Now, here a question arises as to whether the Noticee along with the above said Group entities was having any collusion while entering into such transactions. In this context, it is stated that the relation of any kind does not *ipso facto* makes a person liable of manipulation of trades, however, it can be seen/observed from the transactions showing the involvement of a person with others in majority of trades, which are purported to be executed in such fashion between them in pursuance of such collusion. It

means that such collusion can be seen/observed only from the attending circumstances of the trades which gives presumption that the trades would not have been matched/synchronized/circular/ reversal etc. in an automated mechanism of the stock exchange, unless the same are so planted or designed with the intention to result in same fashion as desired by entities.

17. The abovementioned details prima facie, suggest about the connection/relation between the Noticee and the other group members. The said details also indicate relation /connection of the Noticee with GIL and its promoters. However, I am of the view that since in this regard no other evidence is available to indicate direct nexus of the Noticee with the said other entities, it would be appropriate to infer collusion among them from the attending circumstances of the case that have been discussed below.

Issue (2): <u>Whether the Noticee had indulged in fraudulent and manipulative trade practices in the scrip in connivance with others.</u>

18. It has been alleged, inter alia, in the SCN at para Nos. 5 to 18 that the said Narendra Ganatra Group entities including the Noticee, acted in collusion and were indulged in synchronized/circular/reversal trades etc. and thereby they artificially increased the volumes/price of the scrip and also facilitated the promoter group entities of the Company, who were earlier unable to sell their shares, to offload their almost entire stake at such artificially risen prices. The Noticee vide his above said reply, has disputed the allegations and made several contentions as mentioned at para 8 above.

19. I have carefully perused and examined the records/evidence available with me in respect of the alleged indulgence of the Noticee along with Narendra Ganatra Group in synchronized/circular/reversal trades etc. and observed as under. I have noted from the investigation report and the material/information on record that the promoter group entities were together holding 25,27,630 shares i.e. 83.92 % of the total share capital of the Company on August 28, 2006, and they reduced their shareholdings to 1.22% by the quarter ending on September 30, 2008. It is observed from the trade/order logs that the sale transactions of the promoter group entities in the market had matched mainly with the entities of the Narendra Ganatra Group. It is also observed that the scrip was illiquid as after November 2005, the trading in the scrip on BSE commenced only on August 28, 2006.

20. I have also observed from the available records, including Annexure-IV to the SCN, that the price of the scrip rose from ₹ 2. 94 on August 28, 2006 to ₹ 45. 45 on November 12, 2007 and thereafter, it came down to ₹ 14.85 on April 15, 2008 and further increased to ₹ 51.80 on August 21, 2008. The scrip was traded for 446 days during the investigation period with the

total traded quantity of 2, 55, 37,175 shares and an average daily volume of 57,258 shares. It is also seen from the Investigation Report that the period covered under the investigation has been analyzed in two phases i.e. August 28, 2006 to March 16, 2007 and March 20, 2007 to August 21, 2008.

21. It is observed from the details provided to the Noticee in Annexure VI to VI E of the SCN that during **first phase** i.e. August 28, 2006 to March 16, 2007, the price of the scrip rose from ₹ 2.94 on August 28, 2006 to ₹ 24.15 on February 15, 2007 then it came down to ₹ 19.70 on March 16, 2007. During this phase the scrip was traded on 98 days for 25, 92,500 shares with an average daily volume of 26,454 shares. There were 4,592 buy orders for 3, 73, 85,295 shares and 1,976 sale orders for 56, 94,403 shares which resulted into 1,864 trades for 25, 92,500 shares. I have also noted from the trade/order log details mentioned at above said Annexures that during this period allegedly the Narendra Ganatra Group entities had dealt in the scrip through different stock brokers and purchased 12,90,000 shares and sold 2,38,400 shares accounting to 49.75% of the total traded volume of the scrip. On analyzing the counter party to the sales of the promoter group entities (connection/relation of the promoter group entities was provided to the Noticee in Annexure V to the SCN) it is observed that out of 13, 03,800 shares sold by the above said promoter group entities, the 9, 45,500 shares (72.51% of 13, 03,800) were bought by the entities of Narendra Ganatra Group as counterparty. It is also observed from the order/trade logs that there were no major market participants in the scrip during this period besides promoter group entities and clients forming part of the Narendra Ganatra Group.

22. During August 28, 2006 to August 30, 2006, the scrip was traded for 20,100 shares. Allegedly, these trades were executed between a few of the Narendra Ganatra Group entities and one of the promoter group entity namely, Sushila Shah. Thereafter, the scrip was not traded from August 31, 2006 to September 24, 2006. During this period there were 93 buy orders (out of which 57 buy orders were placed by entities belonging to Narendra Ganatra Group) placed by 12 stock brokers on behalf of 21 clients for 10,12,200 shares (for 9,74,000 shares orders were placed by Narendra Ganatra Group entities). These buy orders remained unexecuted due to non-availability of sale orders in the system. During September 26, 2006 to December 12, 2006 the scrip was traded for 2,14,000 shares and the price increased from ₹ 3.55 to ₹ 12.48, wherein, for majority of incremental trades the entities belonging to Narendra Ganatra Group were on the buy side. The promoter group entities started selling in the market mainly after December 13, 2006 when the price of the scrip had gone up to ₹ 12.48. During this period the major selling clients were the promoter group entities, namely, Mradula Shah, Sharman Appliances Pvt. Ltd., Nihal Shah, Sushila Shah, Vijaykumar Shah, Bindi Shah and Shreya Shah and their trades accounted for 49.91% of the total traded volume.

23. Taking into consideration the details of trade/order logs as provided to the Noticee in Annexure VI to VI E of the SCN, it is observed that there were 473 trades which influenced/ increased the price of the scrip when compared to last traded price during the investigation period and out of such 473 trades, the entities of the Narendra Ganatra Group were on the buy side in 155 trades for 2, 54,800 shares. Further, in respect of 180 trades for 41,600 shares the Narendra Ganatra Group entities were on the sale side and towards 25 trades for 7,800 shares the entities of the Narendra Ganatra Group dealt among themselves. It is also observed that during August 29, 2006 to December 8, 2006, out of 31 first trades, the 10 first trades were among these Narendra Ganatra Group entities for 17,100 shares, where, in every first trade the price was increased by 4% or more and the price rise was observed from ₹ 4.09 on September 29, 2006 to ₹12.87 on December 5, 2006. I have also noted that out of 31 first trades, for 29 first trades the entities of Narendra Ganatra Group were either on the buy side or sale side where the price increased by 4% or more (circuit filter in the scrip was 5% during the period) and the price rise was observed from ₹ 3.08 on August 29, 2006 to ₹ 13.50 on December 8, 2006. On 06.11.2006 the Noticee had purchased 100 shares from one of the Narendra Ganatra Group entities namely Manish Joshi by placing a buy order which was 4.88 % above the last traded price (LTP). Further, the Noticee had bought a total of 10,000 shares on 30.11.2006 and 15,000 shares on 18.11.2006. The said 25,000 shares were bought by the Noticee from Vanechand Vora and Mridula Shah (two of the promoter group entities) as counterparty.

24. It is observed from the trade/order log details that during **second phase** of the Investigation i.e. March 20, 2007 to August 21, 2008**,** the price of the scrip rose from ₹ 18.80 on March 20, 2007 to ₹ 45.45 on November 12, 2007 then it came down to ₹ 27.95 on March 05, 2008 and rose to ₹ 51.80 on August 21, 2008. The scrip was traded for 348 days during this phase with an average daily volume of 65,933 shares. The promoter group entities sold 11, 60,380 shares during this phase and the Narendra Ganatra Group entities bought 8, 96,619 shares as counterparties.

25. It is also observed from the information provided to the Noticee in Annexure VII & VIII of the SCN that the entities of Narendra Ganatra Group together purchased 1,55,51,037 shares which is 67.77% of the total buy volume and sold 1,63,81,784 shares which is 71.39% of the total sale volume during this phase. Further, it is also found that the entities of Narendra Ganatra Group entered into 4,398 circular/reversal trades (26.29% of total trades) among themselves. For these transactions, the buy and sale orders matched within the group. It is evident from the details provided to the Noticee in Annexure VIII to the SCN, that during April 24, 2007 to August 21, 2008 the Group entities accounted for a total cumulative last traded price (LTP) variation of ₹ 30/- in the scrip. They raised the price of the scrip from ₹ 21.80 to ₹ 51.80 by executing large numbers of buy orders at the price higher than the last traded price during this phase.

26. It is also observed from the details provided in the abovementioned Annexure VII that out of the 4,398 trades entered into among the entities of Narendra Ganatra Group, 664 trades for 26,19,923 shares were synchronized trades. Such trades were matched mainly within the Narendra Ganatra Group entities with a time difference of not more than one minute and with zero price difference. Here, I have noticed that for the charge of synchronization of trades, although there is no price difference and also negligible time difference in respect of buy and sale orders placed, however, in a number of cases the quantity of shares in such orders are not same. But considering the fact that altogether a total of 1, 15,49,999 shares were bought and exactly the same number of shares were sold among the group members for a long time and further in respect of 26, 29, 923 shares the orders have been placed with no price difference and negligible time difference (time gap is between 11 second to 55 second only) , I have no hesitation in concluding that the said trades among the group members involving the above stated 26,29,923 shares (where for individual trades the quantity of shares may not be the same) were of the nature of synchronized trades.

27. I have further noted that some entities of the Group were also indulged in fictitious trades i.e. a particular entity was on the buy side as well as the sale side of the same trade viz. Kishore Chauhan on 08/06/2007- 1000 shares, on 06/07/2007 – 10200 shares, on 10/07/2007- 10000 shares, on 11/07/2007 – 8200 shares, on 13/07/2007- 11900 shares, on 17/07/2007- 14900 shares, on 25/07/2007- 1700 shares, on 11/10/2007- 25000 shares, on 26/10/2007- 8000 shares, on 24/12/2007 – 2550 shares, on 01/01/2008- 2500 shares and on 07/01/2008 – 300;

    Hemant Sheth on 18/05/2007- 4000 shares, on 25/09/2007- 4350 shares, on 21/11/2007- 14500 shares, on 31/01/2008- 47368 shares, on 18/02/2008 – 10000 shares, on 07/04/2008- 11400 shares, on 08/04/2008- 75000 shares, on 28/04/2008- 550 shares, on 05/05/2008- 59950 shares, on 07/05/2008- 100 shares and on 13/05/2008- 25000 shares, etc. Some of the group entities traded in the scrip through different stock brokers and with different client codes viz. Hemant Sheth with client codes DVH001, 19H002, 34EH01 and HEMANT 50 etc., Ankit Sanchania with client codes DVA001, GDHNA018, ANKITRS9 etc., apparently to avoid the detection of their identities under the surveillance system.

28. As far as the circular/reversal trades entered into by entities of Narendra Ganatra Group is concerned, cumulative details of such transactions are given in the table below:

Name of the clients	Name of the brokers	No of Days Traded / No of Days indulged in Circular Trading on buy side	Circular/ reversal buy Qty	% to market buy	No of Days Traded / No of Days indulged in Circular Trading on sale side	Circular / reversal sell Qty	Circular trading % to market sell	%of circular trading by client to gross market
Ashish Ganatra	Gogia International Securities Ltd.	0/0	0	0.00%	4/4	44300	98.44%	0.10%
Ankit Sanchaniya	JHP Securities Pvt. Ltd. India Infoline Ltd. Anand Rathi Securities Ltd. S P Jain Securities Pvt. Ltd. Atlanta Share shoppee Ltd.	66/51	1443145	87.98%	60/41	1258965	81.03%	5.89%
Bharat Thakkar	Angel Broking Ltd. Arcadia Shares and Securities Pvt. Ltd.	37/25	137936	75.40%	33/24	89391	70.54%	0.50%
Bhavesh Pabari	Ami shares and Stock Brokers Pvt. Ltd. Anand Rathi Securities Ltd. Arcadia Share & Stock Pvt. Ltd. India Infoline Ltd. JHP Securities Pvt. Ltd. Religare Securities Ltd. S P Jain Securities Pvt. Ltd. Kotak Securities Ltd. Sunidhi Securities and Finance Pvt. Ltd.	223/168	2709751	74.72%	221/149	3055901	66.18%	12.56%
Bhupesh Rathod	S P Jain Securities Pvt. Ltd.	5/3	64250	74.70%	21/18	602182	82.91%	1.45%
Devendra Vaidhaiya	Asit C. Mehta	21/19	159560	94.90%	14/12	59407	79.76%	0.48%
Hemant Sheth	Anand Rahti Securitis Ltd. India Infoline Ltd. JHP Securities Pvt. Ltd. S P Jain Securities Pvt. Ltd. Sunidhi Securities and Financial Pvt. Ltd. Ami Stock Brokers Pvt. Ltd	130/80	1648671	55.41%	107/79	1662224	70.52%	7.21%
Janak Vyas	Arcadia Shares and Stock Brokers Pvt. Ltd.	3/2	200	0.79%	8/8	4600	18.25%	0.01%
Jayesh Kuwadia	Standard Chartered STCI Ltd.	0/0	0	0.00%	6/3	8765	43.83%	0.02%
Kishor Chauhan	Arcadia Share & Stock Pvt. Ltd. India Infoline Ltd. JHP Securities Pvt. Ltd. Religare Securities Ltd. S P Jain Securities Pvt. Ltd.	99/99	2090526	83.17%	86/64	1378560	67.10%	7.56%
Mala Sheth	JHP Securities Pvt. Ltd. Religare Securities Ltd India Infoline Ltd.	94/53	478081	64.97%	42/33	493865	86.39%	2.12%
Manish Joshi	Ami Shares and Stock Brokers Pvt. Ltd.	3/2	480	40.16%	14/12	77130	94.78%	0.17%

Nimesh Ganatra	Sharekhan Ltd.	0/0	0	0.00%	11/10	31365	52.71%	0.13%
Prem Parikh	Anand Rathi Securities Ltd. Angel Broking Ltd. India Infoline Ltd. JHP Securities Pvt. Ltd. Kotak Securities Ltd. S P Jain Securities Pvt. Ltd.	135/105	2712299	77.69%	123/90	2735834	69.98%	11.87%
Rajesh Bhanushali	Ami Shares and Stock Brokers Pvt. Ltd.	4/2	105100	98.77%	12/10	47510	33.03%	0.33%
Total circular/ reversal trading by group			**11549999**			**11549999**		**50.33%**

29. I have noted from the above details that during the period a total of 1, 15, 49,999 shares were bought and exactly the same number of shares were sold among the Narendra Ganatra Group entities and I am of the view that the same cannot be just a matter of coincidence, particularly when, there were other buyers and sellers also present in the market. I have further noted that some transactions between the group entities took place in off market as well and this way one leg of such circular /reversal transactions were completed by the Group entities in off market. I am of the opinion that it cannot happen without some prior arrangement or meeting of minds. Further, had these been the fair *intra day* transactions the same could have matched with other investors on a frequent and regular basis, but it has not happened in the instant case. Hence, I am left with no doubt that the said transactions of the Narendra Ganatra Group entities were not bonafide; rather those were manipulative, as has been mentioned above.

30. In the aforesaid manipulative trades, as far as individual role of the Noticee is concerned, I have noted that his trades are not very significant. During the investigation period he had purchased 25,100 shares of GIL and also sold the same number of shares. For his purchase of 25,000 shares the counter party sellers were the promoter group entities and for his one trade of 100 shares the buy order was placed at a price higher than LTP and the counter party seller was Bhavesh Pabari i.e. one of the Narendra Ganatra Group entities.

31. In view of the above, before arriving at final conclusion, I have examined the other facts and circumstances of the case. I have noted the following –

    - That during the financial year 2006-07 the Company had suffered a loss of ₹ 2, 70,000/-. Further, the Company had not declared any dividend for last several years and there was no corporate announcement by the Company during the period of investigations. The promoter group entities wanted to sell their stake in the Company but were unable to do so as there were no buyers. There was no trading in the scrip during the period March 2002 to November 2005. After November 2005, trading in the scrip on BSE commenced only from August 28, 2006 with 100 shares traded on this day. On August 29-30, 2006 one of the promoter group entities, namely, Sushila P. Shah sold 20,000 shares on BSE in the price range of ₹ 3.08 to ₹ 3.23. The

purchaser of these shares was Manish Joshi, who is one of the entities belonging to the Narendra Ganatra Group. On December 15, 2006 the shares of GIL were traded in the price range of ₹11.03 to ₹11.60. On this day Vijaykumar N Shah and Mardula V Shah (promoter group entities) started selling their stake in the Company. Counterparty clients to most of their trades were Manish Joshi, Bhavesh Pabari and Narendra Ganatra i.e. the Noticee. Thereafter, Nihal P Shah, Sharman Appliances Pvt. Ltd., Sushila P Shah, Sharman P Shah and Premchand K Shah (promoter group entities) sold their stakes in the company in the price range of ₹16.48 to ₹ 28.50. The details in this regard are tabulated below:

Sl. No	**Name of the promoters / promoter group**	**No. of shares held as on 28/08/2006**	**No. of shares sold**	**Dates when sold**	**Price range**
1	Premchand K Shah	400300	363150	18/5/2007 to 03/07/2007	Rs.22.5 to Rs.28.50
2	Sushila P Shah	487400	487400	29/08/2006 to 09/05/2007	Rs.3.08 to Rs.22.50
3	Nihal P Shah	150000	150000	15/01/2007 to 21/05/2007	Rs.16.48 to Rs.17.30
4	Tanay N Shah (Minor) S/o. Nihal P Shah	150000	150000	15/01/2007 to 21/05/2007	Rs.16.48 to Rs.17.30
5	Sharman P Shah	200000	200000	15/05/2007 to 30/05/2007	Rs.21.20 to 22.50
6	Sharman Appliances Pvt. Ltd.	699930	699930	31/1/2007 to 01/03/2007	Rs.17.30 to Rs.23
7	Mradula V Shah	240000	240000	15/12/2006 to 02/01/2007	Rs.11.03 to Rs.12.42
8	Vijaykumar N Shah	30000	30000	19/12/2006	Rs.11.03
9	Bindi V Shah	10000	10000	13/12/2006	Rs.11.22
10	Shreya V Shah	10000	10000	13/12/2006	Rs.11.22
11	Vanechand N Vora	140000	140000	10/11/2006 to 07/12/2006	Rs.7.36 to Rs.13.10
	Total	**2517630**	**2480480**		

- From the trade log it is evident that the counterparty clients in most of the trades of Nihal P Shah, Sharman Appliances Pvt. Ltd., Sushila P Shah, Sharman P Shah and Premchand K Shah were Manish Joshi, Bhavesh Pabari, Narendra Ganatra (the Noticee), Vinayak Bhange, Hemant Sheth, Prem Parekh, Bharat Thakkar, Mala Sheth and Kishore Chauhan. As has been stated above these entities, have consistently traded in the scrip from August 28, 2006 to August 21, 2008 and are instrumental in price rise of the scrip by placing buy orders at incremental prices and indulging in circular/reversal trades etc.
- The above details indicate sudden interest of a group of entities in a Company whose fundamentals were not strong, which was incurring loss and whose scrip was illiquid and not traded frequently on the stock exchange. These entities were directly or indirectly connected/related with each other and also with a person who was known to the promoters of the Company and was subsequently made director and thereafter managing director of the Company. Further, promoters of this Company, who were willing to sell their holdings in the Company, could not sell those shares earlier as there were no buyers in the market. Pursuant to the transactions executed by the said group of entities, the promoters could offload their almost entire stake and interestingly, the counterparties to their trades were mostly the said entities, despite the fact that there were other buyers and sellers also present in the market. In my opinion, such coincidences involving such a large volume of shares and that too on so many occasions between the same set of individuals or entities can not happen in the securities market without prior meeting of minds. These details clearly indicate manipulative collusion among the said entities.

32. In light of all the above facts, I would like to summarize my observations as under :

a) The Noticee is associated/ related/connected with certain entities. These entities have been collectively referred to as Narendra Ganatra Group. During the investigation period these Narendra Ganatra Group entities had significantly traded in the scrip.

b) The Noticee is also associated/related/connected with GIL and its promoters. He was made one of the directors of the Company in August 2007 and thereafter, Managing Director in the year 2008.

c) GIL was illiquid scrip and there was no trading in the scrip during the period March 2002 to November 2005. After November 2005, trading in the scrip on BSE commenced only from August 28, 2006 with 100 shares traded on this day.

d) By indulging into manipulative trades, the Narendra Ganatra Group entities significantly increased the volumes and price of the scrip by being involved into synchronized/ fictitious/reversal/ circular trades and placing buy orders over and above LTP etc. as has been detailed above and thereby induced unsuspecting genuine investors to trade in the scrip.

e) This, inter alia, enabled the promoter group entities to off load their almost entire stake- which they were unable to sell earlier and to book huge illegal gains.

33. All the above details suggest that after prior meeting of minds a well conceived plan was executed and the Noticee was the pivotal point in this game plan of manipulation. He acted in collusion with the promoter group entities and got the plan executed through manipulative trades done by other set of entities who were related/connected to him. Although, his individual trades in the scrip, as has been mentioned above, are not many, even then I am not inclined to give him any benefit of doubt. Going by the circumstantial evidence, I am of firm opinion that the Noticee was one of the main brains acting behind the group , and the group as a whole was indulged in circular/reversal/fictitious/synchronized trades and manipulated the volumes and price of the GIL scrip. The Noticee also colluded with the promoters of GIL and with the game plan as aforesaid, helped and assisted them in offloading their stake and making illegal gains at the cost of innocent and unsuspecting genuine investors. Here, I am of the view that if it is evident from the facts of the case, nature of transactions executed or otherwise, that the trades were done by several persons in prior understanding/collusion among themselves then the issue of individual role in such manipulation, howsoever small his transactions are, can not be a ground for exoneration from liability as the manipulations were purposively designed to get it done by joint efforts of all of them.

34. Therefore, based on the abovementioned facts and circumstances of the case I arrive at the firm conclusion that the Noticee as a part of the Narendra Ganatra Group, has violated the provisions of Regulations 4(1), 4(2) (a), (b), (e) and (g) of the PFUTP Regulations and is liable for imposition of penalty under section 15HA of the SEBI Act, which states as under:

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.

35. While determining the quantum of penalty under section 15HA and 15A(b) of the SEBI Act, it is important to consider the factors stipulated in section 15J of the 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.

36. Regarding penalty under section 15HA of the SEBI Act for indulging in fraudulent and unfair trade practices, it is noted from the above that the Noticee has acted in collusion with other Group entities, who were instrumental in manipulating the price and volumes of the scrip. The price of the scrip before the beginning of any manipulative trade was ₹ 2.94 on August 28, 2006 and due to said fraudulent and unfair manipulation it went up to ₹ 51.80 on August 21, 2008. I am of the opinion that any unlawful profit made by way of such transactions is naturally a loss to other innocent investors and it also lowers the investors' confidence and distorts market integrity. The Noticee also acted in connivance with the promoter group entities. As far as the promoter group entities are concerned they had offloaded around 24, 80,480 shares during the relevant period at different prices. The investigations have not revealed the profits made by the Noticee or by the Narendra Ganatra Group by indulging into such manipulative and unfair trades. It is also not possible from the information/details available with me to arrive at the figures for the profit made by these entities or the loss suffered by the investors. A large number of fraudulent trades were executed and also a large number of entities were involved in such trades. Although, the Noticee, in his individual capacity, has not executed large number of trades but the facts and circumstances of the case suggest that he was one of the main persons behind all these fraudulent and manipulative affairs.

37. Therefore, based on all the above the facts and circumstances of the case I am of the opinion that a penalty of ₹ 5 lakh on the Noticee under section 15 HA of the SEBI Act for the violation/contravention of the aforesaid provisions of the PFUTP Regulations shall be commensurate with the violations committed.

ORDER

38. In exercise of the powers conferred upon me under Section 15 I of the Act and rule 5 of the Rules, I impose a penalty of ₹ 5, 00,000 only (₹ Five lakh only) on the Noticee under the provisions of section 15 HA of the SEBI Act. 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 the Deputy General Manager, IVD – ID 8, Securities and Exchange Board of India, SEBI Bhavan, Plot No.C4-A, "G" Block, Bandra Kurla Complex, Bandra (East), Mumbai–400 051.

39. In terms of Rule 6 of the Adjudication Rules, copies of this order are sent to the Noticee and also to SEBI.

Date: January 24, 2011 **Satya Ranjan Prasad**

Place: Mumbai **ADJUDICATING OFFICER**