

**BEFORE THE ADJUDICATING OFFICER**  
**SECURITIES AND EXCHANGE BOARD OF INDIA**  
**[ADJUDICATION ORDER NO. EAD/SR/SM/AO/3/2018-19]**

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

In respect of

**Vikram Farms Private Limited**

(Address – No. 4, Shri Ghanshyam Park Co-Op. H. Soc. Ltd,  
B/h. Paraskunj Soc., Satellite Road,  
Jodhpur, Ahmedabad-380015)  
(PAN: AAACV9642C)

In the matter of Popular Estate Management Limited  
(CIN - L65910GJ1994PLC023287)

**BACKGROUND**

1. Investigating Authority (hereinafter referred to as **IA**), of Securities and Exchange Board of India (hereinafter referred to as **SEBI**) conducted an investigation in the matter of trading activities of certain entities in the scrip of Popular Estate Management Limited (hereinafter referred to as **Popular/Company**), which is listed at Bombay Stock Exchange (**BSE**). The period of investigation was from January 01, 2012 to November 16, 2012 (hereinafter referred to as **Investigation Period**). The entire investigation period was divided into two (2) patches i.e. Patch-I and Patch-II. Patch-I was taken as January 01, 2012 to June 28, 2012 wherein the price of the scrip accounted a rise and Patch-II was taken as June 29, 2012 to November 16, 2012 wherein the price of the scrip accounted a fall. Further, on the basis of trading pattern, off-market transfers and common KYC details, three Groups were made by IA i.e. Group-I having 11 entities i.e. Asha Rajendrabhai Patel, Vikram Farms Pvt Ltd (hereinafter referred to as **Noticee**), Krinesh Farms Pvt Ltd, Sholay Farms Pvt Ltd, Saranga Farms Pvt Ltd, Priyesh Ramanlal Patel, Runali Vikram Patel, Bhumi Prathmesh Patel, Fizu M Patel, Komal Priyesh Patel and Rajendra Jayantilal Patel, Group-II having three (3) entities and Group-III having five (5) entities. IA observed that Noticee was one of the suspected entities in Group-I. It was observed by IA that

the Noticee along with other eight (8) entities in Group-I viz. (1) Komal Priyesh Patel, (2) Fizu M Patel, (3) Asha Rajendrabhai Patel, (4) Krinesh Farms Pvt Ltd, (5) Bhumi Prathmesh Patel, (6) Saranga Farms Pvt Ltd, (7) Priyesh Ramanlal Patel and (8) Runali Vikram Patel (hereinafter collectively referred to as **Vikram Group**) had traded in the shares of Popular during the period of investigation and contributed to Last Traded Price (LTP), New Low Price (NLP) and First trades and as a result created artificial volume in the said scrip of Popular and therefore violated the provisions of regulations 3(a), 3(b), 3(c) and 3(d), 4(1), 4(2)(a) and 4(2)(e) of SEBI (Prohibition of Fraudulent and Unfair Trade Practices Relating to Securities Market) Regulations, 2003 (hereinafter referred to as **PFUTP Regulations, 2003**).

### **APPOINTMENT OF ADJUDICATING OFFICER**

2. In view of the said findings of IA, a department of SEBI initiated adjudication proceedings against the Noticee, to inquire into and adjudge under section 15HA of the Securities and Exchange Board of India, 1992 (hereinafter referred to as the **SEBI Act, 1992**), the alleged violations of provisions of regulations 3(a), 3(b), 3(c) and 3(d), 4(1), 4(2)(a) and 4(2)(e) of PFUTP Regulations, 2003. Shri Nagendraa Parakh was appointed as the Adjudicating Officer (**AO**) under Section 15-I of the SEBI Act, 1992 read with Rule 3 of the SEBI (Procedure for Holding Inquiry and Imposing Penalties by Adjudicating Officer) Rules, 1995 (hereinafter referred to as **Adjudication Rules, 1995**) to inquire into and adjudge under sections 15HA of the SEBI Act, 1992 for the said alleged violation of PFUTP Regulations, 2003 by the Noticee. Subsequently, I was appointed as Adjudicating Officer vide order dated July 10, 2017.

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

3. A Show Cause Notice no. EAD/AO-NP/VVK/29699/5/2016 dated October 27, 2016 (hereinafter referred to as **SCN**) was issued to the Noticee in terms of Rule 4 of the Adjudication Rules, 1995 requiring the Noticee to show cause as to why an inquiry should not be held against it for the alleged violations of provisions of regulations 3(a), 3(b), 3(c) and 3(d), 4(1), 4(2)(a) and 4(2)(e) of PFUTP Regulations, 2003.

4. It was alleged in the SCN that Vikram Group (which includes Noticee) had indulged in price manipulation by contributing significant negative Last Traded Price (LTP) variation, contribution to New Low Price (NLP) and contribution to negative LTP variation through first trades by trading among themselves. It was observed by IA that the Noticee shared the same address/e-mail ID with other Group I entities. The details of allegation w.r.t. LTP and NLP are summarized below:

a) **LTP:** It was alleged that, in 40 trades, counterparties were Vikram Group entities which contributed a negative LTP of Rs. 26.95 (i.e. 26.34% of total market negative LTP during Patch-II). Those 40 trades and orders were analysed and the following was alleged in the SCN:

- i. In 35 trades Asha Patel was seller and contributed a negative LTP of Rs.19.85 with other Vikram Group entities namely Krinesh Farms Pvt Ltd (contributed negative LTP of Rs.5.95 in six (6) trades), Saranga Farms Pvt Ltd (contributed negative LTP of Rs.4.45 in four (4) trades), Runali Patel (contributed negative LTP of Rs.3.95 in 12 trades), Fizu M Patel (contributed negative LTP of Rs.2.55 in five (5) trades), Priyesh Ramanlal Patel (contributed negative LTP of Rs.1.80 in three (3) trades), Vikram Farms Pvt Ltd (Noticee) (contributed negative LTP of Rs.1.00 in three (3) trades), and Bhumi Prathmesh Patel (contributed negative LTP of Rs.0.15 in two (2) trades).
- ii. In three (3) trades Komal Priyesh Patel was seller and contributed a negative LTP of Rs.3.55 with other Vikram Group entities namely Krinesh Farms Pvt Ltd (contributed negative LTP of Rs.1.85 in one (1) trade) and Noticee (contributed negative LTP of Rs.1.70 in two (2) trades).
- iii. In one (1) trade Fizu M Patel was seller and contributed a negative LTP of Rs.2.15 with other Vikram Group entities namely Krinesh Farms Pvt Ltd.
- iv. In one (1) trade Runali Vikram Patel was seller and contributed a negative LTP of Rs.1.40 with other Vikram Group entities namely Saranga Farms Pvt Ltd.

It was alleged that out of 82 trading days, the Vikram Group entities executed first trades by trading among themselves at negative LTP on 23 days and contributed negative LTP of Rs.23.30 (i.e. 22.78% of market negative LTP). On all these occasions, Group-I entities namely Asha Patel (19 days), Komal Priyesh Patel (2

days), Fizu M Patel (1 day) and Runali Vikram Patel (1 day) placed first order at lower circuit filter rate which was subsequently matched with Vikram Group entities. Out of 23 such trades, 17 trades established new low price also. Significant contribution to negative LTP and the repetitive instances of executing first trades at lower circuit rate by the Vikram Group entities by trading among themselves indicate that these entities manipulated the price of the scrip. Therefore, it was alleged that Vikram Group entities by trading among themselves, contributed a significant negative LTP of Rs. 26.95/- and hence decreased the price of the scrip during Patch-II.

- b) **NLP:** It was alleged in SCN that, 24 trades of Group-I (including Noticee) established new low price. Out of 24 trades of Vikram Group which established new low price, 17 trades were executed by Vikram Group entities by trading among themselves, which contributed Rs.13.00 (i.e. 27.51%) out of total price fall of Rs.47.25 during Patch-II. The entity-wise summary of these trades were provided to the Noticee in the following tabular format:

**Table - 1**

Date	Client name	CP Client Name	Trade Time	Trade Rate	LTP	Traded Quantity
17/08/2012	Vikram Farms Pvt Ltd (Noticee)	Komal Priyesh Patel	14:04:01.506282	32	-1.65	50

- c) **First Trade:** It was alleged that the counterparties of 30 first trades executed below LTP by the Group-I entities (including Noticee) were further analyzed by IA and it was alleged that in 23 trades out of 30 such first trades counterparties were from Vikram Group which contributed Rs.23.30 to negative LTP variation. The entity-wise details of these 23 trades were provided to the Noticee in the following tabular format:

**Table - 2**

Date	Client name	CP Client name	Trade Time	Trade Rate	LTP	Traded Quantity
31/07/2012	Krinesh Farms Private Limited	Asha Rajendrabhai Patel	13:38:27.152082	44.05	-2.3	1
03/08/2012	Krinesh Farms Private Limited	Asha Rajendrabhai Patel	09:37:40.074133	43.4	-2.25	1

Date	Client name	CP Client name	Trade Time	Trade Rate	LTP	Traded Quantity
06/08/2012	Krinesh Farms Private Limited	Fizu M Patel	10:00:43.751352	41.25	-2.15	1
14/08/2012	Krinesh Farms Private Limited	Komal Priyesh Patel	09:52:22.990217	35.4	-1.85	50
17/08/2012	Vikram Farms Pvt Ltd (Noticee)	Komal Priyesh Patel	14:04:01.506282	32	-1.65	50
23/08/2012	Saranga Farms Pvt Ltd	Runali Vikram Patel	12:41:22.226655	27.55	-1.4	1
24/08/2012	Saranga Farms Pvt Ltd	Asha Rajendrabhai Patel	09:58:13.233784	26.4	-3.6	50
27/08/2012	Priyesh Ramanlal Patel	Asha Rajendrabhai Patel	09:33:33.331367	25.1	-1.3	1800
31/08/2012	Fizu M Patel	Asha Rajendrabhai Patel	09:31:31.333961	23.1	-0.45	1000
03/09/2012	Runali Vikram Patel	Asha Rajendrabhai Patel	09:54:05.490708	22.65	-0.5	1000
04/09/2012	Fizu M Patel	Asha Rajendrabhai Patel	09:35:53.093268	23.1	-0.35	3000
06/09/2012	Vikram Farms Pvt Ltd (Noticee)	Asha Rajendrabhai Patel	10:38:38.129107	23.35	-0.45	3000
10/09/2012	Fizu M Patel	Asha Rajendrabhai Patel	10:28:31.420042	23.1	-0.45	3000
12/09/2012	Saranga Farms Pvt Ltd	Asha Rajendrabhai Patel	09:35:35.259915	22.65	-0.45	100
13/09/2012	Runali Vikram Patel	Asha Rajendrabhai Patel	10:02:55.919402	22.55	-0.45	500
14/09/2012	Vikram Farms Pvt Ltd (Noticee)	Asha Rajendrabhai Patel	11:20:11.708728	22.9	-0.45	14
17/09/2012	Krinesh Farms Private Limited	Asha Rajendrabhai Patel	10:28:15.995682	22.45	-0.45	10
18/09/2012	Runali Vikram Patel	Asha Rajendrabhai Patel	09:28:12.242613	22.05	-0.4	200
20/09/2012	Fizu M Patel	Asha Rajendrabhai Patel	09:20:30.272223	21.65	-0.4	5
25/09/2012	Runali Vikram Patel	Asha Rajendrabhai Patel	09:19:34.800363	20.8	-0.65	500
28/09/2012	Priyesh Ramanlal Patel	Asha Rajendrabhai Patel	09:27:09.859361	20.3	-0.4	2
08/10/2012	Runali Vikram Patel	Asha Rajendrabhai Patel	09:33:52.399733	18.65	-0.35	5
09/11/2012	Runali Vikram Patel	Asha Rajendrabhai Patel	09:32:13.927628	16.4	-0.6	200

5. In view of the above, it was alleged in the SCN that “ *the Noticee along with other eight (8) Group I entities viz. (i) Bhumi Prathmesh Patel, (ii) Priyesh Ramanlal Patel, (iii) Runali Vikram Patel (iv) Fizu M Patel, (v) Asha Rajendrabhai Patel, (vi) Komal Priyesh Patel (vii) Krinesh Farms Pvt Ltd, (viii) Saranga Farms Pvt Ltd were allegedly responsible for manipulating the price of the scrip by significant contribution to negative LTP variation, contribution to New Low Price (NLP) and contribution to negative LTP variation through first trades by trading among themselves and violated the provisions of Regulations, 3(a),(b),(c),(d) and regulation 4(1) and 4(2)(a) and (e) of SEBI PFUTP Regulations, 2003.*” The said SCN was sent to the Noticee at the

address 15, Pratima Society, Opp. Dadasaheb Pagla, Navrangpura, Ahmedabad-380009 through speed post acknowledgement due (SPAD) and the same was undelivered. Further, earlier AO vide hearing notice dated May 23, 2017 granted an opportunity of hearing on June 14, 2017 through SPAD and the said hearing notice was undelivered as seen from the records.

6. After my appointment, an opportunity of personal hearing was granted to the Noticee hearing vide hearing notice dated September 06, 2017 for a hearing scheduled on September 29, 2017 and SCN was enclosed with the said hearing notice. The same was served to the Noticee through SPAD to the address 4, Shri Ghanshyam Park Coop-H Soc. Ltd, B/H Paraskung Soc, Satelite Road, Jodhpur, Ahmedabad – 380015 and also requested the Noticee to reply by September 20, 2017 and the delivery proof is available on records. However, the Noticee did not submit the reply to the SCN and also did not attend the hearing as scheduled on September 29, 2017. In this regard, the Noticee vide its e-mail dated October 19, 2017 enclosing a letter dated October 16, 2017 informed that one Mr. Ronak D Doshi will appear for hearing on behalf of the Noticee and also requested to grant extension of some days due to Diwali festivals. As requested by Noticee, vide hearing notice dated October 30, 2017 the Noticee was granted one more opportunity of hearing on November 09, 2017 vide hearing notice dated October 30, 2017. The said hearing notice was sent through SPAD and was delivered to the Noticee as seen from the records. Noticee authorized one Vishal Mehta as AR and the AR of the Noticee attended the hearing on the scheduled date i.e. November 09, 2017 and reiterated the submission made during the hearing.
7. The Noticee, vide letter dated November 08, 2017 submitted its reply to the SCN and the submissions of the Noticee inter-alia are summarized below:
  - i. *The Noticee is neither promoters nor persons acting in concert with promoters of Popular nor related with them in any manner. Noticee's directors are Mr. Mrugesh V Patel since 29th June, 2010 and Mr. Anand K Patel since 20th December, 2007 which is before the execution of the said trade and none of the promoters or their relatives are directors in their companies.*
  - ii. *The Noticee was already shareholder of the Popular, before the execution of the said trade and with belief of further growth of popular, they thought to invest in the*

same and therefore, kept on buying the shares of Popular irrespective of the concerned price.

- iii. *The Noticee deny all charges levied against it for alleged violation of SEBI Regulations.*
- iv. *The Noticee provided the copies of the Master Data available on the Ministry of Corporate Affairs (MCA) Portal of the MCA, Govt. of India giving details of the information of Vikram Farms Pvt. Ltd (Noticee) showing that none of the directors of the Noticee belong to the Promoter Group of Popular and none of them are related to any members of the Promoter Group of Popular.*
- v. *Originally, it was holding 1,42,00 shares of Popular and thereafter purchased another 60,422 shares of Popular at the available market price and it never tried to manipulate to increase or decrease the price of the said shares. They were only concerned with buying of shares and did not know about the seller party. They have never sold any of the said shares till today after buying the same and only 1 share was sold by the broker and have not taken any advantage or benefit out of it. As on 30th September, 2017 their shareholding is 2,02,421 which is the same. On the contrary, after our purchase, the price of the shares went down and never increased and recently the value of our investment is eroded.*
- vi. *It must be understood that no shareholder would ever wish to bring down the price of its investment or try to reduce the price to less than its investment value in absence of any desire to buy the shares at reduced prices. They submitted that there has to be a specific motive behind any manipulative or fraudulent practice and there is nothing mentioned in the Notice about such intention or reason for manipulate the price and bring it down. They had not taken any advantage of the reduced price and hence neither made any gain out of the same nor was any harm caused to anyone.*

8. After taking into account, the allegations levelled in the SCN, reply submitted by the Noticee to the SCN, and other evidences / materials available on record, I hereby, proceed to decide the case on merit.

### **CONSIDERATION OF ISSUES**

9. The issues that arise for consideration in the present case are:
  - a) Whether the Noticee has violated the provisions of regulations 3(a), 3(b), 3(c) and 3(d) and 4(1), 4(2)(a) and 4(2)(e) of PFUTP Regulations, 2003?
  - b) Do the violations, if any, on the part of the Noticee attract any monetary penalty under section 15HA of the SEBI Act, 1992?
  - c) If yes, then what would be the monetary penalty that can be imposed upon the Noticee, taking into consideration the factors mentioned in Section 15J of the SEBI Act read with Rule 5(2) of the Adjudication Rules, 1995?

10. Before proceeding further, it will be appropriate to refer to the relevant provisions of PFUTP Regulations, 2003, which read 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.*

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

- (1) Without prejudice to the provisions of regulation 3, no person shall indulge in a fraudulent or an unfair trade practice in securities.*
- (2) Dealing in securities shall be deemed to be a fraudulent or an unfair trade practice if it involves fraud and may include all or any of the following, namely:—*
  - (a) indulging in an act which creates false or misleading appearance of trading in the securities market;.....*
  - (e) any act or omission amounting to manipulation of the price of a security*

**EVIDENCES AND FINDINGS**

11. On perusal of the material available on record and giving regard to the facts and circumstances of the case, I record my findings hereunder:
12. **Issue (a): Whether the Noticee has violated the provisions of Regulations 3(a), 3(b), 3(c) and 3(d) and 4(1), 4(2)(a) and 4(2)(e) of PFUTP Regulations, 2003?**
- a) On perusal of records available, I note the following allegations are levelled against the Noticee alongwith other entities coming under Group I:
- Contributed to negative LTP variation of Rs. 26.95 (i.e. 26.34% of total market negative LTP during patch-II) by Vikram Group entities by trading among themselves and decreased the price of the scrip of Popular in Patch-II ;
  - Contributed to NLP of Rs. 13.00 (i.e. 27.51%) out of total price fall of Rs. 47.25/- during Patch-II by Vikram Group entities by trading among themselves.

- Executed first trades by trading among themselves at negative LTP and contributed to negative LTP of Rs. 23.30/- (i.e. 22.78% of market negative LTP) by Vikram Group entities during Patch-II.
- b) I note from the records that a connection was established between 11 entities of Group-I based on common address, telephone number, e-mail id and off-market transfer. It is noted from the trade and order log that during Patch-II total market negative LTP was Rs. 102.30/- wherein Group I contribution was negative LTP variation of Rs. 34.05/- in 57 trades. (LTP contribution is calculated as difference between the trade price of current trade and the previous trade. For example, if the trade price of current trade is Rs. 50 and previous trade is Rs.49 then the LTP contribution is Rupee one.) Vikram Group entities executed such trades among themselves during Patch-II, which contributed to price fall.
- c) I note from the trade and order log that during Patch-II there were 51 trades establishing NLP, wherein four entities from Vikram Group entities namely Asha Rajendrabhai Patel, Komal Priyesh patel, Fizu M Patel and Runali Vikram Patel appeared as sellers in 24 instances with a cumulative contribution to new low price of Rs.15.20 constituting 32.17% of total price fall. Out of 24 trades which established new low price, 17 trades contributed Rs.13.00 (i.e. 27.51%) out of total price fall of Rs.47.25 during Patch-II by trading among themselves. Contribution to new low price (NLP) is the difference between NLP established by the trade and previously established low price of the scrip. Further, it is noted that price of Popular during Patch-II witnessed price fall and Vikram Group entities contributed Rs.13.00 (i.e. 27.51%), out of total price fall of Rs.47.25. From trade and order logs, it is noted that these trades were executed by Vikram Group entities among themselves which resulted in price fall.
- d) With regard to first trade it is noted from trade and order logs that Vikram Group entities executed first trades by trading among themselves at negative LTP on 23 days out of 82 trading days during Patch-II and contributed to negative LTP of Rs. 23.30/- (i.e. 22.78% of market negative LTP). Out of 61 first trades, 30 trades were executed by Vikram Group entities. Further, in 23 trades out of those 30 first trades, counterparties were from Vikram Group entities, which contributed to negative LTP of Rs. 23.30/-. From the trade and order log it is noted that Vikram Group entities

executed the trades among themselves as mentioned in Table-2 at pre-pages 4 and 5.

- e) Regulation 3 of PFUTP Regulations, 2003 prevents any person from buying, selling or dealing in securities in fraudulent manner, use or employ any manipulative or deceptive device in contravention to the provisions of the Act, employ any device, scheme or artifice to defraud in connection with dealing in securities or engage in any act, practice, course of business which operates as fraud or deceit upon any person in connection with any dealing in or issue of securities. Regulation 4(1) of PFUTP Regulations, 2003 provides that no person shall indulge in a fraudulent or an unfair trade practice in securities. Regulation 4(2)(a) of PFUTP, prohibits a person from indulging in an act which creates false or misleading appearance of trading in the securities market. Regulation 4(2)(e) of PFUTP Regulations, 2003 inter alia, prohibits any act or omission amounting to manipulation of a price of a security.
- f) In this regard, it may be relevant to refer to the observations of the Hon'ble Securities Appellate Tribunal (SAT) in its order dated 14.7.2006 in Ketan Parekh Vs. SEBI, wherein it was held that: *“When a person takes part in or enters into transactions in securities with the intention to artificially raise or depress the price he thereby automatically induces the innocent investors in the market to buy /sell their stocks. The buyer or the seller is invariably influenced by the price of the stocks and if that is being manipulated the person doing so is necessarily influencing the decision of the buyer / seller thereby inducing him to buy or sell depending upon how the market has been manipulated. We are therefore of the view that inducement to any person to buy or sell securities is the necessary consequence of manipulation and flows therefrom. In other words, if the factum of manipulation is established it will necessarily follow that the investors in the market had been induced to buy or sell and that no further proof in this regard is required. The market, as already observed, is so wide spread that it may not be humanly possible for the Board to track the persons who were actually induced to buy or sell securities as a result of manipulation and law can never impose on the Board a burden which is impossible to be discharged. This, in our view, clearly flows from the plain language of Regulation 4(a) of the Regulations.”*

g) In light of the above and from the records available, I note that the Noticee alongwith other eight (8) entities (refer to para no. 2) executed trades, which contributed to negative LTP, new low price and also executed first trade during the investigation period resulting in price fall. By executing these trades, the Noticee influenced the price of the scrip of Popular during the investigation period and also helped in creating artificial volume and thereby led to false appearance of trading in scrip of Popular. Therefore, I conclude that the Noticee has violated regulations 3(a), 3(b), 3(c), 3(d), 4(1), 4(2)(a) and 4(2)(e) of the PFUTP Regulations, 2003.

**13. Issue (b): Do the violations, if any, on the part of the Noticee attract any monetary penalty under section 15HA of the SEBI Act, 1992?**

- a) In respect of imposition of monetary penalties, I cannot ignore the historical case of Hon'ble Supreme Court of India in the matter of The Chairman, SEBI Vs. Shri Ram Mutual Fund [2006] 68 SCL 216(SC) wherein it was 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"*.
- b) Noticee has submitted that, "there has to be a specific reason or motive behind any manipulative or fraudulent practice...there is no such motive, intention or reason for promoters to manipulate the price...". It is relevant to mention here that said case of Shri Ram Mutual Fund (supra) was maintained by the three judge bench of the Hon'ble Supreme Court of India in the case of Union of India vs. Dharmendra Textile Processor 2008 (13) SCC 369 decided on September 29, 2008 on the issue related to Income Tax Act. It was held by the Hon'ble Supreme Court that penalty under the provision is for breach of civil obligation is mandatory and the mens rea is not an essential element for imposing the penalty. The adjudicatory authority has no discretion to levy duty less than what is legally and statutorily leviable. The Hon'ble Supreme Court also specifically observed that the case of Shri Ram Mutual Fund (supra) has been analysed in the legal position and in the correct perspectives.
- c) Therefore, after taking into account the aforesaid entire facts / circumstance of the case and the aforesaid case laws, it is noted that the said violations of provisions

of regulations 3(a), 3(b), 3(c), 3(d), 4(1), 4(2)(a) and 4(2)(e) of the PFUTP Regulations, 2003 by the Noticee attracts the imposition of monetary penalties upon the Noticee under sections 15HA of the SEBI Act, 1992, as existed at the time of commission of the alleged violations are reproduced below:

***The SEBI Act, 1992***

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

***15HA.*** *If any person indulges in fraudulent and unfair trade practices relating to securities, he shall be liable to a penalty of twenty-five crore rupees or three times the amount of profits made out of such practices, whichever is higher."*

14. **Issue (c) - If so, what would be the quantum of monetary penalty that can be imposed on the Noticee after taking into consideration the factors mentioned in section 15J of the SEBI Act, 1992?**

While determining the quantum of penalty under section 15HA of the SEBI Act, 1992 it is important to consider the factors stipulated in section 15J Of the SEBI Act, 1992 read with Rule 5(2) of the Adjudication Rules, which reads as under:-

***The SEBI Act, 1992***

***Factors to be taken into account by the adjudicating officer:***

***15J.*** *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."*

15. I observe, that the material available on record, does not quantify any disproportionate gains or unfair advantage, if any, made by the Noticee and the loss, if any, suffered by the investors due to such fraudulent trades which contributed to negative LTP, new low price and first trades by the Noticee. In absence of quantification of 'profits made out of such failure', plain reading of section 15HA of the SEBI Act, 1992 reads the penalty amount as rupees twenty five crore, however, I am inclined to take a lenient view in the matter. In this regard, it would be appropriate to refer to the observations made by the Hon'ble SAT in the matter of Akriti Global Traders Ltd. Vs. SEBI (Appeal No. 78 of 2014) decided on September

30, 2014: "...penal liability arises as soon as provisions under the regulations are violated and that penal liability is neither dependent upon intention of parties nor gains accrued from such delay."

16. Therefore, taking into consideration the facts / circumstance of the case, I am of the view that the Noticee is liable for monetary penalty for violating the provisions of regulations 3(a), 3(b), 3(c), 3(d), 4(1), 4(2)(a) and 4(2)(e) of the PFUTP Regulations, 2003.

### **ORDER**

17. In exercise of the powers conferred under section 15-I of SEBI Act, 1992 and Rule 5 of the Adjudication Rules, 1995, I hereby impose a penalty of Rs. 1,00,000 /- (Rupees One Lakh Only) on the Noticee viz. Vikram Farm Private Limited under section 15HA of the SEBI Act, 1992 for the violation of regulations 3(a), 3(b), 3(c), 3(d), 4(1), 4(2)(a) and 4(2)(e) of the PFUTP Regulations, 2003. I am of the view that the said penalty is commensurate with the defaults committed by the Noticee.
18. The Noticee shall remit / pay the said amount of penalty within 45 days of receipt of this order either by way of Demand Draft in favour of "SEBI – Penalties Remittable to Government of India", payable at Mumbai, or through e-payment facility into Bank Account the details of which are given below:

<b>Account No. for remittance of penalties levied by Adjudication Officer</b>	
Bank Name	State Bank of India
Branch	Bandra-Kurla Complex
RTGS Code	SBIN0004380
Beneficiary Name	SEBI – Penalties Remittable To Government of India
Beneficiary A/c No.	31465271959

19. The Noticee shall forward said Demand Draft or the details / confirmation of penalty so paid through e-payment to the Chief General Manager of Enforcement Department of SEBI. The Format for forwarding details / confirmations of e-payments shall be made in the following tabulated form as provided in SEBI Circular No.

SEBI/HO/GSD/T&A/CIR/P/2017/42 dated May 16, 2017 and details of such payment shall be intimated at e-mail ID : [tad@sebi.gov.in](mailto:tad@sebi.gov.in)

Date	Department of SEBI	Name of Intermediary/ Other Entities	Type of Intermediary	SEBI Registration Number (if any)	PAN	Amount (in Rs.)	Purpose of Payment (including the period for which payment was made e.g. quarterly, annually)	Bank name and Account number from which payment is remitted	UTR No
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20. In terms of the Rule 6 of the Adjudication Rules, 1995, copy of this order is sent to the Noticee at its last known address and also to Securities and Exchange Board of India.

**Date: April 18, 2018**

**Place: Mumbai**

**SANGEETA RATHOD  
ADJUDICATING OFFICER**