

BEFORE THE ADJUDICATING OFFICER
SECURITIES AND EXCHANGE BOARD OF INDIA
ADJUDICATION ORDER NO. EAD-6/GG/BS/2021-22/15084

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: Peeyush Agarwal
(PAN: AACPA6470C)**

In the matter of Polar Pharma India Limited

Background

1. Securities and Exchange Board of India (hereinafter referred to as "SEBI") conducted an investigation in the scrip of Polar Pharma India Ltd., (hereinafter referred to as "PPIL" / "Company") to ascertain any possible violation of the provisions of SEBI Act, 1992 and SEBI (Prohibition of Fraudulent and Unfair Trade Practices Relating to Securities Market) Regulations, 2003 (hereinafter referred to as "PFUTP" Regulations) by certain connected entities during the period July 4, 2005 to September 13, 2005 (hereinafter referred to as "Investigation Period"). The scrip was traded at Bombay Stock Exchange Limited (BSE) during the period of investigation.
2. The investigation revealed that Peeyush Agarwal ("Peeyush" / "Noticee"- PAN: AACPA6470C), was connected to certain entities and had indulged in price manipulation in the scrip of PPIL by contributing significant positive Last Traded Price (LTP) variation by trading amongst themselves. The investigation also found that the Noticee indulged in creation of artificial volume in the scrip of PPIL through synchronized trades.

3. In view of the above, in order to protect the interests of investors and to preserve the safety and integrity of the market, SEBI vide ad-interim ex-parte impounding order dated February 02, 2016 (hereinafter referred to as 'Interim Order') issued following directions against Noticees for the alleged possible violation of the provisions of SEBI Act and PFUTP Regulations:

“

11. Accordingly, as an interim measure, an ad-interim ex-parte Order for impounding such alleged gains under Section 11(4)(d) of the Securities and Exchange Board of India Act, 1992 needs to be issued against the following:

Table H

Sl. No.	Name	PAN
1	DPK Stock and Securities	AACHB9339M
2	Shivam Investments	ABMPK8540Q
3	Caps Finstock Services Pvt. Limited	AAACC4192J
4	Peeyush Agarwal	AACPA6470C
5	AJC Securities & Fin Pvt. Limited	AABCA1253B
6	Supreme Lease Finvest Pvt. Limited	AABCS8098J
7	Shailja Investments Limited	AAACS3302E
8	Kanhai Commodity Intermediaries Pvt. Limited (Now Known as “Omkam Commodities Private Limited ”)	AACCK3363K

12. In view of the foregoing, I, in exercise of the powers conferred upon me by virtue of Section 19 read with Sections 11(1), 11(4)(d) and 11(B) of the SEBI Act, 1992, hereby order to impound the alleged unlawful gains of a sum of ₹5,03,57,419 (alleged gain of ₹2,22,82,044 + interest of ₹2,80,75,375 from August 01, 2005 to January 31, 2015), jointly and severally from the persons tabulated in the paragraph above. If the funds are found to be insufficient to meet the figure of unlawful gains, as directed above, then the securities lying in the demat account of these persons shall be frozen to the extent of the remaining value.

13. The Banks and Depositories are directed that no debits shall be made, without permission of SEBI, in respect of the bank accounts and demat accounts, held jointly or severally, by all the entities/ persons tabulated in paragraph 12 above. The Banks and the Depositories are directed to ensure that all the above directions are strictly enforced. However, credits, if any, into the accounts maybe allowed.

14. The entities/ persons tabulated in paragraph 12 above are also directed not to dispose off or alienate any of their assets/properties/securities, till such time the amounts mentioned in

paragraph 12 are credited to an escrow account [‘Escrow Account in Compliance with SEBI Order dated February 02, 2016 - A/c (in the name of the respective persons/ entities)’] created specifically for the purpose in a Nationalized Bank. The escrow account/s shall create a lien in favour of SEBI and the monies kept therein shall not be released without permission from SEBI. On production of proof by any of the persons, mentioned in paragraph 11, that the said money is deposited in the escrow account, SEBI shall communicate to the Banks and Depositories to defreeze the accounts.

15. Further, the entities/ persons tabulated in paragraph 11 above are directed to provide, within 7 days of this order, a full inventory of all their assets and properties and details of all their bank accounts, demat accounts and holdings of shares/ securities, if held in physical form and details of companies in which they hold substantial or controlling interest.

16. The above directions shall come into force with immediate effect.

- 4.** Pursuant to completion of the investigation, Whole Time Member (WTM) of SEBI, vide order dated January 15, 2020 issued the following final directions:

“The directions issued vide interim order dated February 02, 2016 qua Mr. Peeyush Agarwal, Omkam Commodities Private Limited (Earlier Known as “Kanhai Commodity Intermediaries Private Limited”) and Shailja Investments Limited are revoked and accordingly SCN dated June 06, 2019 qua Mr. Peeyush Agarwal, Omkam Commodities Private Limited (Earlier Known as “Kanhai Commodity Intermediaries Private Limited”) and Shailja Investments Limited is disposed off without any directions.

It is clarified to the Banks that lien in favour of SEBI on fixed deposit in the escrow account dated February 23, 2016 made by Omkam Commodities Private Limited and Mr. Peeyush Agarwal dated April 13, 2017 shall stand released from the date of this order”.

- 5.** Parallel Adjudication proceedings were also initiated against the Noticee in the instant matter. Show cause notice was issued to the Noticee on November 08, 2017. Adjudication Officer, vide order dated January 30, 2020 imposed penalty of Rs. 20,00,000/- (Rupees Twenty Lacs only) on the Noticee for violation of the

provisions of Regulation 3 (a), (b), (c), (d), 4 (1), 4(2) (a), 4 (2) (e) and 4 (2) (g) of SEBI (PFUTP) Regulations.

6. Aggrieved by the AO Order dated January 30, 2020, the Noticee preferred an Appeal (Appeal no. 534 of 2020) before Hon'ble Securities Appellate Tribunal (Hon'ble SAT / Tribunal). Hon'ble SAT while disposing the said Appeal vide order dated November 26, 2021, remitted the matter to AO with the following directions;

“We find that on the same charge, the Whole Time Member (hereinafter referred to as ‘WTM’) passed an order dated January 15, 2020 completely exonerating the appellant. In view of this finding, it would be appropriate that the AO considers the order of the WTM. Accordingly, the impugned order in so far as it relates to Peeyush Aggarwal is concerned is set aside. The matter is remitted to the AO to pass a fresh order within a period of six months from today after giving an opportunity of hearing in accordance with law.”

RE-APPOINTMENT OF ADJUDICATING OFFICER

7. Pursuant to directions of Hon'ble SAT, the AO order dated January 30, 2020 was remitted to me for consideration, since the earlier AO was no longer functioning in such capacity.
8. Accordingly, an opportunity of hearing was granted to the Noticee on December 21, 2021. Authorised Representatives, Mr. Amit Shah and CS Varada Bhide appeared and made submissions on behalf of the Noticee. Hearing was conducted through web platform due to Covid-19 Pandemic. Written Submissions were also forwarded by the Noticee vide letter dated December 30, 2021 received through email dated December 31, 2021.
9. Summary of the written reply/submissions of the Noticee is given below:-

9.1. Similarity in findings of WTM and AO: *Although the AO has passed an order which is in contradiction to the WTM Order, AO has noted findings in the order which are exactly similar to the WTM findings. It fails to satisfy any logic as to*

how opposite inference can be drawn when the findings of AO are same as that of WTM. Few instances are given below:-

i. *"With regard to the connection of Peeyush Agarwal and Omkam Commodities Pvt. Ltd. (hereinafter Omkam), it is noted that Peeyush Agarwal is the director of Omkam and the same was accepted by it. Further, Peeyush had accepted that he was non-executive director in PPIL from September 27, 2001 to October 28, 2004. Thus, I am of the view that Peeyush and Omkam are connected with each other and Peeyush, Omkam and PPIL are connected with each other."*

ii. *"It is noted that DPK, Caps, AJC, Shivam, Supreme, Peeyush and Omkam had accepted that on December 01, 2005, Omkam gave loan of Rs. 5,00,000/- to APM and same was repaid by APM to Omkam on July 05, 2007. It is also noted that the investigation period was from July 04, 2005 to September 13, 2005. Thus, I find that the said fund transaction between Omkam and APM has indeed taken place post investigation period."*

iii. *"Further, I find that there are no documents / evidence available on record which suggest that DPK, Caps, AJC, Shivam, Supreme, Peeyush and Omkam are connected with each other during the investigation period i.e. during July 04, 2005 to September 13, 2005."*

iv. *"Thus, from the above, I am of the view that there is no doubt that DPK, Caps, AJC, Shivam, Supreme, Peeyush and Omkam are connected with each other post investigation period i.e. from December 01, 2005. However, in the absence of any documentary evidence, I am of the view that DPK, Caps, AJC, Shivam, Supreme, Peeyush and Omkam are not connected with each other during the investigation period (i.e. during July 04, 2005 to September 13, 2005) when the alleged manipulation of price and volume in the scrip of PPIL had happened."*

Noticee in his reply also mentioned that the AO himself has agreed to the following facts:

- The alleged connection through fund transaction by one of my companies i.e. Omkam Commodities Private Limited took place on 1st

December, 2005 which was post the investigation period and hence, the same does not hold any merit in the present case.

- *There is no evidence on record to prove my connection with any other entity involved in the matter.*
- *I was not connected to any of the entities during the investigation period when the alleged manipulation of price and volume had happened in the scrip of Polar Pharma India Limited.*

Noticee in his reply emphasised that from the above, it is clear that AO has agreed to the primary and main findings of WTM that I was not connected during investigation period with any manipulators, however AO concluded that I am involved in manipulation. This arbitrary conclusion of AO is contrary not just to findings of WTM but also his own findings. This is also contradicting common sense and established law in many cases - "no connection - no manipulation".

The Noticee also pointed out differences between orders of WTM and AO though both proceedings were born out of same investigation. Such differences are with respect to connection of the noticee with other parties, Synchronized trades, Price manipulation, contribution to LTP, disgorgement of gains. I have perused the same and taken into consideration the written submissions made by the noticee in this regard.

9.2. LTP per-se is not illegal and contribution to less than 1% LTP cannot be termed as manipulative: *SEBI AO has alleged me of contributing to positive LTP by Rs. 3.75 from 17 trades and thereby manipulating the price of PPIL during the IP. This finding is exactly opposite to the WTM finding where WTM has held that I am not alleged of any LTP contribution during the investigation period.*

My contribution of Rs. 3.75 from 17 trades amounts to 0.87% of the total positive LTP during the IP. This is less than 1%. It is a well settled law that contribution amounting to less than 1% cannot be termed as manipulative. Moreover, LTP per-se is not illegal.

SEBI WTM vide order dated 26th February, 2021 in the matter of Nikki Global Finance Limited held that, ".....the +ve LTP contribution to the market +ve LTP

of the other Noticees during Patch 1 is less than 1%.... Noticees contribution to the market +ve LTP is not so significant to invite the rigors of regulatory direction under section 11B of SEBI Act, 1992.”

SEBI AO vide order dated 27th April, 2018 in the matter of Hittco Tools Limited held that trades amounting to less than 1% are miniscule and insignificant for the purpose of manipulating the scrip.

The Hon'ble Tribunal in M/s Nishith M. Shah HUF vs Securities and Exchange Board of India (Appeal No. 97 of 2019 decided on January 16, 2020) has recently upheld its 2006 decision that in absence of any finding of collusion between the buyer and the seller the charge contributing to the LTP cannot be sustained.

9.3.No evidence of connection with other entities during investigation period: *The AO has tried to establish a connection between me and other entities based on two grounds: Fund transaction of Omkam Commodities Private Limited (Omkam) with APM, my ex-directorship in PPIL and alleged off market trades.*

With regard to the above, I submit as follows:

i. Fund transaction of Omkam with one of the entities: *I submit that I was a director in Omkam. On December 01, 2005, Omkam gave loan of Rs. 5,00,000/- to APM and same was repaid by APM to Omkam on July 05, 2007. The investigation period was from July 04, 2005 to September 13, 2005. It is evident that this loan transaction occurred after the investigation period. I cannot be alleged for any transaction that is beyond the investigation period i.e. retrospective connection cannot be established. The connection was after the investigation period and has no nexus with manipulation, if any that occurred in the scrip of PPIL during the investigation period.*

The AO himself has recorded that such transaction was beyond investigation period and that he has not found any evidences/ documents on record to establish my connection with other entities during the investigation period.

The fund transaction was not done by me personally but by the company i.e. Omkam. AO has not taken any action against Omkam, in fact he has released Omkam of all the allegations. It defies all the logic as to why the entity that carried the transaction was relieved and I am being penalized without any sufficient cause. This is violation of principle of parity.

ii. Connection established on the basis of ex-directorship is baseless: *The AO has stated that I am connected to the company because I was once a director in the company. I submit that I was a non-executive director in PPIL from 2001 to 2004. I have not denied my connection to the company during my directorship. However, the logic adopted by AO that I am involved in the manipulation after my resignation from the company is baseless and does not hold any merit. It is pertinent to note that I had resigned from the company due to difference of opinion and hence question of meeting of minds does not arise. Also, no evidence is provided for any kind of pre-arrangement or meeting of minds between me and the other entities involved in the matter. On one hand, AO accepts observation of WTM that I am not connected with entities while on the other hand, penalizes me for acting in concert with other entities. AO is contradicting its own statements and conduct.*

iii. Connection established through off-market transactions: *This allegation is purely baseless and without any evidence. I have not indulged in any off-market transactions during the investigation period. Even the AO has not provided any evidence to prove the same. My broker Vrinda Portfolio Private Limited submitted a letter dated 5th May, 2008 to SEBI confirming that there were no off market transactions in my account during the investigation period.*

9.4. Synchronized trades per-se not illegal and are mere coincidence: *The AO has alleged me of indulging into synchronized trades during the IP. A trade is said to be synchronized when there is exact match between order quantity, order rate and the time gap between order times is less than 60 seconds.*

It is pertinent to note that such matching orders can be a mere coincidence. In the present case, I am not connected to any entity or any counter party to my trades. Even AO and WTM has stated that there is no documentary evidence to prove my connection, if any, to such parties. Thus, in absence of any connection, such matching trades are a mere coincidence. I sold my shares on the BOLT system, where the identity of the counter party is unknown. Thus, if my orders matched with any parties, it was beyond my knowledge/control and merely a coincidence.

The Hon'ble Supreme Court in SEBI vs. Kishore R. Ajmera on 23rd February, 2016 held that, "...synchronized trading per se is not prohibited and in fact is regulated by the SEBI regulations in force"

SEBI WTM in the matter of Sureshchand S. Jain, Broker – National Stock Exchange held that, "It is pertinent to note that synchronized trade per- se is not illegal."

9.5. Delay in initiation and conclusion of proceedings: *The investigation period pertains to the year 2005. I had sold my holdings in the scrip of PPIL in the year 2005. SEBI has issued a SCN in the year 2016 for trades executed by me in the year 2005 i.e. after inordinate delay of 11 years. Moreover, even after issuing SCN in 2016, SEBI was not able to conclude the matter for next four years i.e. till 2020.*

The Hon'ble Tribunal in the Ashlesh Shah case (decided on 31st January, 2020) has opined that delay of around seven (7) years in initiation of proceedings was violative and set aside the Respondent's Order.

9.6. Issue of SCN by SEBI without passing confirmatory order: *SEBI passed an interim order dated 2nd February, 2016. Thereafter, no further action was taken by SEBI. As per generally followed practice, whenever an interim order is passed, the same should be either confirmed or revoked. However, in this case SEBI decided to sleep on the matter and took no further action. SEBI by-passed all the practices and directly issued SCN dated 6th June, 2019 i.e. after*

three years from interim order. SEBI kept the matter hanging for over three years and issued SCN without passing confirmatory order even though SEBI granted hearing after interim order. This was in gross violation of followed practice and my right to natural justice.

I filed an appeal before the SAT against such arbitrary conduct of SEBI. The SEBI WTM then passed a final order dated 15th January, 2020 and the SAT appeal was disposed. This is a clear instance of SEBI misusing its powers and arbitrarily conducting the proceedings.

9.7. Not traded in continuous buying & selling pattern and started selling when the price had already reached Rs. 32/- hence cannot be blamed for price manipulation:

I have sold 3,95,000 shares of PPIL during the investigation period. These shares were my long term investment. I have only sold the shares and not bought a single share during the IP. Manipulation can be done by a continuous pattern of buying and selling. One sided selling cannot be termed as manipulative. I have sold when the price had already reached Rs. 32/-. Hence I cannot be blamed for price rise till Rs. 32/-. AO is alleging me of unilateral manipulation which is without any logical explanation or evidence.

9.8. No allegations of other manipulative trading patterns: I am not alleged for any other manipulative trading patterns such as circular trading, structured trading, reversal trading, self-trades and so on. I have only sold shares that too on BOLT system. I am not engaged in any off market transactions. My broker has submitted letter confirming that I have not carried any off-market trades during the IP. Also, there is no evidence of loss caused to any investors as a result of my trading. Despite being a director for so many years in several companies, I am not alleged of insider trading or any such similar violation. This, itself proves that my trades were bona-fide.

9.9. Further, the Noticee also submitted that AO has made exact same noting in the order as the WTM but failed to draw a similar inference from them and ended up passing a contradictory order thus disrespecting the hierarchy of

organization. WTM is higher in hierarchy than the AO and thus AO should consider the findings of WTM in the matter and pass a fresh order accordingly. Even the Hon'ble SAT remanded back the matter to AO for his re-consideration in view of WTM order.

10. ISSUES:

I: Whether Peeyush Agarwal & Omkam can be said to be connected to the identified group of entities (DPK Stock and Securities, Caps Finstock Services Pvt Ltd., AJC Securities & Finance Pvt Ltd., Shivam Investments and Supreme Lease Finvest Pvt. Ltd. - *hereinafter referred to as **D K Kapur group/entities***) that had manipulated the scrip during the investigation period. If yes, whether Peeyush Agarwal & Omkam can be treated as part of the D.K.Group, for the purpose of analysis of trades to ascertain his involvement in the alleged fraudulent and unfair trade practices.

II: If Peeyush Agarwal is not connected to the other entities, then whether he can be alleged to have synchronised his trades with other entities forming part of D.K. Group, for the purpose of attracting the provisions of Regulation 3 (a), (b), (c) & (d) and Regulation 4 (1), 4 (2) (a), (b), (e) & (g) of SEBI PFUTP Regulations.

11. CONSIDERATION:

Issue I: Connection between Peeyush Agarwal and D.K. Kapur group entities:

12. The Noticee, a Chartered Accountant, is a promoter and director of many companies in the sectors such as IT, Pharma, Broking in stock and commodities, having an experience of nearly 30 years in the field of Finance & Taxation, Corporate laws, Project Management etc.

13. The Noticee is a former director of PPIL, the subject company whose shares were traded, who resigned on October 28, 2004. He was officiating as its non-executive director from September 27, 2001 to October 28, 2004. He invested in 4,00,000 shares of PPIL on October 24, 2001. The Investigation Period commenced almost

10 months after his resignation from the company, i.e. July 04, 2005 to September 13, 2005.

14. Peeyush Agarwal is the director of Kanhai Commodities Pvt. Ltd. (now known as Omkam Commodities Pvt. Ltd.). Omkam had given a loan of Rs. 5,00,000/- to APM Financial Consultants P. Ltd. (hereinafter referred as APM) on December 01, 2005 and the same was repaid back to Omkam by APM on July 05, 2007. D. K. Kapur was a director of APM Financial Consultants P. Ltd. and was also related to other Noticees viz. DPK Stock and Securities, Caps Finstock Services Pvt Ltd., AJC Securities & Finance Pvt Ltd., Shivam Investments and Supreme Lease Finvest Pvt. Ltd. I note that APM Financial Consultants P. Ltd. has not been identified by investigation to have manipulated the market in this matter. I also note that this loan transaction between Peeyush Agarwal and APM has happened after the investigation period i.e. after the entire holding was liquidated by Peeyush (i.e. 3,95,000 out of 4,00,000 shares). Peeyush Agarwal had submitted that he never had any personal dealing with APM in 2005, rather it was a loan from Omkam to APM. Peeyush Agarwal further submitted that the earlier AO has also recorded in paragraph 50 of his order that there are no documents/evidence available on record which suggest that DPK, Caps, AJC, Shivam, Supreme, Peeyush and Omkam are connected with each other during the investigation period i.e. July 04, 2005 to September 13, 2005 when the alleged manipulation of price and volume in the scrip of PPIL had happened. Upon a perusal of the investigation report and the attendant facts and circumstances, I find that connection between Peeyush Agarwal/Omkam and APM could not be established, based on the singular loan transaction identified in the investigation report, which was post the relevant period of alleged manipulative transactions.

Issue II: Noticee's role in Synchronisation of trades

15. In the absence of connection of Peeyush Agarwal with D K Kapur Group/entities, the question is whether the trades executed by Peeyush Agarwal can be categorised as manipulative/unfair trade practice under PFUTP Regulations.

- 16.** I note from the submission of the Noticee that investment in shares of PPIL was made by Noticee during the year 2001. Further, he is a strategic investor and has made investments in various companies from time to time with an intent to keep the investment for a long time and then off-load at the best possible opportunity. To substantiate his submission, vide letter dated March 17, 2018, he has provided the details of his investments in various companies which includes listed as well unlisted companies. I note that he had investments in 5 listed companies and 11 unlisted companies. I accept that he was making strategic investments during that time as contended. Noticee submitted that investment made in PPIL was also one such long-term investment. I note that the Noticee had been holding the shares in PPIL for 4 years.
- 17.** The Noticee submitted that his trading (3,95,000 shares) accounted for 6.8% of the total volume and the figure of 13.77% as alleged in the SCN is an inflated figure as it only computed his contribution by taking trades in single side (sell) instead of taking gross volume (Buy + Sell). I note that total volume in the scrip (single side) is 28,67,344 and the gross volume is 57,34,688. I also note that the Noticee had no buy transaction in the scrip during the investigation period.
- 18.** The Noticee submitted that he sold his entire holding of 4,00,000 shares during 09.08.2005 to 27.09.2005. Out of said sale transactions, sale of 3,95,000 shares fell under the investigation period. The Noticee also submitted that shares were sold during the investigation period as a general practice as is followed in other investment plans and the shares were sold in the open market at the prevailing prices at that point of time as per his own business prudence. The Noticee also submitted that he had deployed a dedicated person to keep the track of market condition and instructed him to put the sell order after tracking the buy order in the market. As and when any buy order reflects on the screen, to match with best buy order, counter sell order is placed accordingly. Therefore, orders has to be in line with flashing buy order for the execution that is why on few instances the quantity and price got matched with some of the alleged parties and resulted into synchronized trades.

- 19.** From the submission of the Noticee, I note that there were in total 8 days on which he was allegedly involved in synchronized trades out of the 14 days that he traded. Or remaining days, his trades got executed with the third parties viz. not alleged in the SCN and were not synchronized in any way. Noticee submitted that if his intention was to carry out synchronized trading to manipulate the market then his trades would not have matched with parties other than the alleged parties. Noticee also brought to my attention three transactions mentioned in Annexure III of Show cause notice dated November 08, 2017 wherein price, quantity and time was exactly matched with the third parties (not alleged in the SCN) to show that due to market conditions and high traded volume during the relevant period such orders could get matched with any of the buyer. Noticee submitted that this corroborates the fact that he traded in the shares of PPIL with the bona-fide intent and with sole purpose to off-load his long time investment.
- 20.** Further, the Noticee stated in his submissions that intent of a seller in normal course is always that securities should be sold at higher price. He had placed the price higher from his last traded price from his previous order just because he wanted to get as much value he could get from sale of securities. There is no abnormal behaviour in selling the securities at higher price and such minute contribution to the LTP due to genuine trades is normal as market will fluctuate as per demand and supply in the market.
- 21.** I note that during the investigation period, total traded volume in the scrip of PPIL was 28,67,344 shares. Noticee sold 3,95,000 shares of PPIL and did not buy shares during the investigation period. I am of the view that clubbing Peeyush Agarwal, an ex-director of PPIL, who had a holding of 4 lakh shares with the other group of unconnected entities is not proper. It is preposterous to state that the Noticee would have held the shares, upto a period of 4 years, for the purpose of market manipulation. I also note that the Noticee has only entered sell transactions during the relevant period. I find that the contention of the Noticee that he was intending to liquidate his holding at an opportune time cannot be faulted. In this regard, I note that once there is a categorical finding that the Noticee is not connected with D.K. Group entities then drawing an inference of connection based on trades executed between the Noticee and other D.K. Group entities is logically

incorrect. Therefore, I am inclined to give benefit to the Noticee by considering his sell transactions as liquidation of long term investment and not manipulative/fraudulent in nature.

22. Before concluding, I would like to state that the issue of binding nature of WTM's findings upon the subsequent findings of an AO, owing to the superior position of WTM in the hierarchy of the Board, as contended by the Noticee, is no longer an issue relevant for consideration, in view of the findings in the foregoing paragraphs.

23. Thus, the Adjudication proceedings against the Noticee initiated vide Show cause notice dated November 08, 2017, is hereby closed without any monetary penalty.

Date: February 24, 2022

Geetha G.

Place: Mumbai

Adjudicating Officer