

BEFORE THE ADJUDICATING OFFICER
SECURITIES AND EXCHANGE BOARD OF INDIA
[ADJUDICATION ORDER NO.: Order/VV/NK/2021-22/14823]

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

IN RESPECT OF:
Vazhacholil Paul Xavier
(PAN: ACHPV5614L)

IN THE MATTER OF PRICE MANIPULATION IN THE SCRIP OF M/S. NOUVEAU GLOBAL VENTURES LTD.

BACKGROUND

1. The Securities and Exchange Board of India (hereinafter referred to as “**SEBI**”) had conducted the Investigation during the period from December 01, 2010 to March 28, 2013 (i.e. date of increase in price of the scrip till end of six months after expiry of lock-in period of preferential allotment) (hereinafter referred to as “**Investigation Period**”) in the scrip of Nouveau Global Ventures Ltd (“**NGVL/Nouveau/the Company**”) to ascertain whether there was any price manipulation while trading by certain suspected Noticees in the scrip of NGVL resulting in violation of SEBI Prohibition of Fraudulent and Unfair Trade Practices Regulations 2003 (“**PFUTP Regulations**”). However, wherever deemed necessary, reference has been made to outside this period.
2. SEBI had received references from Department of Income Tax(DIT), Kolkata vide letter dated April 27, 2015 and Principal DIT (Inv), Chandigarh vide letter dated August 24, 2015 alleging that certain entities manipulated the prices of various scrips and generated bogus Long Term Capital Gains (LTCG) through stock exchange mechanism. Nouveau Global Ventures Ltd. was one of such scrips mentioned in the

aforesaid references. Further, Office of the Principal DIT (Inv), Kolkata in their letter dated April 27, 2015 has also provided a list of entities who had dealt in the scrip.

3. In view of the above references, the matter was taken up for investigation by Investigations Department of SEBI (IVD) to ascertain whether there was any violation of the provisions of the SEBI Act, 1992 and SEBI (PFUTP) Regulations, 2003 in the trading of certain suspected entities in the scrip of NGVL for the period December 01, 2010 to March 28, 2013 (i.e. date of increase in price of the scrip till end of six months after expiry of lock-in period of preferential allotment). However, wherever deemed necessary, reference was made to outside this period during investigation.
4. The said investigation included detailed analysis carried out with respect to various entities including entities referred by office of the Principal DIT (Inv), Kolkata in their letter dated April 27, 2015 of Unique Client Code ("UCC") /MCA database/off market transactions data details, information sought from exchange, RTAs and depositories and thereafter analyzing the documents and records supplied by them.
5. During this investigation, it was observed that certain entities including Noticee had significantly contributed to rise in the scrip price and created a misleading appearance of trading in the scrip by executing manipulative buy trades by placing repeated buy orders pattern for small/minuscule quantities at a price higher than the last traded price which is manipulative and contributed for rise in the scrip price during the investigation period. The final investigation report was approved on August 30, 2017 and vide communication order dated December 13, 2017, Shri Sahil Malik (erstwhile Adjudicating Officer "AO") was appointed as Adjudicating Officer(AO) to initiate inquiry and adjudication in the matter. Thereafter, on receipt of records, the SCN to the Noticees have been issued on February 12, 2018 by Shri Sahil Malik in this matter.
6. In this regard, SEBI after being satisfied that there are sufficient grounds to inquire into the affairs and adjudicate upon the alleged violation of the provisions of Regulations 3(a), (b),(c),(d), 4(1), 4(2)(a) and 4(2)(e) of the PFUTP Regulations *inter-alia* in respect

of Vazhacholil Paul Xavier (hereinafter referred to as “**Noticee**”) initiated adjudication proceedings under Section 15HA of the Securities and Exchange Board of India Act, 1992, (hereinafter referred to as “**SEBI Act**”) against Noticee for the alleged violation PFUTP Regulations by the Noticee.

APPOINTMENT OF ADJUDICATING OFFICER

7. Shri Sahil Malik was appointed as the Adjudicating Officer (**AO**) by SEBI, under Section 19 of the SEBI Act read with Section 15-I of the SEBI Act and Rule 3 of the SEBI (Procedure for Holding Inquiry and Imposing Penalties) Rules, 1995 (hereinafter referred to as “**Adjudication Rules**”) to conduct adjudication proceedings *inter-alia* in respect of the Noticees, in the manner specified under Rule 4 of the Adjudication Rules read with Section 15-I (1) and (2) of the SEBI Act, and if satisfied that penalty is liable, to impose such penalty deemed fit in terms of Rule 5 of the Adjudication Rules and in terms of Section 15HA of the SEBI Act. Thereafter on internal transfer of Shri Sahil Malik, undersigned has been appointed as AO vide communique dated August 13, 2019 to inquire into and adjudge, the violation of the PFUTP Regulations alleged to have been committed by the Noticees.

SHOW CAUSE NOTICE, REPLY AND PERSONAL HEARING

8. Show Cause Notice dated February 12, 2018 (hereinafter referred to as “**SCN**”) was issued to the Notices in terms of Rule 4 (1) of the Adjudication Rules read with Section 15-I of the SEBI Act, to show cause as to why an inquiry should not be initiated and penalty should not be imposed under Section 15HA of the SEBI Act, on the Noticees for the alleged violation of Regulations 3(a),(b),(c),(d), 4(1), 4(2)(a) and 4(2)(e) of the PFUTP Regulations by the Noticee.
9. The SCN was duly delivered to Noticee on February 15, 2018. Noticee vide letter dated March 21, 2018 submitted his reply to SCN. Following is the detail of submission made by the Noticee:

“With reference to the captioned subject, I am in receipt of notice dated February 12, 2018 initiating inquiry under SEBI Rules.

On the onset, I would like to give you a brief personal as well as professional background of myself.

I, Paul Xavier, say that am a very honest and law abiding citizen. From an academic perspective I have only completed my SSC exams. Am married and have 2 kids. I started working very early in life as our financial condition was not so good. I worked hard and grew up on the job, went on to become the Asian Head of Production at BNP Paribas Securities.

In September 2012, I lost my job due to the recession and wasn't sure of what I could do because of my limited educational background and hardly any scope in my field, with job cuts happening everywhere. I have been without a regular job since then, till date and also burdened with a big home loan.

It was around this point of time that I decided to open a trading account and try my luck with trading of equity shares. I had no previous trading history before this and was a total novice. Am attaching my trading history for your perusal. I traded briefly in various equity shares and my strategy was to look at highly volatile stocks and keeping an eye on the ones that were hitting the upper circuits, frequently. After a year or so and after suffering losses/exhaustion of funds, I stopped trading.

I solemnly state that being a lay person I had no knowledge about the SEBI rules and guidelines and was purely just going by the trading trends. During this period, I noticed other investors doing similar trades and just joined the band wagon, unawares.

I would also like to sincerely state that I have no connections with any of the other parties mentioned in this notice and have not done these trades in connivance with any of them.

I would also like to mention that I visited your office a couple of times to explain my case and was then educated of the procedures.

My financial condition is also not so good to be able to pay any fines.

I assure your respectable self that I will extend my full cooperation with regards to this case and will make myself available for any queries that your respectable self may have, whether through written communication or in person.

Request your respectable self to kindly consider all the points I have mentioned in this reply to arrive at a fair conclusion with respect to my case”.

10. Subsequent to my appointment as the Adjudicating Officer in the matter, the Noticee was provided an opportunity of personal hearing through WebEx platform due to Covid-19 Pandemic on June 28, 2021. However, the Noticee did not avail the said opportunity of personal Hearing. Noticee was again provided another opportunity of personal hearing on November 17, 2021. Noticee vide email dated October 25, 2021 requested for another date of hearing. Noticee was again granted last opportunity of hearing on December 01, 2021. Noticee vide email dated December 01, 2021 stated his inability to attend the hearing and stated the following:

“There is no change to the explanation I have given in my earlier hearings regarding the same and am attaching below the reply and other necessary documents.

Also, please note that I have no trading history for quite some years, now”

Further, Noticee in his another email dated December 01, 2021 requested to exempt him from hearing as his stance remains the same as made in his earlier reply.

11. As the inquiry in the matter has been completed, I now proceed to decide the case on the basis of SCN issued, reply made by the Noticee and material available on record.

ISSUES FOR CONSIDERATION AND FINDINGS

12. I have carefully perused the SCN, the documents / material available on record and submission of the Noticee. The issues that arise for consideration in the present case are:

- I. Whether the Noticee has violated the provisions of Regulation 3(a),(b),(c),(d), 4(1), 4(2)(a) and 4(2)(e) of the PFUTP Regulations ?
- II. Whether the Noticee is liable for imposition of monetary penalty under Section 15HA of the SEBI Act?
- III. If yes, then what should be the quantum of monetary penalty?

13. It is pertinent to mention here the relevant provisions of Regulation 3 (a), (b), (c), (d) and 4 (1), 4 (2) (a), 4 (2) (e) of PFUTP Regulations, allegedly violated by the Noticees:

Regulation 3. Prohibition of certain dealings in securities.

“No person shall directly or indirectly—

(a) buy, sell or otherwise deal in securities in a fraudulent manner;

(b) use or employ, in connection with issue, purchase or sale of any security listed or proposed to be listed in a recognized stock exchange, any manipulative or deceptive device or contrivance in contravention of the provisions of the Act or the rules or the regulations made 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.”

Regulation 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;”

Issue – I:- Whether the Noticee has violated the provisions of Regulation 3(a),(b),(c),(d), 4(1), 4(2)(a) and 4(2)(e) of the PFUTP Regulations?

14. It is pertinent to mention here that, a common SCN dated February 12, 2018 was issued against 8 entities including Noticee pertaining to the alleged violations of the aforesaid PFUTP Regulations. I note that the allegations levelled against Noticee in the SCN are mainly to the effect that during the Investigation Period, Noticee has significantly contributed to rise in the scrip price and created a misleading appearance of trading in the scrip.

15. The Investigation has observed that NGVL engaged in the multimedia business in India. It operates through five segments: Multimedia, Financial & Consultancy, Dealing in Shares & Securities, Trading in Textile, and Tele Shopping Division. The company produces Bhojpuri movies; acquires, owns, trades in, and grants media telecast rights over national and regional TV channels; publishes film trade magazines; and provides events/celebrity management services. It also operates as a broker, dealer, distributor, commission agent, and trader, as well as invests in shares and securities of the companies; and sells fabrics.

16. NGVL has registered office address of the company at A / 401, Pearl Arcade, Dawood Baug Lane, Off. JP Road, Opp. PK Jewelers, Andheri (W), Mumbai, Maharashtra, 400058. The company was formerly known as Nouveau Multimedia Limited and changed its name to Nouveau Global Ventures Limited w.e.f. July 28, 2011. Currently, shares of the company are listed at Bombay Stock Exchange (BSE) only.

17. The directors of the company during investigation period were as follows:

Adjudication Order in respect of Vazhacholil Paul Xavier in the matter of price manipulation in the scrip of M/S. Nouveau Global Ventures Ltd.

Sr. No.	Name of Director	Address	PAN	Date of Appointment	Date of Cessation
1	Shyam Makhija	31, K'Sara, 240, Pali Road, Bandra (West), Mumbai 400050	Not available	04-Dec-94	04-Jul-11
2	Krishan Khadaria	B-11, Oberoi Sky Garden, 3 rd Cross Lane, Back Road, Lokhandwala complex, Andheri (West), Mumbai 400053	AAHPK3724G	16-Nov-88	Continued as director during the investigation period
3	Manoj Bhatia	Flat 304 A, 3 rd floor, Satyam Heritage CHS Opp Vijay Park, Mira Road, Thane 401107	ABVPB7397P	27-Mar-03	
4	Narendra Gupta	1301, Brighton Tower, Lokhandwala Complex, Andheri (West), Mumbai 400053	AADPG3372J	31-Mar-08	
5	Asha Khadaria	B-11, Oberoi Sky Garden, 3 rd Cross Lane, Back Road, Lokhandwala complex, Andheri (West), Mumbai 400053	AAMPK1313N	15-Dec-09	
6	Mohit Khadaria	B-11, Oberoi Sky Garden, 3 rd Cross Lane, Back Road, Lokhandwala complex, Andheri (West), Mumbai 400053	AOKPK6812L	12-Sep-11	
7	Omprakash Bajaj	1, Pramukh, 19 Friends Society, N S Road No.6, Vile Parle (West), Mumbai 400056	AEBPB2811B	14-Aug-13	
8	Naushad Mohd. Sayeed Bhramar Khan	1103, Castle Towers, Opp. Gold Gym, Ohsiwara, Jogeshwari West, Mumbai 400012	AHLPK3893K	14-Aug-13	

18. The financial results of the company during the investigation period are given below:

Quarterly results (Amount Rs.in crores):

Year	2010			2011				2012				2013	
Quarter Ending	June	Sep	Dec	Mar	June	Sep	Dec	Mar	June	Sep	Dec	Mar	June
Income	30.72	29.56	51.73	Not Available	28.67	51.61	56.53	61.90	50.18	42.03	0.19	10.93	2.35
Expenditure	30.61	29.11	51.62		28.44	51.35	56.39	61.74	49.92	41.75	0.33	10.69	2.19
Profit before Tax	0.12	0.45	0.11		0.22	0.26	0.14	0.16	0.26	0.28	-0.15	0.24	0.16
Tax	-0.04	-0.14	-0.03		-0.07	-0.08	-0.04	-0.05	-0.08	-0.09	0.00	-0.08	-0.05
Net Profit / Loss	0.08	0.31	0.08		0.15	0.18	0.10	0.11	0.18	0.19	-0.15	0.17	0.11

19. From the above table, it is observed that company registered net profit of Rs.0.08 crores, Rs.0.31 crores, Rs.0.08 crores, Rs.0.15 crores, Rs.0.18 crores, Rs.0.10 crores, Rs.0.11 crores, Rs.0.18 crores, Rs.0.19 crores, Rs.-0.15 crores (loss), Rs.0.17 crores and Rs.0.11 crores for the quarter ended June 2010, September 2010, December 2010, June 2011, September 2011, December 2011, March 2012, June 2012, September 2012, December 2012, March 2013 and June 2013 respectively.

20. Annual results (Amount Rs.in crores):

Year Ending	March 2010	March 2011	March 2012	March 2013	March 2014
Income	135.05	144.35	198.71	11.91	9.99
Expenditure	134.62	143.58	197.93	11.59	9.77
Profit before Tax	0.43	0.78	0.78	0.33	0.23
Tax	-0.20	-0.23	-0.24	-0.10	-0.06
Net Profit / Loss	0.23	0.55	0.54	0.23	0.17

From the above table, it is observed that company registered net profit of Rs.0.23 crores, Rs.0.55 crores, Rs.0.54 crores, Rs.0.23 crores and Rs.0.17 crores for the year ended March 2010, March 2011, March 2012, March 2013 and March 2014 respectively.

Price Volume Analysis: (source - BSE website)

21. During the investigation period, there was a sub-division of equity shares of the company from Rs.10/- per share into Re.1/- each w.e.f. April 07, 2011 and consolidation of equity shares of the company from Re.1/- per share into Rs.10/- each w.e.f. December 11, 2012.
22. During the period from December 01, 2010 to April 06, 2011 i.e. before the split / sub-division, price of the scrip increased from Rs.128 to Rs.201.30. Thereafter, during the period from April 07, 2011 to December 10, 2012 i.e. after the split / sub-division and before the consolidation, price of the scrip decreased from Rs. 21.20 to Rs.4.83. Subsequently, during the period from December 11, 2012 to March 28, 2013 i.e. post consolidation, the price of the scrip increased from Rs.30.90 to Rs.31.60.
23. On the basis of the price movement in the scrip, sub-division and consolidation of the shares, the investigation period was divided into the following patches:

Patch-1 (Pre-Split & Price Rise)	: December 01, 2010 to April 06, 2011
Patch-2 (Post-Split & Price Fall)	: April 07, 2011 to December 10, 2012
Patch-3 (Post-consolidation & Price Rise)	: December 11, 2012 to March 28, 2013

24. The Price & Volume details are as follows:

Period	Dates	Particulars	Opening	Closing	Low	High	Total number of shares traded	Average number of shares traded per day
Before Investigation	01/09/10-30/11/10 (63 trading days)	Price (Rs.)	113.45	125.45	96.20 (12/11/10)	135.00 (23/11/10)	1198601	19025
		Volume	6901	49300	301 (05/11/10)	82322 (29/09/10)		
During Investigation	Patch-1 01/12/10-06/04/11 (88 trading days)	Price (Rs.)	128.00	201.30	122.00 (01/12/10)	206.90 (06/04/11)	3415573	38813
		Volume	8312	57259	272 (05/04/11)	159690 (21/03/11)		
	Patch-2 07/04/11-10/12/11 (358 trading days)	Price (Rs.)	21.20	4.83	2.30 (02/01/12)	24.30 (08/04/11)	58135491	162390
		Volume	283362	249942	1 (07/09/11)	6298836 (18/01/12)		
	Patch-3 11/12/11-2-	Price (Rs.)	30.90	31.60	24.00 (03/01/13)	45.40 (15/02/13)	1353965	21156

Period	Dates	Particulars	Opening	Closing	Low	High	Total number of shares traded	Average number of shares traded per day
	28/03/13 (64 trading days)	Volume	1469	6910	100 (01/01/13)	150839 (14/01/13)		
After investigation	29/03/13-28/06/13 (63 trading days)	Price (Rs.)	32.00	32.05	38.50 (29/04/13)	30.00 (07/06/13)	807892	12824
		Volume	7400	21309	1304 (11/05/13)	142598 (17/06/13)		

LTP CONTRIBUTION

25. During investigation, Analysis has been carried out with respect to top positive LTP contributors who had contributed to more than 5% to total market positive LTP as highlighted below:

PAN	Buyer Name	Group Name	All trades			LTP Diff. > 0			LTP Diff. < 0			LTP Diff. = 0		% of Positive LTP to Total Market Positive LTP
			LTP impact	QTY traded	No of trades	LTP impact	QTY traded	No of trades	LTP impact	QTY traded	No of trades	QTY traded	No of trades	
ACHP V5614 L	Vazhacholil Paul Xavier	-	48.20	2725	52	49.60	497	34	-1.40	31	4	2197	14	9.27%
ABEP S5214 M	Falgooni Naresh Kumar Shah	-	17.45	3887	88	30.55	1159	39	-13.10	1037	28	1691	21	5.71%
Market Total			0.70	1353965	5465	535.10	356591	1307	-534.40	338747	1314	658627	2844	100.00%

LTP analysis of Vazhacholil Paul Xavier in Patch-3

26. It is observed that, Vazhacholil Paul Xavier had contributed to Rs.48.20 net LTP in 52 trades. The Noticee also had contributed to Rs.49.60 to positive LTP (in 34 trades) which is 9.27% of market positive LTP. The 32 trades which contributed to positive LTP were analysed and observations are given at following paragraphs:

- a) It is observed that the buy orders for 32 trades by Vazhacholil Paul Xavier were placed in the range of 1 to 50 shares and these 32 trades contributed to significant positive LTP contribution of Rs.48.25 which is 9.02% of total market positive LTP. The order placing pattern for these 32 trades is tabulated below:

Buy order Quantity	Range of corresponding pending sell orders quantity	QTY traded	No of trades	Total Buy order quantity	Total sell order quantity	LTP impact	% of Positive LTP to Total Market Positive LTP (Rs. 535.10)
1	10-921	18	18	18	4076	39.15	7.32%
4	200	4	1	4	200	0.05	0.01%
5	50	5	1	5	50	0.40	0.07%
9	300	9	1	9	300	1.30	0.24%
10	50-4000	50	5	50	5750	3.25	0.61%
15	140	15	1	15	140	0.10	0.02%
20	200-500	40	2	40	700	0.30	0.06%
25	500	25	1	25	500	1.75	0.33%
30	100	30	1	30	100	1.55	0.29%
50	500	50	1	50	500	0.40	0.07%
Total		246	32	246	12316	48.25	9.02%

b) From the above table, the buy orders for these 32 trades were placed for small quantities (in the range of 1 to 50 shares) whereas the corresponding pending sell orders were available for large quantities (in the range of 10 to 4000 shares). These 32 trades contributed to substantial positive LTP creation of Rs.48.25 which is 9.02% of total market positive LTP. For example, buy orders for one share was placed on 18 instances whereas the corresponding pending sell order quantity was available in the range of 10 to 921 shares. The order price for these 18 trades was placed at more than the last traded price and these trades contributed to Rs.39.15 to positive LTP (7.32% of total market positive LTP). This clearly depicts that on repeated occasions Vazhacholil Paul Xavier was placing buy orders for small quantities despite the large pending sell orders.

c) The day-wise details of these 32 trades are summarised below:

Sr. No.	Trade details				Buy order details			Corresponding pending sell order details		LTP Impact (Rs.)
	Date	Number	Traded Quantity	Trade Price	Quantity	Price (Rs.)	LTP at the time of buy order	Quantity	Price (Rs.)	
1	31/01/2013	1056	10	36.00	10	37.00	35.00	700	36.00	1.00
2	01/02/2013	1068	30	33.85	30	33.85	32.30	100	33.85	1.55
3	11/02/2013	1015	20	33.35	20	33.35	33.30	200	33.35	0.05
4		1019	15	33.35	15	33.35	33.25	140	33.35	0.10
5	21/02/2013	1031	50	41.00	50	41.00	40.60	500	41.00	0.40
6		1033	25	41.00	25	41.00	39.25	500	41.00	1.75
7		1043	1	40.50	1	40.50	39.35	100	40.50	1.15
8	27/02/2013	1024	1	36.60	1	36.60	34.10	100	36.60	2.50
9		1043	1	34.95	1	34.95	34.10	10	34.95	0.85
10		1044	1	36.75	1	36.75	34.95	22	36.75	1.80

Sr. No.	Trade details				Buy order details			Corresponding pending sell order details		LTP Impact (Rs.)
	Date	Number	Traded Quantity	Trade Price	Quantity	Price (Rs.)	LTP at the time of buy order	Quantity	Price (Rs.)	
11		1049	1	36.65	1	36.65	34.25	200	36.65	2.40
12		1053	1	36.40	1	36.40	34.05	98	36.40	2.35
13		1057	1	36.00	1	36.00	34.00	25	36.00	2.00
14	28/02/2013	1001	1	37.95	1	38.00	34.00	200	37.95	3.95
15		1034	1	36.40	1	36.40	34.10	40	36.40	2.30
16		1041	1	34.25	1	36.00	34.10	100	34.25	0.15
17	01/03/2013	1005	1	37.85	1	37.85	34.10	500	37.85	3.75
18		1009	1	37.85	1	37.85	35.00	500	37.85	2.85
19		1012	1	36.95	1	36.95	35.00	500	36.95	1.95
20		1020	1	36.45	1	36.75	34.10	300	36.45	2.35
21		1037	9	35.45	9	35.45	34.15	300	35.45	1.30
22		1047	5	34.40	5	34.40	34.00	50	34.40	0.40
23	05/03/2013	1017	20	34.50	20	34.50	34.25	500	34.50	0.25
24		1021	10	34.75	10	34.75	34.15	100	34.75	0.60
25		1035	4	34.00	4	34.00	33.95	200	34.00	0.05
26	08/03/2013	1037	10	39.95	10	39.95	39.50	50	39.95	0.45
27	11/03/2013	1001	1	38.90	1	38.90	37.00	921	38.90	1.90
28		1025	1	38.00	1	38.00	37.50	10	38.00	0.50
29	12/03/2013	1027	1	37.50	1	37.50	36.05	200	37.50	1.45
30		1048	10	36.50	10	36.65	35.35	900	36.50	1.15
31		1054	10	34.80	10	34.80	34.75	4000	34.80	0.05
32	18/03/2013	1001	1	37.70	1	37.70	32.75	250	37.70	4.95
Total					246			12316		48.25

Adjudication Order in respect of Vazhacholil Paul Xavier in the matter of price manipulation in the scrip of M/S. Nouveau Global Ventures Ltd.

- d) From the above, it was observed that Noticee , despite the large pending sell order quantities, had placed buy orders for small quantities at the prevailing sell order price or more than prevailing sell order price which was higher than the last traded price. This pattern was repeated on 32 instances. For example, on February 27, 2013, buy orders for 6 trades (Sr. No 8 to 13 in the table) were placed for one share whereas the corresponding pending sell order quantities were in the range of 10 to 200. Orders for these 6 trades were placed at more than the last traded price. These trades contributed for the price rise.
- e) Further, on 5 instances (highlighted in the table at para 22(c), the buy order for small quantity was not only placed at more than the last traded price but also more than prevailing sell order prices. For example, on February 28, 2013, a buy order (Sr. No. 14 in table) was placed for only one share at Rs.38 (when the last traded price was Rs.34) despite the pending available sell order quantity was 200 shares at Rs.37.95/-. Thus, the buy order got matched with the pending sell order and contributed for price rise in the scrip by Rs.0.05. On the same day (on February 28, 2011), one more buy order (Sr. No. 16 in table) was placed only one share at Rs.36 (when the last traded price was Rs.34.10) despite the pending available sell order quantity is 100 shares at Rs.34.25/-. Thus, the buy order got matched with the pending sell order and contributed for price rise in the scrip by Rs.0.15.
- f) In a similar pattern as mentioned at para 22(d) and (e), orders for the 32 trades were placed at a price higher than the last traded price and for smaller quantities than the available pending sell order quantities and thereby contributed to price rise in the scrip.

- g) From the above, it is alleged that the repeated buy orders pattern for small quantities by Vazhacholil Paul Xavier at a price more than last traded price is manipulative and contributed for rise in the scrip price. This pattern clearly shows that there was no bona-fide intention to buy the shares, but to mark the price higher than the last traded price and manipulate the scrip price.
- h) Therefore, it is alleged that Vazhacholil Paul Xavier had significantly contributed to rise in the scrip price and created a misleading appearance of trading in the scrip by such 32 manipulative trades.
- i) Hence, trading in the scrip by Vazhacholil Paul Xavier is alleged to be with a manipulative intent to increase the price of the scrip and in violation of regulations 3(a),(b), (c) and (d) and 4(1), (2) (a) and (e) of SEBI (PFUTP) Regulations, 2003.

27. I note that during Patch-3 of the Investigation Period, the price of scrip of the Company opened at ₹30.90 and closed at ₹31.60. Though there was a net LTP increase of only ₹0.70, it was noticed that total positive LTP created in the scrip of the Company during the Patch-3 of the Investigation Period was as high as ₹535.10.

28. As also mentioned above, the main allegation against the Noticee in the SCN is that by executing manipulative buy trades, Noticee has contributed to the positive LTP in the scrip of Nouveau during Patch-3 of the Investigation Period. It is alleged that, Noticee placed buy orders for very miniscule quantities ranging from 1-50 shares per order through his 32 buy trades, even though the, corresponding sell orders already available in the trading system for larger quantities (ranging from 10-4000 shares) per order which contributed to positive LTP of 9.02% (₹48.25) in the price of scrip of the Company during the entire Patch-3 of the Investigation Period. Further, despite the large pending sell order quantities, Noticee had placed buy orders for small quantities

at the prevailing sell order price or more than prevailing sell order price which was higher than the last traded price. This pattern was repeated on 32 instances.

29. In this regard, I note from the trade log that, the number of trades (32 trades) executed by Noticee to contribute to positive LTP of 9.02% (₹48.25) were just 0.58% of the total number of trades executed (5465 trades) in the scrip of the Company during the entire Patch-3 of the Investigation Period. I further note that, the positive LTP of ₹48.25 contributed by Noticee as alleged in the SCN through his 32 buy trades was just 0.018% of the total number of trades (1353965 shares) executed in the scrip of the Company during the said Patch-3 of the Investigation Period.

30. From the order placing pattern analysis of Noticee, I note that the buy orders for all the 32 trades were placed by the Noticee only after the respective sell orders were placed in the stock exchange's system. Also, the aggregating total number of pending sell order quantities (12316 shares) which marked those alleged 32 trades in terms of price was approximately 50 times higher than the buy order quantities of only 246 shares placed by the Noticee in all of those 32 trades.

31. I Further note that, Noticee placed buy orders at a price higher than the corresponding sell orders prices (which were already higher than the LTP) on various instances (sr. no. 1, 14, 16, 20 and 30 mentioned at para 22(c) of this Order). For instance, on 31/01/2013 at Sr. No. 1, the LTP in the scrip at the time of buy order was ₹35, the corresponding sell order for 700 quantities of shares was available at ₹36, however, the Noticee placed his buy order for only of 10 shares at ₹37, which resulted into matching of buy-sell orders and executing of the trade for 10 shares at a price of ₹37 and contributing to ₹1 of positive LTP in the scrip of the NGVL. Similarly, on 28/02/2013 at Sr. No. 14, the LTP in the scrip at the time of buy order was ₹34, the corresponding sell order for 200 quantities of shares was available at ₹37.95, however, the Noticee placed his buy order for only of 1 shares at ₹38, which resulted into matching of buy-sell orders and executing of the trade for 1 shares at a price of ₹37.95 and contributing to ₹3.95 of positive LTP in the scrip of the NGVL and the same pattern

is seen at Sr. No. 16, 20 and 30 of table mentioned at para 22(c), thereby contributing to ₹ 0.15 , ₹2.35 and ₹1.15 of positive LTP respectively in the scrip of the NGVL. The extra exuberance displayed by the Noticee to acquire the scrip at higher price in most of his successive trades far away from LTP, is not justified also for the reason that he indulged in buying negligible quantities of shares when Sell orders of large quantities were pending in the stock exchange system.

32. I note that, Noticee in its submission dated March 21, 2018 has not disputed the impugned trades. I note from the reply of Noticee, wherein he has stated that, his strategy was to look at highly volatile stocks and keep an eye on the ones that were hitting the upper circuits, frequently. With regard to the same, I note from the trading pattern of the Noticee that, Noticee was buying minuscule quantities to fetch higher prices. I also note that, sell orders for larger quantities of the scrip were already available in the market and pending in the stock exchange system and Noticee's buy order of minuscule quantities matched the sell prices offered in the pending sell orders which were at prices higher than the LTP thereby causing substantial rise in the price of the scrip of the Company. Thus, it is undisputed that, the sell orders already available and pending in the stock exchange system, would not have been able to make any manipulative impact on the price of the scrip on their own, if the Noticee had not placed those buy orders in the minuscule quantities only to change and match the sell prices offered in the pending sell orders.

33. In my opinion, it is normal in the securities market to sell the scrip when a higher price is offered. But by purchasing shares at price higher than the ongoing LTP by Noticee and that too in minuscule quantities resulted in the price of the scrip going up and as clear from his trading pattern, the trades were carried out by Noticee with a view to set the price or benchmark the price at a desired level thereby misguiding the innocent / gullible investors. Therefore, it can be concluded that the price of the scrip was manipulated by the Noticee.

34. In some instances of trading by Noticee, it is clear that the Noticee intended to buy at prices even higher than the prices offered by the respective seller. the placement of buy order above prevailing sell order rate has no economic rationale as any prudent investor would want to buy at a low price and sell at higher price. This further corroborates the allegation against the Noticee that the trading behaviour of Noticee amounts to manipulation of price of the scrip of NGVL on a continuous basis so as to induce innocent investors by creating such a misleading appearance of trades in the scrip of Nouveau.

35. In this context, reliance is also placed on the observations of the Hon'ble SAT in the matter of *Amaresh Pathak vs. SEBI*, Appeal no. 332 of 2020 –Order dated February 16, 2021, wherein it had held that:

“11. ... When a person enters into a transaction in securities with the intention to artificially raise the price, he thereby automatically induces the innocent investors in the market to buy/sell the stocks. The buyer or the seller is invariably influenced by the price of the stocks and if that is manipulated the person doing so is necessarily influencing the decision of the buyer/seller thereby inducing him to buy or sell. This is what Regulation 4 of the PFUTP Regulation speaks of. Inducement to any person to buy or sell securities leads to manipulation in the price of the scrip. If the factum of inducement is established, it will necessarily follow that a fraud has been played and there has been a manipulation.”

36. I note that Noticee has also submitted that, *After a year or so and after suffering losses/exhaustion of funds, I stopped trading.* In this regard, from the perusal of statement of accounts/Ledgers submitted by Noticee alongwith his reply, I note that, Noticee has traded in many other Stocks including the scrip of NGVL and as also stated by Noticee I note that, Noticee has suffered loss by trading in the scrip of NGVL. In this regard, I note that, it is but natural that by placing orders at price higher than ongoing LTP, Noticee or any person is bound to incur loss and thus, trades being executed on a frequent basis and contributing majorly to the price rise in the scrip even

at the cost of sustaining personal losses by Noticee, would not be viewed as bonafide trades executed prudently in the normal course of trading in securities.

37. it is important to refer to the observations made by the Honble Securities Appellate Tribunal (SAT) in its order dated March 21, 2014 in Saumil Bhavnagari Vs. SEBI which are as under: *"It is amply clear that although the scrip was available at a lower price, the Noticees bought them at a higher price only with a view to give false representation to the general public about the rise in price of the scrip. This was done repeatedly done by the Noticees. Such trades undoubtedly have a potential of raising the price of the scrip by sending a wrong signal to the gullible investors about the activity of price hike in the scrip. ----- . This was done evidently with ulterior motives, because if shares were available for a lesser price, there was no reason to place orders at a price higher than the LTP and if orders at price higher than LTP were placed on account of the financial status of the company then there was no reason to place some orders below LTP.*

38. Noticee in his reply has *inter-alia* stated that, *"being a lay person I had no knowledge about the SEBI rules and guidelines and was purely just going by the trading trends. During this period, I noticed other investors doing similar trades and just joined the band wagon, unawares.* Pleading by Noticee of ignorance of the law while executing the transactions cannot be an excuse worth considering so as to exonerating the Noticee from the charges levelled against him in the SCN. Further, it is amply clear by Noticee's admission that, he was trying to manipulate the price of the scrip of Nouveau by placing the buy orders at higher price than ongoing LTP to increase the price of the scrip. Thus, by executing such manipulative trades, he was contributing to the LTP in a continuous basis so as to induce innocent investors by creating such a misleading appearance of trades in the scrip of Nouveau .

39. Noticee has further stated that, *I have no connections with any of the other parties mentioned in this notice and have not done these trades in connivance with any of them.* In this regard, I note that nothing has been brought on record to show the

connection of Noticee with any other counterparties or any other entities alleged in the SCN. However, there is no dispute that, trading behaviour adopted by the Noticee has inflated / manipulated the price of the scrip. Further, I note that Hon'ble SAT, in numerous orders have laid down that an entity in isolation can be booked for its unilateral act of manipulation of price of the scrip if analysis of trade log and order log reflects malafide intention even without any collusion with the other entities. In this regard, reference may be drawn to the following judgments of Hon'ble SAT:

- i. In the matter of *Mrs Kalpana Dharmesh Chheda vs. SEBI* (Appeal no. 454 of 2019 decided on February 25, 2020), while dealing with a similar issue, Hon'ble SAT has, *inter alia*, held that:

"looking at the pattern of trading done by the appellants and the fact that the appellants have derived considerable financial benefit through that particular scheme or nature of trading we are of the view that the trading pattern adopted by the appellants is of a manipulative and unfair nature and would squarely fall within the ambit of the PFUTP Regulations. The pattern of trade clearly establishes this as it is on 49 occasions that the appellants sold 1 to 5 shares, mostly one share, when in fact the buy orders available in the system was much higher. This behavior cannot be justified in terms of normal rational expectations of a seller."

- ii. In the matter of *Tanuj Khandelwal Vs SEBI* (Appeal No. 357 of 2020) decided on January 4, 2021, Hon'ble SAT has, *inter alia*, made observations as:

"7. Having heard the learned counsel for the appellant and upon perusal of the impugned order we are of the opinion that the case of the appellant is distinguishable and consequently the decision in M/s. Nishith M. Shah HUF (supra), Rajesh Marchya (supra) and Mr. Jayant Indulal Sethna (supra) cases are not applicable and are distinguishable on facts. We find that except on three occasions the appellant only sold one share at a time on a daily basis. This trading pattern created misleading appearance with intention to manipulate the market if not the price. Thus, even if there is no connection with the buyer the trading pattern shows a concerted effort to manipulate the

market and therefore, we are of the opinion that the appellant was not acting as a genuine seller. We also find that the appellant had no bonafide intention to sell because inspite of sufficient buy orders being placed with abundant quantity being available in the market the appellant was only placing sell orders of one share at a time. This clearly shows his intention of manipulating the market for vested reasons”.

40. I have perused the order of Hon’ble WTM of SEBI dated March 19, 2021 in parallel 11B proceedings against the Noticee on identical subject matter for the same cause of action of the same alleged breach of violation, wherein Hon’ble WTM has *inter-alia* stated that,

“Therefore, relying on the aforesaid judgments and on the basis of the discussion in the foregoing paragraphs, I find that the alleged trading behavior of the Noticee no. 7 in the shares of Nouveau with an inherent motive to manipulate the price of the scrip, can’t by any means be held to be trades executed by a prudent investor in the normal course of trading. The trading behavior of the Noticee no. 7 has certainly been very unusual and apparently lacks honesty of intent of a genuine investor of Securities Market. Instead, the pattern of trades adopted by the Noticee no. 7 to place orders always at a higher price than the LTP, clearly establish that his trades were executed with only a manipulative design to push up the price. Therefore, I have no hesitation to conclude that the Noticee no. 7 has executed those alleged 32 trades in the scrip of the Company during the Patch-3 of the Investigation Period, with the intention to manipulate the market or to defeat its mechanism in a fraudulent manner and thereby has violated the provisions of Regulation 3 (a) (b) (c) (d) read with Regulation 4 (1) 4 (2) (a) and (g) of SEBI (PFUTP) Regulations, 2003.

41. On account of aforesaid observations, submissions of Noticee and findings of Hon’ble WTM in order dated March 19, 2021, I conclude that Noticee deliberately entered into repeated premeditated buy trades at a price higher than the last traded price in order to manipulate the price in the scrip of NGVL during the investigation period. the trading behaviour of Noticee vis-à-vis the scrip of Nouveau has been ill

motivated, fraudulent and was intended towards manipulating the price of the shares of Nouveau and therefore, the charge pertaining to violation of Regulations 3 (a), (b), (c) and (d), 4 (1), 4 (2) (a) and (e) of PFUTP Regulations by Noticee stands established.

42. it is pertinent to note the observations of Hon'ble Supreme Court in its Order dated April 26, 2013 in the matter of **N. Narayanan Vs Adjudicating Officer, SEBI**, wherein it has laid down that:-

“Prevention of market abuse and preservation of market integrity is the hallmark of Securities Law. Section 12A read with Regulations 3 and 4 of the Regulations 2003 essentially intended to preserve ‘market integrity’ and to prevent ‘Market abuse’. The object of the SEBI Act is to protect the interest of investors in securities and to promote the development and to regulate the securities market, so as to promote orderly, healthy growth of securities market and to promote investors protection. Securities market is based on free and open access to information, the integrity of the market is predicated on the quality and the manner on which it is made available to market. ‘Market abuse’ impairs economic growth and erodes investor’s confidence. Market abuse refers to the use of manipulative and deceptive devices, giving out incorrect or misleading information, so as to encourage investors to jump into conclusions, on wrong premises, which is known to be wrong to the abusers. The statutory provisions mentioned earlier deal with the situations where a person, who deals in securities, takes advantage of the impact of an action, may be manipulative, on the anticipated impact on the market resulting in the “creation of artificiality”.

43. It may also be relevant to refer to the observations of the Honble 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*

Adjudication Order in respect of Vazhacholil Paul Xavier in the matter of price manipulation in the scrip of M/S. Nouveau Global Ventures Ltd.

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.”

Issue – II:- Whether the Noticee is liable for imposition of monetary penalty under Section 15HA of the SEBI Act?

44. This is the case where the Noticee has inflated / manipulated the price of the scrip through those alleged 32 trades in the scrip of the Company during the Patch-3 of the Investigation Period, with the intention to manipulate the market or to defeat its mechanism in a fraudulent manner and thus violated Regulations 3(a), (b),(c),(d), 4(1), 4(2)(a) and 4(2)(e) of PFUTP Regulations. The said violation of PFUTP Regulations makes the Noticee liable for monetary penalty under Section 15HA of the SEBI Act.

45. In this regard, I note the observations made by the Hon’ble Supreme Court of India in the matter of **SEBI vs. Shri Ram Mutual Fund** wherein it was held that:–

“once the violation of statutory regulations is established, imposition of penalty becomes sine qua non of violation and the intention of parties committing such violation becomes totally irrelevant. Once the contravention is established, then the penalty is to follow.”

46. Thus, the aforesaid violations of PFUTP Regulations committed by the Noticee attracts penalty under Section 15HA of the SEBI Act, which reads as below –

“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 which shall not be less than five lakh rupees but which may extend to twenty - five crore rupees or three times the amount of profits made out of such practices, whichever is higher.”*

Issue – III:- If yes, then what should be the quantum of penalty?

47. While determining the quantum of penalty under Section 15HA 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*

Explanation – *For the removal of doubts, it is clarified that the power of an adjudicating officer to adjudge the quantum of penalty under sections 15A to 15E, clauses (b) and (c) of section 15F, 15G, 15H and 15HA shall be and shall always be deemed to have been exercised under the provisions of this section.”*

48. With regard to the above factors to be considered while determining the quantum of penalty, it may be noted that no quantifiable figures or data is available on record to

assess the disproportionate gain or unfair advantage and amount of loss caused to an investor or group of investors as a result of the default of the Noticee. The acts of artificially increasing the price of scrip have potential to mislead and induce gullible and genuine investors to trade in the scrip and harm them and, thus, the fundamental tenets of market integrity get violated with impunity due to such fraudulent acts.

49. During the entire Patch-3 of the Investigation Period, Noticee in various instances sold shares in miniscule quantities at price higher than the ongoing LTP for 12 trading days despite the sell orders for larger quantities of the scrip were available in the market. Also in various instances, Noticee has placed buy orders at a price higher than the corresponding sell orders prices which were already higher than LTP. The quantum of penalty has to be adjudged taking these peculiar facts and circumstances into account viz, the volume of trades executed and percentage of contribution to the LTP by the Noticees and their impact on the price of the scrip of Nouveau. Since, this kind of activity seriously affects the normal price discovery mechanism of the securities market. People who indulge in manipulative, fraudulent and deceptive price rise should be suitably penalized for the said acts of omissions and commissions. However, I note that the impugned transactions by Noticee pertains to the year 2012-2013 and that a considerable amount of time has lapsed since the act of the Noticee taken place and which also is considered as relevant factor while deciding the quantum of penalty against Noticee.

ORDER

50. Considering all the facts and circumstances of the case, factors mentioned under Section 15J of the SEBI Act and in exercise of the powers conferred upon me under Section 15-I of the SEBI Act, read with Rule 5 of the Adjudication Rules, I hereby impose Monetary penalty of Rs.1,00,000/- (Rupees One Lakh only) on the Noticee viz. Vazhacholil Paul Xavier in terms of Section 15HA of the SEBI Act. In my view, the said penalty is commensurate with the violation committed by the Noticee in this case.

51. The amount of penalty shall be paid either by way of demand draft in favour of “SEBI - Penalties Remittable to Government of India”, payable at Mumbai, or by online payment through following path at SEBI website www.sebi.gov.in ENFORCEMENT → Orders → Orders of AO → Click on PAY NOW or at link <https://siportal.sebi.gov.in/intermediary/AOPaymentGateway.html>. In case of any difficulties in payment of penalties, the Noticee may contact the support at portalhelp@sebi.gov.in

52. The said demand draft and its details or details of online payments made (in the format as given in table below) should be forwarded to “The Division Chief (Enforcement Department-DRA-2), the Securities and Exchange Board of India, SEBI Bhavan II, Plot No. C7, “G” Block, Bandra Kurla Complex, Bandra (E), Mumbai – 400 051.”

1. Case Name :	
2. Name of Payee :	
3. Date of Payment:	
4. Amount Paid :	
5. Transaction No. :	
6. Bank Details in which payment is made :	
7. Payment is made for : (like penalties/ disgorgement/ recovery/ settlement amount and legal charges along with order details)	

53. In the event of failure to pay the said amount of penalty within 45 days of the receipt of this Order, recovery proceedings may be initiated under section 28A of the SEBI Act, for realization of the said amount of penalty along with interest thereon, *inter alia*, by attachment and sale of movable and immovable properties.

54. In terms of Rule 6 of the Adjudication Rules, 1995, copy of this Order is sent to the Noticee and also to the Securities and Exchange Board of India.

Date : January 28, 2022

Place : Mumbai

Vijayant Kumar Verma

Adjudicating Officer