BEFORE THE ADJUDICATING OFFICER

SECURITIES AND EXCHANGE BOARD OF INDIA

[ADJUDICATION ORDER NO. : EAD-9/SM/3466-3468/31-33/2019-20]

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:

Sl. No.	Name of the Entity	PAN
1.	Mr. Jayeshkumar Narottamdas Gandhi	[PAN: AABPG5669E]
2.	Ms. Bharati Jayesh Gandhi	[PAN: AAFPG5855L]
3.	Mr. Deval Jayesh Gandhi	[PAN: AISPG4164H]

IN THE MATTER OF SHREE SHALEEN TEXTILES LIMITED.

BACKGROUND

1. The Securities and Exchange Board of India (hereinafter referred to as **"SEBI"**), initiated adjudication proceedings against Mr. Jayeshkumar Narottamdas Gandhi (Noticee No. 1), Ms. Bharati Jayesh Gandhi (Noticee No. 2) and Mr. Deval Jayesh Gandhi (Noticee No. 3) [hereinafter collectively referred to as **"Noticees"**] for the alleged violation of the provisions of Regulation 3 (a), (b), (c), (d) and 4 (1), 4 (2) (a) and (e) of SEBI (Prohibition of Fraudulent and Unfair Trade Practices Relating to Securities Market) Regulations, 2003 (hereinafter referred to as **"PFUTP Regulations"**) by carrying out trading in the scrip of Shree Shaleen Textiles Limited (hereinafter referred to as **"SSTL or Scrip"**) which resulted into the alleged manipulation in the price of the scrip and created misleading appearance of trading in the scrip of SSTL.

2. SEBI had conducted the investigation in the matter relating to the trading activity of certain entities including the Noticees herein, in the scrip of SSTL. The focus of the investigation was to ascertain whether there were any violations of the provisions of the SEBI Act and PFUTP Regulations. Shares of SSTL is listed on BSE Limited (hereinafter referred to as **"BSE"**).

APPOINTMENT OF ADJUDICATING OFFICER

3. Vide an order dated June 13, 2017, issued by SEBI, the undersigned has been appointed as the Adjudicating Officer under Section 15-I of the Securities and Exchange Board of India Act, 1992, (hereinafter referred to as **"SEBI Act"**) to inquire into and adjudge under Section 15HA of SEBI Act, the aforesaid violations alleged to have been committed by the Noticees.

SHOW CAUSE NOTICE, REPLY AND PERSONAL HEARING

4. Show Cause Notice dated December 13, 2017 (hereinafter referred to as **"SCN"**) was issued to the Noticees in terms of Rule 4 (1) of the SEBI (Procedure for Holding Inquiry and Imposing Penalties) Rules, 1995 (hereinafter referred to as **"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 Regulation 3 (a), (b), (c), (d) and 4 (1), 4 (2) (a) and (e) of PFUTP Regulations.

5. The Noticees vide a common letter dated January 10, 2018 requested for extension of time till February 10, 2018 to file reply to the SCN. The Noticees did not file reply to the SCN within the time as specified in the SCN. Therefore, in the interest of natural justice and in terms of Rule 4 of the Adjudication Rules, the Noticees were granted an opportunity of personal hearing on February 16, 2018, vide the Hearing Notice dated February 01, 2018. Subsequently, vide letter dated

February 10, 2018 the Noticees stated that in the same matter proceedings under Section 11B of SEBI Act, have also been pending before the Whole Time Member (**"WTM"**) of SEBI and thus they sought adjournment of the said hearing.

6. Accordingly, the Noticees granted another opportunity of personal Hearing on March 11, 2019. Consequently, on March 11, 2019, Mr. Geet Shikhar and Mr. Jayeshkumar Gandhi, the Authorised Representatives of the Noticees appeared for personal Hearing and submitted that the Noticees have filed their written submissions to SEBI on March 08, 2019 and reiterated the contents of the same during the proceedings of the hearing.

7. The Noticees vide a common letter dated March 06, 2019, submitted to SEBI on March 08, 2019 made their reply to the SCN in the matter. It is submitted that this reply is being filed on behalf of the Noticees by Mr. Jayesh Narottamdas Gandhi (Noticee No. 1 herein). The relevant extracts of the aforesaid reply of the Noticees are *inter-alia* reproduced hereunder.

- *"……*

- *It is admitted that the Noticees are related to each other as Noticee No. 2 and Noticee No. 3 are wife and son of Noticee No. 1 respectively.*

- *It is submitted that Noticee No. 1 is an investor in the securities market for past 30 years and have been investing in various scrips. Noticees invest in share market based on his individual study and understanding about the market. Noticee No. 1 take decisions of investment on his own behalf and on behalf of all the family members.*

- *It is submitted that the Noticees were holding shares of SSTL since past many years and were looking for opportunity to exit the scrip as and when*

there will be trading in the scrip. They have no connections/ relationship whatsoever with promoters/ directors of the Company.

- *Trades carried out in the scrip by the Noticees are a miniscule percentage i.e. 0.031% of the total volume of trades carried out during the investigation period of three years. Their total sale in the scrip was around 38,935 shares in comparison to total volume of 12,62,29,132 shares during the investigation period.*

- *It is submitted that presently they have got a large portfolio and hold shares of various companies like Century Ply, Aditya Birla Capital, Suzlon, and many more and also holding physical shares of Oswal Sugars, S M Dyechem, Niwas Spinning, Garware Synthetic, Nutra Plus, Pulsar International Limited etc. Hence, holding the shares of SSTL was not unusual.*

- *It is submitted that the company came out with various corporate announcements during the investigation period viz. Bonus issue, sub division of shares, preferential issue etc. which certainly always has a positive effect on the price of the scrip. It appears that these factors have not been taken into account while investigating the price manipulation and Noticees have been wrongly roped in the proceedings.*

- *As per price volume data obtained from the website of BSE, it appears that Price of the shares of the Company increased gradually and did not spurt suddenly. Price volume data further reveals that the price of the scrip was constant for a particular day with a little fluctuation over and above the opening price and no major price rise and fall throughout the day. Thus, it is submitted that the price rise was gradual over a period of nearly three years and not all of a sudden.*

- *It is submitted that the price rise is gradual and purely on the basis of market forces which was beyond the control of any entity. The issuing authority is not aware of the market nuances since it is an accepted fact that issue of shares on conversion of warrant, preferential allotment, issue of bonus shares and sub division of shares etc. are price sensitive information and always result in change in prices.*

- *Further, as regards as LTP analysis is concerned, it is submitted that the Noticees have traded in small quantities and in tranches since they never wanted to liquidate their portfolio completely. Besides, the stock exchanges do not have any such embargo as to minimum amount of shares that can be liquidated at a particular point in time.*

- *Noticees had bought shares of SSTL and were eyeing on price rise and trends in the scrip so that they can liquidate their holdings in the market and get some return on investment. It is noted that there were many buyers for the scrip but comparatively less number of sellers. That was a great opportunity for the Noticees to liquidate the holdings and get best price for their shares. Thus, they decided to liquidate their holdings in tranches and maximize profit.*

- *It is submitted that the Noticees traded on the electronic trading platform of the stock exchange which is faceless, wherein, the counter party is not known and within the parameters decided by SEBI/ stock exchanges. Also, during the course of their trading, they were not informed of any abnormal behaviours/ alerts and suddenly after 3-4 years, they have received this notice. It has come to my knowledge that SEBI/ stock exchanges have spent crores of rupees of investors' money and obtained state of art surveillance system, however, it is surprise that the system is not able to give online alerts. If that had been so, they would not have traded in this*

scrip. It is submitted that SEBI has issued show cause to us just to hide its own short comings.

- *It is submitted that during the investigation also, no data/ information were sought from Noticees and no opportunity was granted to them to explain their trading behavior. Further, no show cause notice has been issued to other sellers or top 10 LTP contributors i.e. Maheshkumar Ghewarchnad Vanigota, Vishnu daji Hode, Kajai Sunil Gowadia and Shivani Amit Gowada.*

- *Noticees had instructed to broker to sell shares in tranches on a continuous basis, however, he did not sell the same after a few sale transactions which had caused opportunity loss to Noticees. As per trade log and order log, it can be observed that in majority of the trades, buy orders were available in the market since the beginning of the market hours which is 9.15 am and Noticees entered the orders later on. Noticees only sold shares at the price which was available at the electronic trading platform, hence, the allegation that they contributed to the price rise is baseless.*

- *It is came to know that suspension of trading in scrip was revoked by the stock exchange with the approval of SEBI and after necessary due diligence carried out by stock exchange in consultation with SEBI. Pursuant to that Noticees liquidating their holdings.*

- *Noticees submitted that no action has been taken by SEBI against the buyers of trades executed by them. This has vitiated the whole proceedings and this makes the notice untenable in fact and in law.*

- *It is submitted that the Noticees wanted to liquidate small quantities of their holdings and not the complete holdings and thus liquidating in tranches subject to realization of profits was the best technique they applied which*

happened to coincidently work in their favour. The profits if any realised from such trades were utilised for medical treatment of Noticee No. 1 as and when needed.

- *Noticees denied that they have contributed to manipulation in the scrip price and created a misleading appearance of trading in the scrip by their trades and violated Regulation 3(a), (b), (c), (d) and Regulation 4(1), 4(2), (a) and (e) of SEBI (PFUTP) Regulations, 2003.*

- *In support of aforesaid submissions the Noticees have made reference of following matters decided by the Hon'ble Securities Appellate Tribunal and Hon'ble Court.*

  a. *SAT order dated 17.8.2010 in the matter of Prashant J Patel Vs SEBI,*
  b. *Varanasaya Sanskrit Vishwavidyalaya & others V. Dr Rajkishore Tripathi and Anr. (1977 AIR 615,1977 SCR (2) 213,1977 SCC (1)279)*
  c. *SAT Order in the matter of Kapil Chatrabhuj Bhuptani vs. Securities and Exchange Board of India (Appeal 95 of 2013)*
  d. *HB Stockholdings Limited vs SEBI [2013 SCC SAT 56 : [2013] SAT 44]*
  e. *Order dated 15.02.2012 passed by Hon'ble SAT in the matter of Shri Kamlesh R Shah Vs. SEBI (Appeal No. 192 of 2011)*
  f. *SAT Order dated 20th October, 2004 {Appeal Number 53/2003) in the matter of M/s Sumedha Fiscal services Limited versus SEBI.*

- *It is further submitted that the Noticees have not made any gain or gained any unfair advantage and the same has not been even alleged. Furthermore, the alleged violation is not repetitive and there is no loss to the investors, in view of the same, any kind of penalty is not warranted."*

8. Subsequently, the Noticees vide a common letter dated March 27, 2019, submitted that in the same matter the WTM, SEBI have passed an Order dated

January 31, 2019 against the Noticees and they have filed appeal before the Hon'ble Securities Appellate Tribunal (**"SAT"**) against the said Order of WTM. The Noticees have submitted a copy of acknowledgement with respect to appeal filed with Hon'ble SAT. In this regard the Noticees have requested to not pass any Order in the instant matter during the pendency of the appeal before the Hon'ble SAT.

9. I note that it is more than two months have already been lapsed after their aforesaid submissions, however the Noticees have not updated any status of appeal filed before the Hon'ble SAT against the Order of WTM. Considering that it is not appropriate to prolong the instant adjudicating proceedings, I am inclined to proceed with the matter on the basis of the material available on record and the submissions made by the Noticees.

ISSUES FOR CONSIDERATION AND FINDINGS

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

    1) Whether the Noticees violated the provisions of Regulation 3 (a), (b), (c), (d) and 4 (1), 4 (2) (a) and (e) of PFUTP Regulations?

    2) Whether the Noticees is liable for imposition of monetary penalty under Section 15HA of the SEBI Act?

    3) If yes, then what should be the quantum of monetary penalty?

11. It is pertinent to mention here the relevant provisions of Regulation 3 (a), (b), (c), (d) and 4 (1), 4 (2) (a) and (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.*

12. It is observed from the notice of SSTL available on the BSE website, that the Company issued 4,75,000 shares at Rs.205.00 to 36 entities other than Promoters on conversion of warrants on November 15, 2011. These shares were under lock-in till November 14, 2012. On September 10, 2012, SSTL made preferential allotment of 31,35,000 shares at Rs.11.50 to 45 entities other than Promoters (lock-in up to September 10, 2013).

13. On the basis of analysis of price rise / fall and corporate actions in the scrip of SSTL, for the period March 30, 2012 to March 05, 2013 the investigations have observed that price of the scrip of SSTL increased from Rs.4 (Opening Price) as on March 30, 2012 to Rs.111.85 (High Price and Close Price) as on March 05, 2013. Further, with ex-date of March 06, 2013, SSTL sub-divided face value of shares from Rs.10/- to Rs.2/. It is further observed that as on March 31, 2012, 85.34% of the share capital of SSTL (5,76,050 shares out of 6,75,000 shares) were held in physical form or with entities which had converted warrants (shares issued on conversion of warrants were under lock-in till November 14, 2012). The following was observed with regard to top 10 sellers LTP (Last Traded Price) analysis in the scrip of SSTL.

		Net LTP			Pos. LTP			Negative LTP			Zero LTP		% of +ve
PAN	Name	Net LTP	Trade Qty	No.of Trades	Pos. LTP	Trade Qty	No.of Trades	Neg. LTP	Trade Qty	No.of Trades	Trade Qty	No.of Trades	LTP to Mkt +ve LTP
AHQPK9496D	Anjana Arun Karwa	14.03	322	11	14.03	322	11	0.00	0	0	0	0	15.52
AAQHS7786D	Shyam Rathi Huf	12.98	70	7	12.98	60	6	0.00	0	0	10	1	14.36
AABPG5669E	Jayeshkumar Narottamdas Gandhi	12.45	95	4	12.45	95	4	0.00	0	0	0	0	13.77
AAEHN5511R	Nishith M Shah Huf	11.00	75	3	11.00	75	3	0.00	0	0	0	0	12.17
AAFPG5855L	Bharati Jayesh Gandhi	8.58	110	6	8.58	110	6	0.00	0	0	0	0	9.49
AISPG4164H	Deval Jayesh Gandhi	6.33	60	4	6.33	60	4	0.00	0	0	0	0	7.00
AEJPK2394G	Maheshkumar Ghewarchand Vanigota	4.80	10	1	4.80	10	1	0.00	0	0	0	0	5.31
ABXPH7639E	Vishnu Daji Hode	4.15	30	1	4.15	30	1	0.00	0	0	0	0	4.59
AFDPG6008E	Kajal Sunil Gowadia	3.95	10	1	3.95	10	1	0.00	0	0	0	0	4.37
AEXPG4216P	Shivani Amit Gowada	3.60	10	1	3.60	10	1	0.00	0	0	0	0	3.98
Total		**81.87**	**792**	**39**	**81.87**	**782**	**38**	**0.00**	**0**	**0**	**10**	**1**	**90.57**
Market		**107.85**	**9947**	**137**	**107.85**	**1617**	**69**	**0.00**	**0**	**0**	**8330**	**68**	**100.00**

14. Investigations have observed that with the low volume, price of the scrip was increased and substantial positive LTP contribution (90.57% of market positive LTP) was contributed by top 10 net LTP contributors as sellers. In this regard, sell orders of the top 10 net sell LTP contributors contributing more than 5% of the positive LTP in more than one trade were analysed. Following is observed in respect of the dealings of the Noticees in the scrip of SSTL during the period from September 14, 2012 to March 05, 2013.

Order date	Order time	Order No.	Sell Client name	Sell order rate	sell order qty	pending buy order at this price	LTP variation	Shareholding before sell order as per Demat Account	No. of trades in a day
14.09.2012	14:50:24.4174170	15000129039788	Deval Jayesh Gandhi	13.38	10	30800	0.63	2000	1
25.09.2012	14:59:17.9095210	15000155154871	Deval Jayesh Gandhi	14.74	15	26700	0.70	1990	1
09.10.2012	12:41:48.6918400	19000180002307	Bharati Jayesh Gandhi	17.05	15	33700	0.81	4000	1
01.11.2012	13:51:59.7908680	16000150175845	Bharati Jayesh Gandhi	22.80	25	9800	1.07	3985	1
19.11.2012	15:13:52.6343620	18000194039649	Deval Jayesh Gandhi	26.30	15	8300	1.25	1975	1
29.11.2012	10:30:10.0596760	19000178091291	Bharati Jayesh Gandhi	30.35	20	5700	1.40	3960	1
04.12.2012	13:00:25.0467370	23000107140745	Bharati Jayesh Gandhi	33.40	10	7700	1.55	3940	10
26.12.2012	15:11:46.7969970	22000115185562	Bharati Jayesh Gandhi	35.05	15	9500	1.65	3930	1
03.01.2013	15:11:37.6316980	15000116264626	Jayeshkumar Narottamdas Gandhi	40.50	20	5000	1.90	3915	1
09.01.2013	14:17:26.2727030	14000135067961	Bharati Jayesh Gandhi	44.60	25	9950	2.10	3915	1
15.01.2013	12:39:28.8570040	15000110077953	Jayeshkumar Narottamdas Gandhi	49.10	30	12950	2.30	3890	1
28.01.2013	14:40:35.5120780	14000145220980	Jayeshkumar Narottamdas Gandhi	62.55	20	33800	2.95	3890	1
13.02.2013	15:16:17.4846620	17000145073663	Deval Jayesh Gandhi	79.65	20	18000	3.75	1960	5
05.03.2013	11:29:09.7971810	14000135005517	Jayeshkumar Narottamdas Gandhi	111.85	25	18110	5.30	3890	1
Period: 14.09.2012 to 05.03.2013; No. of Trades: 14; LTP contribution: 27.36 (30.26% of Pos. LTP Cont.)									

15. It is admitted fact that the Noticees are close family members and relatives of each other. Further, it is also submitted that the aforesaid trades of the Noticees have been done by the Noticee No. 1 on behalf of his family members i.e. Noticee Nos. 2 and 3.

16. It is contention of the Noticees that *"They had bought shares of SSTL and were eyeing on price rise and trends in the scrip so that they can liquidate their holdings in the market and get some return on investment. It is noted that there were many buyers for the scrip but comparatively less number of sellers. That was a great opportunity for them to liquidate their holdings and get best price for their shares. Thus, they decided to liquidate their holdings in tranches and maximize profit. It is further submitted that the price rise was gradual over a period of nearly three years and not all of a sudden."* Further, the Noticees have also made reference of several case laws claiming that their miniscule quantity of trades over the LTP in the scrip did not attributed to price manipulation.

17. I note from the material made available on record that the Noticees have collectively executed 14 sell trades for 265 shares in the scrip during the period September 14, 2012 to March 05, 2013, which were over the LTP. The Noticees' LTP contribution in the price of the scrip was Rs.27.36/- which is 30.26% of positive LTP contribution in the scrip. From the material made available on record, I note that though the Noticees were holding substantial number of shares in the range of 1960 – 4000 shares during the said period, the Noticees were releasing miniscule quantity of shares in the range of 10-30 shares even though there were large pending buy orders over the LTP. The days when the Noticees had executed the said 14 trades, pending buy orders were in the range of 5,000 shares to 33,700 shares. It is observed that when the Noticees were trading, which is almost 6 months, the scrip was traded only on 45 days. Out of the said 45 trading days on 39 trading days only 1 trade was executed in the scrip and out of the remaining 6 trading days, on 2 trading days 2 trades were executed.

This coupled with the fact that the average volume in the scrip during said period which spanned almost a year, was 142 shares, and would make a prudent investor to sell its shares at the very first opportunity that he/she is coming across. In the given situation, there were considerable buy order quantity pending in the system and that too over the LTP. It is not the case of the Noticees that on multiple occasions they had placed sell orders for more than 30 shares and the order was not executed. In view of the aforesaid facts, the submission of the Noticees that there was a great opportunity to liquidate the holdings in tranches and get the best price for their shares, is not acceptable.

18. Noticees have contended that the price rise is gradual and purely on the basis of market forces which was beyond the control of any entity. It is submitted that impact of corporate announcements on the price of the scrip were not taken into account. I note that there are lots of factors that affect the price of the scrip and one of them is corporate announcements. However, the movement in the price of the scrip from Rs.4/- to Rs.111.85/-, an increase by 2696% cannot be fully explained by the corporate announcements. It is noted from the Investigation that during the period November 01, 2011 to March 29, 2012, only 2 trades were executed in the scrip and the price had increased from Rs.73.65 to Rs.77.3. Moreover, during the period from March 30, 2012 to March 5, 2013 (almost a year) when Noticees were trading, the scrip was traded only on 70 days. Out of the said 70 trading days, on 63 days trades only one trade was executed in the scrip. This indicates that the scrip was not regularly traded and even on the days it was traded, there was mainly one trade executed in the scrip. I note that the Noticees at frequent interval have executed the miniscule quantity of sell trade in the scrip over a period of almost 6 months, in itself, exhibits abnormal market behaviour of the Noticees and defies economic rationality. Considering the aforesaid facts, the submission of the Noticees that their selling of shares in low volume has not attributed to the price rise as it is insignificant compared to the market volume, does not hold merit.

19. I note that trades at higher than LTP, undoubtedly have a potential of raising the price of the scrip and the same gives a wrong impression about the price of the scrip in the market based on miniscule quantities traded. It is needless to say that every trade establishes the price of the scrip and trades executed at higher than LTP results in the price of the scrip going up which may influence the innocent/gullible investors. In cases of market manipulation, admittedly, no direct evidence would be forthcoming / available. Manipulative transactions are to be tested on the conduct of parties and abnormality of practices which defy normal logic and laid down procedures.

20. I note that in the matter of ***SEBI Vs. Kishore R Ajmera*** decided on February 23, 2016, wherein the Hon'ble Supreme Court while deciding the matter under SEBI Act and PFUTP Regulations where there was no direct evidence forthcoming, observed as under:

"In the quasi-judicial proceeding before SEBI, the standard of proof is preponderance of probability. It is a fundamental principle of law that proof of an allegation levelled against a person may be in the form of direct substantive evidence or, as in many cases, such proof may have to be inferred by a logical process of reasoning from the totality of the attending facts and circumstances surrounding the allegations/charges made and levelled. While direct evidence is a more certain basis to come to a conclusion, yet, in the absence thereof the Courts cannot be helpless. It is the judicial duty to take note of the immediate and proximate facts and circumstances surrounding the events on which the charges/allegations are founded and to reach what would appear to the Court to be a reasonable conclusion therefrom. The test would always be that what inferential process that a reasonable/prudent man would adopt to arrive at a conclusion…"

21. Noticees has submitted that they have no connections/ relationship whatsoever with promoters/ directors of SSTL. It is submitted that they are not connected to

the counter parties to their trades. In this regard, I note that the present matter is not based on any knowledge of counterparty / connection, rather on the manipulative transactions carried out in the scrip. As observed by Hon'ble Apex Court in the matter of ***SEBI vs. Kishore R Ajmera*** *(supra)*, totality of the attending facts and circumstances surrounding the allegations has to be seen to arrive at a conclusion. In the instant matter Noticees were repeatedly entering sell orders for miniscule quantity inspite of having substantial holding and large pending buy orders in the system. Such trading pattern of the Noticees in the scrip cannot be held to be in the normal course of trading. All the aforesaid facts, indicates that the Noticees were not a genuine trader in the scrip.

22. The Noticees have denied the alleged violations of the provisions of Regulations 3(a), (b), (c), (d) and 4(1), 4 (2) (a) and (e) of the PFUTP Regulations. As it can be observed from the preceding paragraphs that the Noticees have traded at higher than LTP and every trades of the Noticees establishes the price of the scrip. Trades executed at higher than LTP results in the price of the scrip going up which may influence the innocent/gullible investors. I note that the scheme, plan, device and artifice employed by the Noticees in this case of executing minuscule trades above the LTP in the scrip at irrational prices, tantamount to fraud on the securities market in as much as it involves non-genuine/ manipulative transactions in securities and misuse of the securities market mechanism. The non-genuine and deceptive transactions of the Noticees are covered under the definition of 'fraud' and the dealings of the Noticees as discussed herein above were "fraudulent", as defined under regulation 2 (1) (c) of PFUTP Regulation and prohibited under the provisions of Regulations 3 (a), (b), (c), (d) and 4 (1), 4 (2) (a) and (e) PFUTP Regulations, thereof.

23. It is pertinent to refer here the order of Hon'ble SAT dated March 21, 2014 in the matter of ***Saumil Bhavanagari v/s SEBI*** stating that *"It is amply clear that although the scrip was available at a lower price, the Noticeess 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 Noticeess. 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."

24. In light of the above and based on the trading pattern of the Noticees in the scrip, it is found that the same is not genuine but is manipulative in nature. The findings that have been gathered from various circumstances for instance overall trades executed in the scrip (number of trading days and number of trades) including the average volume during the period from September 14, 2012 to March 05, 2013, volume of the trade effected by the Noticees *vis-à-vis* their holding, the period of persistence in trading in the scrip, the particulars of the buy order in the market and Noticees's sell orders, the totality of the picture that emerges leads to the conclusion that Noticees by executing the aforesaid sell trades has manipulated the price of the scrip and has created a misleading appearance of trading in the scrip. Therefore, I find that Noticees have violated the provisions of Regulations 3(a), (b), (c), (d) and Regulations 4(1), 4(2) (a) and (e) of PFUTP Regulations. The aforesaid violation of PFUTP Regulations by the Noticees attract monetary penalty under Section 15HA of the SEBI Act, i.e. *inter-alia* reads as follows:

"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 twenty-five crore rupees or three times the amount of profits made out of such failure, whichever is higher."*

25. 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.]"*

26. At this juncture, reliance is placed upon the Order of the Hon'ble Supreme Court in the matter of ***Chairman, SEBI Vs Shriram Mutual Fund {[2006]5 SCC 361}*** – where the Hon'ble Supreme Court of India 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….."*

27. It is difficult, in case of such nature, to quantify with mathematical precision the disproportionate gains or unfair advantage enjoyed by an entity and the consequent losses suffered by the investors. However, I note that the Noticees have executed 14 sell trades for 265 shares in the scrip during the period

September 14, 2012 to March 05, 2013 which were over the LTP. Noticees' LTP contribution in the scrip was Rs.27.36/- which is 30.26% of positive LTP contribution in the scrip. I note that though the Noticees were holding substantial number of shares (in the range of 1960 – 4000) but they were releasing miniscule quantity of shares (in the range of 10-30 shares) even though there were large pending buy orders over the LTP. I note that such trades for miniscule quantity executed by the Noticees over the LTP in the scrip are manipulative and misleading in nature, it is also held that such trades are fraudulent in nature and would operate as deceit upon any person trading in the scrip. Considering, the repeated nature of such trades by the Noticees, I am of view that they were deliberately increasing the price of the scrip of SSTL and created misleading appearance of trading in the scrip.

28. Such persistent trading pattern of the Noticees, which was fraudulent and deceptive, affects the normal price discovery mechanism in the securities market. People who indulge in manipulative, fraudulent and deceptive transaction, or abet the carrying out of such transaction which are fraudulent and deceptive should be suitably penalized for such acts of omissions and commissions.

ORDER

29. After Taking into consideration the nature and gravity of the charges established in the preceding paragraphs, 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 penalty of Rs.6,00,000/- (Rupees Six Lakh Only) payable jointly or severally by the Noticees viz. Mr. Jayeshkumar Narottamdas Gandhi, Ms. Bharati Jayesh Gandhi and Mr. Deval Jayesh Gandhi in terms of Section 15HA of the SEBI Act, for the violation of the provisions of Regulations 3 (a), (b), (c), (d) and 4 (1), 4 (2) (a) and (e) of PFUTP Regulations, for indulging in the manipulation of the scrip price and created misleading appearance of trading in the scrip of SSTL.

30. 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 e-payment in the account of "SEBI - Penalties Remittable to Government of India", A/c No. 31465271959, State Bank of India, Bandra Kurla Complex Branch, RTGS Code SBIN0004380 within 45 days of receipt of this Order. The said demand draft or forwarding details and confirmations of e-payments made (in the format as given in table below) should be forwarded to "The Division Chief (Enforcement Department-DRA-IV), the Securities and Exchange Board of India, SEBI Bhavan, Plot No. C4 – A, "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)	

31. 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.

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

Date : June 24, 2019 **Sahil Malik**
Place : Mumbai **Adjudicating Officer**