

BEFORE THE SECURITIES APPELLATE TRIBUNAL
MUMBAI

Order Reserved On: 08.10.2013

Date of Decision : 31.10.2013

Appeal No. 218 of 2012

Usha Mehta
House No-4, Bohara Ganeshji,
Udaipur, Rajasthan.

..... Appellant

Versus

Securities and Exchange Board of India
SEBI Bhawan, Plot No. C-4A, G Block,
Bandra Kurla Complex, Bandra (East),
Mumbai - 400 051.

..... Respondent

Mr. Rajesh Khandelwal, Advocate with Ms. Mamta Patil, Advocate for the Appellant.

Mr. Shiraz Rustomjee, Senior Advocate with Mr. Mihir Mody and Mr. Pratham V. Masurekar, Advocates for the Respondent.

CORAM : Justice J. P. Devadhar, Presiding Officer
Jog Singh, Member
A S Lamba, Member

Per : A S Lamba

1. The present appeal has been preferred by Smt. Usha Mehta (hereinafter referred to as “Appellant”) against ex-parte adjudication order dated 27.09.2012 passed by Securities and Exchange Board of India (hereinafter referred to as “SEBI”) for contravention of Regulation 3(a), (b), (c) and (d) and Regulations 4(1), 4(2)(a), (b), (e) and (g) of Securities and Exchange Board of India (Prohibition of Fraudulent and Unfair Trade Practices Relating to Securities

Markets) Regulations, 2003 (hereinafter referred to as PFUTP Regulations, 2003) and imposing penalty of Rs.10 lakh on appellant.

2. SEBI conducted investigation in trading of scrip of Asian Star Company Limited (hereinafter referred to as “ASCL”) for period October 10, 2008 to November 20, 2008 (hereinafter referred to as “Investigation Period”), whose shares are listed at Bombay Stock Exchange (hereinafter referred to as “BSE”). It was observed during investigation period that price of scrip of ASCL increased from Rs.1,240/- on October 10, 2008 to Rs.1306.15/- on November 20, 2008, i.e. increase of 18.57 percent in 28 trading days, during which period SENSEX had fallen by 19.73 percent; and subsequent to investigation period price of scrip of ASCL started to fall and closed at Rs.905 on January 30, 2009.

3. Role of brokers and their clients, who traded in scrip of ASCL was scrutinized during investigation period and it was observed that certain entities, found connected, had allegedly indulged in circular/reversal synchronized trading, in such manner that led to creation of artificial volume and increase in price of scrip of ASCL.

4. It was also noticed that the appellant one of the entity, had traded through broker India Infoline Securities Ltd. and had indulged in circular/reversal synchronized trades with other brokers and their clients, thereby violating Regulation 3(a), (b), (c) and (d) and Regulations 4(1), 4(2)(a), (b), (e) and (g) of PFUTP Regulations, 2003 and hence appellant is liable for monetary penalty under section 15HA of Securities and Exchange Board of India Act, 1992 (hereinafter referred to as “SEBI Act”).

5. Smt. Barnali Mukherjee was appointed Adjudicating Officer under section 15I of SEBI Act read with Rule 3 of SEBI (Procedure for Holding Inquiry and Imposing Penalties by Adjudicating Officer) Rules, 1995 (hereinafter referred to as Rules) to inquire into and adjudge alleged violations of PFUTP Regulations, 2003 committed by Appellant.

6. Show cause notice (SCN) dated November 23, 2010 was issued under Rule 4 of Rules to Appellant to show cause as to why inquiry should not be held and penalty not imposed under section 15HA of SEBI Act, in case alleged violations specified in SCN are substantiated.

7. Appellant denied allegations against her in SCN and made following submissions vide her letter dated February 17, 2011.

- a) That I have not been provided with relevant material based on which the SCN has been issued.
- b) That SCN is vague, bad in law and very ambiguous and allegations are not specific, but general in nature. Further, SCN is imprecise and incoherent and does not clearly state mode of commission of such violation if any, with credible evidence signifying infringement thereof.
- c) I deny my involvement in synchronized trading or trade reversals with entities mentioned in SCN in scrip of ASCL during investigation period.
- d) That SCN has failed to specify, in details, as how trades carried out by me have contributed to price fluctuations; as

price of the scrip is affected by innumerable factors like general market trend, fundamentals of the company, market sentiment, existing market position of market players, etc.

- e) That I had purchased and sold 143041 shares through broker India Infoline and broker is neither concerned with nor was aware of trades or otherwise of brokers and /or their clients, mentioned in SCN.
- f) I deny of being aware of any such pattern of synchronized, structured, reversal or circular trades entered into mostly by few brokers trading through their clients on almost every trading day during the period.
- g) That SCN has failed to specify in detail as to which of trades carried out by me and depicted in Annexure 4 and Annexure 5 of the SCN have contributed to alleged synchronized, structured, reversal or circular trades or how said trades have resulted into synchronized, structured, reversal or circular trades and these said annexure are vague and very ambiguous and not specific, but general in nature.
- h) That stock exchange has put in place an automated price and order matching mechanism of a system to ensure perfect transparency in trading system. I had placed orders in accordance with my prudence w.r.t. my understanding of securities markets and it is impossible, impracticable and unfeasible for me to detect and perceive intentions and objectives of other entities or even know identity and trade of counter party brokers and their clients.

- i) I state that I am neither aware, involved, connected, related nor concerned nor have means to verify acts of omission and commission and alleged relations between Sandeep, Jitendra, Suresh Hanswal, Pradesh, and of broker Swastika and therefore I am not in position to comment upon same.
- j) That Jitendra is friend of my son Sunil Mehta. My family members and me i.e. my son Sunil Mehta and my daughter in law Anjana Mehta have been borrowing and lending money on account of our relationship whenever in need. I am neither aware nor concerned why email id of Sunil Mehta is given in KYC of Jintendra. Further I am not aware/ concerned with him entering into bank account transactions with Gopal Mathur and broker Triveni and therefore cannot comment on same. As far as sharing same address and telephone number is concerned I state that I am neither aware nor concerned with same.
- k) I sate that it is but natural that me being mother of Sunil Mehta I share common phone number and joint account with him.
- l) It is true that my trading account was being operated by Sunil Mehta with my consent.
- m) That Suresh and Pradesh are franchisee of Arcadia and therefore it's nothing unusual that they introduced me, my son Sunil Mehta and Jitendra to Arcadia and no adverse inference

may be drawn therefrom. In any event, though I have account with Arcadia I have not traded through them.

- n) I strongly deny that I was aware, involved, connected or concerned with the execution of alleged synchronized/ reversal/ structured trades by the entities referred to as "Mehta Group".
- o) I deny that I fall in category of those entities who not only operate their own account (or may not operate their own account) but also funded transactions of others, used the accounts of others to orchestrate alleged manipulations in shares of the ASCL.
- p) I deny that my account was used by my son Sunil Mehta as conduit for placing orders and manipulating securities market. I further deny that my account was a type of third party operated account which imposed thereat to safety and integrity of securities market. That I had given my son Sunil Mehta right to operate my account in view of our relationship and trust. As far as I am concerned my son was not a third party who was operating my account against safety and integrity of the market. He operated my account in good faith and in fiduciary capacity and no adverse inference may be drawn therefrom.

8. Appellant appeared before Adjudicating Officer of Respondent (SEBI) on May 9, 2011, through Authorized Representative (AR), namely

her son Shri Sunil Mehta and submitted that reply dated February 17, 201, should be considered final.

9. Another opportunity of personal hearing was given to Appellant on April 21, 2011 vide hearing notice dated April 01, 2011 however, the hearing notice returned undelivered. Thereafter, hearing notice dated April 27, 2011 was sent to Sunil Mehta's address giving Appellant an opportunity for personal hearing on May 09, 2011. Sunil Mehta, Authorized Representative, (AR) appeared on behalf of Appellant and submitted that reply dated February 17, 2011 should be considered as final reply. During hearing AR was offered trade and order log as requested by Appellant in her reply to the SCN, but AR refused to take copies of same. AR was provided with copies of circular/ reversal trade executed between Appellant and entities which were alleged to be connected with each other (hereinafter referred to as "**Mehta group**" comprising of Appellant, Sandeep Jain, Suresh Hanswal, Pradesh Nimawat, Sunil Mehta, Bharat C. Jain, Arun Manohar Sakpal, Narendra Sanghi, Meen Been Elastomers, Dilip Rathore, Bhanwar Lal Paliwal, Alpesh G Dand, Manisha Mardia, Rajnish Jain, Ajay Roongta, Manish Mathur and Triveni Management Consultancy Service). Appellant vide letter dated May 25, 2011, Appellant denied her involvement in synchronized/ circular/ reversal/ structured trades.”

10. Adjudicating Officer examined SCN, submissions of Appellant and documents available on record and issues that arise for consideration in present case are enumerated as :

- a) Whether appellant was connected to Mehta group and executed reversal circular, synchronized and structured trades with

connected entities and violated Regulations 3(a), (b), (c) & (d) and 4(1), 4(2) (a), (b), (e) & (g) of SEBI PFUTP Regulations?

- b) Appellant allowed Sunil Mehta to operate her account during period of investigation when circular, reversal, synchronized and structured trades were carried out by Appellant as part of Mehta group.
- c) Does violation, if any, on part of Appellant attract monetary penalty under sections 15 HA of the SEBI Act?

RELEVANT PROVISIONS OF PFUTP REGULATIONS ALLEGEDLY VIOLATED BY APPELLANT:-

3. Prohibition of certain dealings in securities

No person shall directly or indirectly-

- (a) buy, sell or otherwise deal in securities in a fraudulent manner;*
- (b) use or employ, in connection with issue, purchase or sale of any security listed or proposed to be listed in a recognized stock exchange, any manipulative or deceptive device or contrivance in contravention of the provisions of the Act or the rules or the regulations made there under;*
- (c) employ any device, scheme or artifice to defraud in connection with dealing in or issue of securities which are listed or proposed to be listed on a recognized stock exchange;*
- (d) engage in any act, practice, course of business which operates or would operate as fraud or deceit upon any person in connection with any dealing in or issue of securities which are listed or proposed to be listed on a recognized stock exchange in contravention of the provisions of the Act or the rules and the regulations made there under.*

4. Prohibition of manipulative, fraudulent and unfair trade practices

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

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

- (a) *indulging in an act which creates false or misleading appearance of trading in the securities market;*
- (b) *dealing in a security not intended to effect transfer of beneficial ownership but intended to operate only as a device to inflate, depress or cause fluctuations in the price of such security for wrongful gain or avoidance of loss;*
- (c) *.....*
- (d) *.....*
- (e) *any act or omission amounting to manipulation of the price of a security;*
- (f) *.....*
- (g) *entering into a transaction in securities without intention of performing it or without intention of change of ownership of such security;*

11. Appellant's contention that she was not provided with documents is dealt and it is seen that during personal hearing held on May 09, 2011 AR submitted that Appellant does not require documents and her reply dated February 17, 2011 shall be considered as her final submission. Therefore the submission made by Appellant in her reply dated February 17, 2011 is considered as final submission to the SCN dated November 23, 2010 and that Appellant does not require further documents.

12. Appellant in violations as alleged in the case is taken up and upon careful perusal of material available on record and submissions made by Appellant, following is seen:

- (a) At BSE the price of scrip of ASCL opened at Rs.1,240.00 on October 10, 2008 while it closed at Rs. 1,101.55 on same day and closing price of scrip on November 20, 2008 was Rs.1306.15 (close to close 18.57 % rise in 28 trading days). During same period Sensex had fallen by 19.73 % (from 10,527.85 to 8,451.01). Total traded quantity for the entire investigation period on BSE was 1974219 shares. Subsequent to the investigation period price of scrip, had started to fall and closed at Rs. 905 on January 30, 2009.
- (b) It was noted that there was neither price sensitive news/announcement which might have supported the price, since financial results of the company do not justify price rise

of scrip of ASL. On October 16, 2008 company declared results for quarter ending September 30, 2008 which showed that net profit had declined from Rs. 110.659 million to Rs. 106.439 million, than same quarter of previous year.

- (c) Analysis of trading pattern revealed that the broker Triveni Management Consultancy Service (hereinafter referred to as "Triveni") had maximum concentration in gross purchase at 26.25 % followed by broker B P Equities Pvt. Ltd. (hereinafter referred to as "BP Equities"), Swastika Investment Ltd (hereinafter referred to as "Swastika") and Emkay Global Financial Services Ltd (hereinafter referred to as "Emkay Global") at 19.27 %, 17.97 % and 16.97 % respectively. Appellant traded through B P Equities and bought 320224 shares and sold 320224 shares during the investigation period which accounted for 16.22% and 16.22% respectively of market volume during investigation period.
- (d) From trade and order log analysis of scrip of ASCK it is noted that Appellant and entities i.e. viz: Jitendra Jain, Sandeep Jain, Pradesh Nimawat, Arun Sakpal, Sunil Mehta, Bharat C. Jain, Narendra Sanghi, Rajnish Bhanwarlal Jain, Meen Been Elastomers, Dilip Rathore, Bhanwar Lal Paliwal, Alpesh G Dand, Manisha Mardia executed circular, reversal, synchronized and structured trades. These entities were found to be linked with each other through Noticee, Ajay Roongta, Manish Mathur and together formed "**Mehta group**". Para (e) relationship/connection of "Mehta Group" is established, at length, in order of Adjudicating Officer at pages 9 to 12, which clearly brings out connection/relationship/interconnection between "Mehta Group".

13. Involvement of Appellant in manipulation of scrip in ASCL, as part of "Mehta Group" can be seen from the fact that Mehta Group was found to be entering into transactions which were in nature of reversal/circular trade and most of these transactions were synchronized trades (less than one minute difference between buy and sell orders) and structured trades (not only time of buy and sell orders within one minute but order price and quantity also matching). A large number of synchronized trades were being entered into, mostly by few brokers trading for their clients on almost every traded day during investigation period. Out of total 6953 number of synchronized deals, contribution of brokers namely Triveni, BP Equities, Swastika, Emkay Global

and India Infoline was 1903, 1224, 1396, 1058 and 325 deals respectively. Out of these synchronized deals, large number of deals were also structured.

14. To summarise; 8131 trades were executed by Mehta group during IP for sale of 19742.19 shares, out of which 5881 trades-involving 17,33,986 shares i.e. 87.33 percent of total volume of 19,74,219 shares – were synchronized, while 2492 trades involving 8,87,424 shares i.e. 44.95 percent of total volume of 19,74,219 shares were structured; resulting in increase of price of scrip by 18.57 percent during IP – on close to close basis, while sensex had declined by 19.73 percent, during IP – on close to close basis.

15. Mehta group dealt in synchronized and structured trades which amounted to significant percentage of total market volume both in terms of quantity traded as well as number of traded while daily net trade remained insignificant since most of the trading was being contributed through synchronized trades by Mehta Group, price of scrip of ASCL was going up, while SENSEX was coming down. It may be noted that 87.83 percent of total market volume and 72.33 percent of total number of trades, were contributed by synchronized trading and 44.95 percent of total market volume and 30.65 percent of total number of trades were contributed by structured trades.

16. Circular and reversal trades executed by Mehta Group, during “Investigation Period”, reveal that Appellant entered into trades with Alpesh, Arun Sakpal, Bharat Jain, Dilip, Jitendra, Manisha Mardia, Meen Been, Narendra, Pradesh, Sandeep, Suresh and Sunil Mehta, which were in nature of circular/reversal trade and these trades were executed by Appellant on 28 days during IP within Mehta Group entities only. These trades led to manipulation of volume and influenced price of the scrip.

17. Appellant executed synchronized and structured trades with connected entities during IP, while trading through broker – India Infoline Securities Limited, during which appellant bought and sold 1,43,041 shares (7.25 percent of total market trade) of ASCL. Appellant executed 271 buy order for 1,20,934 shares and 322 sell orders for 1,37,759 shares, which were found to be synchronized within “Mehta Group” and all these orders were placed by Sunil Mehta on behalf of Appellant’s account, without taking written authorization of appellant; which implies that Appellant’s account was third party operated account in scrip of ASCL, which is threat to safety and integrity of securities market. Since manipulation of Appellant trading account was allowed by Appellant, through Sunil Mehta, Appellant is equally liable as is Sunil Mehta for manipulation of scrip of ASCL and hence submissions of Appellant are not acceptable.

18. From transactions entered into between Appellant and Mehta group, it is evident that Appellant had connection with counter party clients and alongwith Mehta Group entities executed large number of synchronized trades, placed orders at higher than LTP and Appellant was manipulating price of ASCL scrip. Appellant’s individual trading volume was 7.25 percent of total market buy/sell volume, which is significant, when seen together with “Mehta Group” and proves Appellant’s active participation in manipulating ASCL scrip during IP.

19. It can also be inferred that execution of trades by Appellant, was not an isolated instance but multiple number of such transactions were carried out over IP, which clearly establishes mala-fide intent of Appellant. This also established that such trading patterns create false appearance of trading in securities market and leads to price fluctuation, thereby tending to mislead gullible investors, This

trading pattern created artificial volume and artificial price rise in scrip of ASCL, which leads to malafide intension of Appellant, alongwith connected entities, to create artificial market leading to price rise of ASCL scrip.

“The Hon’ble SAT in Ketan Parekh Vs. Securities & Exchange Board of India (Appeal No. 2 of 2004) held that in order to find out whether a transaction has been executed with the intention to manipulate the market or defeat its mechanism will depend upon the intention of the parties which could be inferred from the attending circumstances because direct evidence in such cases may not be available.”

20. In consideration of above, Adjudicating Officer is of the view that facts of present case clearly brings out ominous role played by Appellant in executing synchronized and structured deals, as part of circular/reversal trades with Mehta Group Entities in executing manipulative trades in securities market and indulged in element of fraud and unfair trade practices.

“Regulation 3 prohibits any person from buying, selling or dealing in securities in fraudulent manner, use or employ any manipulative or deceptive device in contravention to provisions of the Act, employ any device, scheme or artifice to defraud in connection with dealing in securities or engage in any act, practice, course of business which operates as fraud or deceit upon any person in connection with any dealing in or issue of securities. Regulation 4(1) of PFUTP proclaims that no person shall indulge in fraudulent or unfair trade practices in securities. Regulation 4(2) (a) of PFUTP, prohibits a person from indulging in an act which creates false or misleading appearance of trading in the securities market. Regulation 4(2)(b) of PFUTP prohibits dealing in a security not intended to effect transfer of beneficial ownership but intended to operate only as a device to inflate, depress or cause fluctuations in price of such security for wrongful gain or avoidance of loss. Regulation 4(2)(e) lays down that any act or omission amounting to manipulation of the price of a security will amount to manipulation and Regulation 4(2)(g) inter alia, prohibits entering into a transaction in securities without intention of performing it or without intention of change of ownership of such security.”

As can be seen from the above, intention of Appellant was to create artificial volume in scrip of ASCL and to influence price of scrip during investigation period and such acts of manipulative trading by Appellant helped in creating artificial demand and thereby leading to false appearance of trading in scrip of ASCL and also causing fluctuations in price of scrip of the company. Hence in light of facts of case and materials available on record, Adjudicating Officer inferred that Appellant had violated provisions of Regulation 3 (a), (b), (c), (d), 4(1) and 4(2)(a), (b), (e) & (g) of PFUTP Regulations.

The next issue for consideration is as to what would be monetary penalty that can be imposed on Appellant for violation of Regulation 3 (a), (b), (c), (d), 4(1) and 4(2)(a), (b), (e) & (g) of PFUTP Regulations. The Hon'ble Supreme Court of India in matter of SEBI Vs. Shri Ram Mutual Fund [2006] 68 SCL 216(SC) 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...".

Thus, aforesaid violations by Appellant make her liable for penalty under Section 15HA of SEBI Act, 1992 which read as follows:

"15HA - Penalty for fraudulent and unfair trade practices

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

While determining quantum of penalty under sections 15HA, it is important to consider factors stipulated in section 15J of 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."

23. It is difficult, as per Adjudicating Officer, in cases of such nature, to quantify exactly the disproportionate gains or unfair advantage enjoyed by an entity and the consequent losses suffered by the investors and that investigation report also does not dwell on the extent of specific gains made by the clients or broker/s. Suffice to state that keeping in mind practices indulged in by Appellant, gains per se were made by Appellant in that she traded in scrip in a manner meant to create artificial volumes and liquidity which is an important criterion, apart from price, capable of misleading investors while making an investment decision. In fact, liquidity/volumes in particular scrip, raise issue of 'demand' in securities market. Greater liquidity, higher is investors' attraction towards investing in that scrip. Hence, anyone could have been carried away by unusual fluctuations in the volumes and been induced into investing in said scrip. Besides, this kind of activity seriously affects normal price discovery mechanism of securities market. People who indulge in manipulative, fraudulent and deceptive transactions, or abet carrying out of such transactions which are fraudulent and deceptive, should be suitably penalized, for said acts of omissions and commissions. With regard to repetitive nature, I

find that there was substantial number of such trades repeated over number of days during investigation period, and hence default of Appellant is repetitive in nature. After taking into consideration all the facts and circumstances of the case, Adjudicating Officer imposed a penalty of Rs.10,00,000 (Rupees Ten lakh only) under section 15HA of the SEBI Act, on the Appellant which will be commensurate with the violations committed by her.”

ANALYSIS OF FINDINGS OF ADJUDICATING OFFICER:-

21. The various contentions of learned counsel appearing for appellant have been dealt with above, which were in the nature of that Appellant had not dealt with the scrip of ASCL by herself and was not aware of transactions, appearing on her behalf and in her account, and that she had not received any consideration for sale of scrip of ASCL or paid any consideration for purchase of scrip of ASCL, and the only part played by her was to open trading account with India Infoline Securities Private Limited, to sign KYC form on advise of her son and to have an account in the bank, jointly with her son- Sunil Mehta, who was operating her account, on her behalf.

22. It has been proved without doubt that Sunil Mehta, operated trading account and bank account of Appellant without any written authorization from Appellant, and shares of ASCL were purchased and sold from Appellant's trading account, these transactions were significant to create large enough trading volumes, which alongwith Mehta Group with which appellant was connected, sufficient to create artificial trading in scrip of ASCL to manipulate market and affect price of ASCL scrip. Since these trades were circular/reversal trades, without large net volumes/ trades, and were very significant part of total trading in scrip of ASCL, which manipulated volumes and price of scrip and hence were sufficient to deceive gullible investors to invest in scrip of ASCL and to create fraud on market and investors. Accordingly, contentions of learned counsel for Appellant that her client was an innocent person, who had lent/entrusted her

trading account and bank account, to her son and was not involved in alleged manipulation of securities market to defraud investors, is not acceptable and are rejected.

23. Learned counsel for appellant has also submitted eleven cases of Appeal in furtherance of his argument which are dealt in subsequent paragraphs.

24. In **Appeal no.113 of 2011 between GIR Marketing and Trading Co. Pvt. Ltd. vs. SEBI, decided by SAT on 5.8.2011**, it was decided that concerned Adjudicating Officer had fixed base figure of Rs.3 lac as penalty on parties involved in manipulative trades, reasons for which are not very clear but this base figure of penalty has been increased for different brokers, without any material to prove these brokers made some offer of their shares in an open offer and only point proved against these brokers is for executing manipulative trade and hence all these brokers be subjected to uniform penalty of Rs.3 lakhs each. This cannot be disputed, but how this is applicable in present case, has not been brought out. However, there cannot be two views about equal penalty for equal wrong doing and that penalty should be reasonable and basis for penalty should be transparent and explained.

25. Second case law is **Appeal before SAT decided on 16.1.2012 in Sparkline Mercantile Co. Pvt. Ltd. vs. SEBI**. Here, contention of appellant is that no clear connection has been brought out by Respondent, between parties who synchronized trade to manipulate volume of scrip, but SAT was of the view that clear connection between parties to synchronized trade has been established by Adjudicating Officer of SEBI. However, SAT agreed with Appellant that under similar facts and circumstances, relating to two other groups entities, SAT

had reduced penalty to Rs.7 lac which should apply to present Appellant also and SAT agreed to this reduction.

26. In **Chirag Pujara vs. SEBI, before SAT and decided on 12.6.2008**, deals with synchronized and structured trades by Appellant, which were represented to be part of jobbing activity of appellant; but in view of repeatedly matching of sell orders by Appellant with buy order of same person, prior meeting of mind was decided with a view to jeopardize integrity of market and serious violations of Regulations and on finding that appellant was punished for similar offence earlier and being party to similar proceedings pending before SAT, no relief in form of reduction in penalty of Appellant was agreed to.

27. Next case is of **SPJ Brokers Pvt. Ltd. vs. SEBI, decided by SAT on 25.9.2009**, wherein appellant executed trades in scrip to create artificial volumes, which led to manipulation in price of scrip. In this case appellant claiming to be a day trader was practicing self trades by being on both sides of sale and purchase, when price, time, quantity matched exactly and was held to be case of creating false volume and hence found appellant involved in serious charge of manipulating the scrip and penalty imposed on him was found just and reasonable.

28. In **M/s. Jayantilal Khandwala and Sons Pvt. Ltd. vs SEBI, decided by SAT on 8.6.2011**, wherein it was seen to be a case of a broker aiding and abetting a client in influencing price of scrip and creating artificial volume by indulging in fictitious deals/trades without intending to transfer beneficial interest in traded security. Since the impugned trade was self trade and buy order was placed at higher price, knowing fully well that shares were available at lower prices, it was held to be a case of self trade just to push price upwards and appeal

was dismissed, but period of suspension was reduced to ten days, from four months suspension imposed by Respondent.

29. In **Shagufta Investmant Pvt. Ltd. vs. SEBI, decided by SAT on 27.7.2010**, where charge of self trade and reverse trade was proved, with no change of ownership and accordingly appeal was dismissed.

30. In **Chirag Tanna vs. SEBI, decided by SAT on 16.6.2011**, it was held that appellant was punished for self trade with a view to create artificial volume, but in show cause charge of self trade did not exist, which charge could be inferred, as per Respondent, from perusal of some para of show cause, but SAT decided not to agree to such an inference, in absence such a charge in show cause and accordingly, the impugned order was set-aside.

31. In **U.G. Capital Market Pvt. Ltd. vs. SEBI decided by SAT on 1.12.2009** deals with manipulative trades in its proprietary account by U. G. Capital Market Pvt. Ltd. as well as on behalf of its clients, while trading in shares of Hi-Tech Gears Limited and Mangal Showa Limited. The trades were held to be reversal trades with view to show artificial volumes and hence held manipulative and accordingly appeal was not allowed.

32. In **Galaxy Broking Limited vs. SEBI, decided by SAT on 29.1.2010**, deals with reversal trade on several occasions and hence appellant and its clients were found guilty of synchronizing trade on several occasions and hence appellant and its clients were found guilty of synchronizing trades and for executing reversal and circular trading and accordingly appeal was dismissed.

33. In **Ashok K. Chandhary vs. SEBI, decided by SAT on 5.11.2008**, deals with manipulation of scrip of Sun Infoways Ltd. by its promoters by executing transactions in names of different entities, including two appellants. SEBI held promoters to trade in shares of Sun Infoways Ltd; which resulted insignificant price rise accompanied with rise in volumes. While admitting that reverse trade took place, impugned order of SEBI was set aside on grounds of inordinate delays since case of appellants had been prejudiced due to delay since appellant could not verify details of transactions, imputed to them due to delay.

34. In **Anita Dalal vs. SEBI, decided by SAT on 3.12.2012**, in which reversal, self trades and matching trades took place and plea of appellant that matching of her trade with entities of any group was a mere coincidence cannot be accepted, since it occurred all too frequently to be a mere coincidence. While upholding the charge of manipulation of market, debarment period eighteen months is considered excessive, which was reduced to 3 months, since SEBI itself admitted that contribution of appellant in total artificial volume appears to be relatively less.

35. Since aforesaid decision relied upon by counsel for appellant are distinguishable on facts and decision of adjudicating officer on merits deserves acceptance, only question that remains to be considered is, whether penalty of Rs. 10 lac imposed upon appellant needs to be interfered with or not.

36. In the absence of any evidence in the investigation report regarding extent of specific profit made by appellant, adjudicating authority has imposed penalty of Rs.10 lac by recording finding that appellant had connection with counter party clients and along with the Mehta Group entities executed large number of synchronized trades, placed orders higher than the LTP and were

manipulating the price of the scrip of the company. Adjudicating authority has further held that though individual trading volume of appellant was small, when seen together with Mehta Group it is seen that appellant was actively involved in manipulating the scrip during the investigation period. In these circumstances, we see no reason to interfere with penalty imposed upon appellant.

37. For all aforesaid reasons we see no merit in the appeal and the same is hereby dismissed with no order as to costs.

Sd/-
Justice J. P. Devadhar
Presiding Officer

Sd/-
Jog Singh
Member

Sd/-
A S Lamba
Member

31.10.2013

Prepared and compared by:
RHN/msb