BEFORE THE SECURITIES APPELLATE TRIBUNAL
MUMBAI

Order Reserved on: 25.11.2021 & 11.01.2022

Date of Decision : 29.04.2022

Appeal No. 319 of 2020

1. Praveen Kurele
2. Naveen Kurele

7/169-B, Swaroop Nagar,
Kanpur – 208 002. … Appellants

Versus

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

Mr. J. P. Sen, Senior Advocate with Mr. Sharan Jagtiyani, Senior Advocate, Mr. Akshay Doctor, Advocate i/b. Mr. Vikas Bengani, Advocate for Appellants.

Mr. Pradeep Sancheti, Senior Advocate with Ms. Nidhi Singh, Ms. Binjal Samani, Ms. Aditi Palnitkar, Ms. Moksha Kothari, Advocates i/b. Vidhii Partners for the Respondent.

WITH
Misc. Application No. 332 of 2020
And
Appeal No. 323 of 2020

Som Prakash Goenka
51/40, Goldiee House,
Nayaganj,
Kanpur – 208 001. ….Appellant

Versus

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

Mr. Neville Lashkari, Advocate with Mr. Prakash Shah, Advocate i/b Prakash Shah & Associates for the Appellant.

Ms. Nidhi Singh, Advocate with Ms. Binjal Samani, Ms. Aditi Palnitkar, Ms. Moksha Kothari, Advocates i/b. Vidhii Partners for the Respondent.

WITH
Misc. Application No. 334 of 2020
And
Appeal No. 324 of 2020

Surendra Kumar Gupta
51/40, Goldiee House,
Nayaganj,
Kanpur – 208 001. ….Appellant

Versus

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

Mr. Neville Lashkari, Advocate with Mr. Prakash Shah, Advocate i/b Prakash Shah & Associates for the Appellant.

Mr. Pradeep Sancheti, Senior Advocate with Ms. Nidhi Singh, Ms. Binjal Samani, Ms. Aditi Palnitkar, Ms. Moksha Kothari, Advocates i/b. Vidhii Partners for the Respondent.

WITH
Appeal No. 358 of 2020

Manish Kumar Garg
S/o Jagdish Prasad Garg,
Flat No. 501, Srishti Kalpana Apartment,
4/276 G, Parvati Bagla Road,
Kanpur Nagar,
Uttar Pradesh – 208 002. ….Appellant

Versus

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

Mr. Vikas Bengani, Advocate for the Appellant.

Ms. Nidhi Singh, Advocate with Ms. Binjal Samani, Ms. Aditi Palnitkar, Ms. Moksha Kothari, Advocates i/b. Vidhii Partners for the Respondent.

WITH
Appeal No. 364 of 2020

Sanjeev Sanghi
79/08, Latouche Road,
Kanpur – 208 001. ….Appellant

Versus

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

Mr. Vikas Bengani, Advocate for the Appellant.

Ms. Nidhi Singh, Advocate with Ms. Binjal Samani, Ms. Aditi Palnitkar, Ms. Moksha Kothari, Advocates i/b Vidhii Partners for the Respondent.

WITH
Appeal No. 365 of 2020

Pranveer Singh
117/H1/314 Model Town,
Pandu Nagar,
Kanpur – 208 005. ….Appellant

Versus

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

Mr. Vikas Bengani, Advocate for the Appellant.

Ms. Nidhi Singh, Advocate with Ms. Binjal Samani, Ms. Aditi Palnitkar, Ms. Moksha Kothari, Advocates i/b. Vidhii Partners for the Respondent.

WITH
Appeal No. 422 of 2020

Raghuvansh Agrofarms Ltd.
Regd. Office:
D-50E, 2nd Floor,
Chattrapur Enclave Phase-1,
New Delhi – 110 074.

Corporate Office:
16/19-A, Civil Lines,
Kanpur – 208 001 U.P. ….Appellant

Versus

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

Mr. Saurabh Bacchavat, Advocate i/b Mr. Yahya Batatawala, Advocate for the Appellant.

Mr. Pradeep Sancheti, Senior Advocate with Ms. Nidhi Singh, Ms. Binjal Samani, Ms. Aditi Palnitkar, Ms. Moksha Kothari, Advocates i/b Vidhii Partners for the Respondent.

WITH
Appeal No. 423 of 2020

Litmus Investments Ltd.
16/19-A, Civil Lines,
Kanpur – 208 001 U.P. ….Appellant

Versus

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

Mr. Saurabh Bacchavat, Advocate i/b Mr. Yahya Batatawala, Advocate for the Appellant.

Ms. Nidhi Singh, Advocate with Ms. Binjal Samani, Ms. Aditi Palnitkar, Ms. Moksha Kothari, Advocates i/b. Vidhii Partners for the Respondent.

WITH
Appeal No. 374 of 2020

Sajan Kumar Agarwal
F-1, Yog Galaxy,
15/82, Lathhe Wali Kothi,
Civil Lines,
Kanpur – 208 001. ….Appellant

Versus

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

Mr. Vikas Bengani, Advocate for the Appellant.

Ms. Nidhi Singh, Advocate with Ms. Binjal Samani, Ms. Aditi Palnitkar, Ms. Moksha Kothari, Advocates i/b Vidhii Partners for the Respondent.

WITH
Appeal No. 375 of 2020

Vivek Karwa
Flat No. 101,
Prabhu Rachna Apartments,
13/386 D Civil Lines,
Kanpur – 208 001. ….Appellant

Versus

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

Mr. Vikas Bengani, Advocate for the Appellant.

Ms. Nidhi Singh, Advocate with Ms. Binjal Samani, Ms. Aditi Palnitkar, Ms. Moksha Kothari, Advocates i/b Vidhii Partners for the Respondent.

WITH
Appeal No. 376 of 2020

1. Geeta Mishra
2. Praveen Kumar Mishra

312 Lkhanpur Housing Society,
Vikas Nagar, K P University,
Kalyanpur, Kanpur Nagar,
Uttar Pradesh – 208 024. ….Appellants

Versus

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

Mr. Kunal Katariya, Advocate i/b. Mr. Vikas Bengani, Advocate for Appellants.

Mr. Pradeep Sancheti, Senior Advocate with Ms. Nidhi Singh, Ms. Binjal Samani, Ms. Aditi Palnitkar, Ms. Moksha Kothari, Advocates i/b Vidhii Partners for the Respondent.

WITH
Appeal No. 377 of 2020

Sanjay Kumar
D-151, East of Kailash,
Sriniwaspuri, S.O. South Delhi
Delhi – 110 065. ….Appellant

Versus

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

Mr. Vikas Bengani, Advocate for the Appellant.

Ms. Nidhi Singh, Advocate with Ms. Binjal Samani, Ms. Aditi Palnitkar, Ms. Moksha Kothari, Advocates i/b. Vidhii Partners for the Respondent.

WITH
Appeal No. 435 of 2020

Manisha Sharma
4/276-1, Vasant Enclave,
Parvati Bagla Road, Old Kanpur,
Katarijyora, Nawabganj, ….Appellant
Kanpur, Uttar Pradesh – 208 001.

Versus

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

Mr. Vikas Bengani, Advocate for the Appellant.

Ms. Nidhi Singh, Advocate with Ms. Binjal Samani, Ms. Aditi Palnitkar, Ms. Moksha Kothari, Advocates i/b. Vidhii Partners for the Respondent.

WITH
Appeal No. 398 of 2020

1. Ashok Kumar Maheshwari
2. Manish Maheshwari
3. Mahak Maheshwari

13/5, Bungalow No. 16,
Ganga Chhavi Enclave,
Civil Lines,
Kanpur – 208 001. ….Appellants

Versus

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

Mr. Vikas Bengani, Advocate for Appellants.

Ms. Nidhi Singh, Advocate with Ms. Binjal Samani, Ms. Aditi Palnitkar, Ms. Moksha Kothari, Advocates i/b Vidhii Partners for the Respondent.

WITH
Appeal No. 399 of 2020

Manoj Agarwal
14/75, Gopal Vihar,
Civil Lines,
Near Merchant Chamber Hall,
Kanpur – 208 001. ….Appellant

Versus

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

Mr. Vikas Bengani, Advocate for the Appellant.

Ms. Nidhi Singh, Advocate with Ms. Binjal Samani, Ms. Aditi Palnitkar, Ms. Moksha Kothari, Advocates i/b Vidhii Partners for the Respondent.

WITH
Appeal No. 400 of 2020

1. Narender Kumar
2. Mahabir Pershad HUF
3. Sanjay Kumar HUF
4. Arun Kumar HUF
5. Narender Kumar HUF

D-151, East of Kailash,
South Delhi,
Delhi – 110 065. ….Appellants

Versus

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

Mr. Vikas Bengani, Advocate for Appellants.

Ms. Nidhi Singh, Advocate with Ms. Binjal Samani, Ms. Aditi Palnitkar, Ms. Moksha Kothari, Advocates i/b Vidhii Partners for the Respondent.

WITH
Appeal No. 401 of 2020

Divya Agarwal
14/75, Gopal Vihar,
Civil Lines,
Near Merchant Chamber Hall,
Kanpur – 208 001. ….Appellant

Versus

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

Mr. Vikas Bengani, Advocate for the Appellant.

Ms. Nidhi Singh, Advocate with Ms. Binjal Samani, Ms. Aditi Palnitkar, Ms. Moksha Kothari, Advocates i/b Vidhii Partners for the Respondent.

WITH
Appeal No. 437 of 2020

1. Shubham Agarwal
2. Ashish Agarwal

Flat No. 401,
Ramnika Apartment,
7/186, Swaroop Nagar,
Kanpur – 208 002. ….Appellants

Versus

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

Mr. Vikas Bengani, Advocate for Appellants.

Ms. Nidhi Singh, Advocate with Ms. Binjal Samani, Ms. Aditi Palnitkar, Ms. Moksha Kothari, Advocates i/b Vidhii Partners for the Respondent.

WITH
Appeal No. 452 of 2020

Bakliwal Vyapaar Private Limited
C/o Kifta
203, Sarat Bose Road,
Third Floor, Near Canara Bank Building,
Kolkata – 700 029. ….Appellant

Versus

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

Dr. S. K. Jain, PCS i/b. S K Jain & Co. for the Appellant

Ms. Nidhi Singh, Advocate with Ms. Binjal Samani, Ms. Aditi Palnitkar, Ms. Moksha Kothari, Advocates i/b Vidhii Partners for the Respondent.

WITH
Appeal No. 453 of 2020

Deepak Kumar Agarwal
38B Panditya Road,
Sarat Bose Road,
Kolkata,
West Bengal – 700 029 ….Appellant

Versus

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

Mr. Vikas Bengani, Advocate for the Appellant.

Ms. Nidhi Singh, Advocate with Ms. Binjal Samani, Ms. Aditi Palnitkar, Ms. Moksha Kothari, Advocates i/b Vidhii Partners for the Respondent.

WITH
Appeal No. 462 of 2020

Jasmine Commodities Pvt. Ltd.
C/o Kifta
203, Sarat Bose Road,
Third Floor, Near Canara Bank Building,
Kolkata – 700 029. ….Appellant

Versus

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

Dr. S. K. Jain, PCS i/b. S K Jain & Co. for the Appellant

Mr. Pradeepancheti, Senior Advocate with Ms. Nidhi Singh, Ms. Binjal Samani, Ms. Aditi Palnitkar, Ms. Moksha Kothari, Advocates i/b. Vidhii Partners for the Respondent.

WITH
Appeal No. 463 of 2020

Aviral Industries Ltd.
117/10, 'C' Block,
Sarvodaya Nagar,
Kanpur – 208 005
Uttar Pradesh. ….Appellant

Versus

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

Dr. S. K. Jain, PCS i/b. S K Jain & Co. for the Appellant

Ms. Nidhi Singh, Advocate with Ms. Binjal Samani, Ms. Aditi Palnitkar, Ms. Moksha Kothari, Advocates i/b Vidhii Partners for the Respondent.

WITH
Appeal No. 480 of 2020

1. Seema Kapoor,
2. Sanjay Kapoor,
3. Sapna Kapoor,
4. Sunil Kapoor

117/K/13, Plot No. 32,
Block-E, Anand Cottage,
Moti Vihar, Gutaiya,
Sarvodaya Nagar, Hans Nagar,
Kanpur – 208 005. ….Appellants

Versus

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

Mr. Vikas Bengani, Advocate for Appellants.

Ms. Nidhi Singh, Advocate with Ms. Binjal Samani, Ms. Aditi Palnitkar, Ms. Moksha Kothari, Advocates i/b Vidhii Partners for the Respondent.

WITH
Appeal No. 501 of 2020

Vinay Kumar Agarwal
A-7, Armstrong Avenue,
Bidhan Nagar Sec 2-B,
Durgapur, Bardhhaman,
West Bengal – 713 212. ….Appellant

Versus

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

Mr. Vikas Bengani, Advocate for the Appellant.

Ms. Nidhi Singh, Advocate with Ms. Binjal Samani, Ms. Aditi Palnitkar, Ms. Moksha Kothari, Advocates i/b Vidhii Partners for the Respondent.

WITH
Appeal No. 531 of 2020

Santosh Kumar Agarwal
Flat No. 301,
Ratan Dham Apartment,
MacrobertGanj,
Kanpur – 208 001. ….Appellant

Versus

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

Dr. S. K. Jain, PCS i/b. S K Jain & Co. for the Appellant

Ms. Nidhi Singh, Advocate with Ms. Binjal Samani, Ms. Aditi Palnitkar, Ms. Moksha Kothari, Advocates i/b Vidhii Partners for the Respondent.

WITH
Appeal No. 492 of 2020

1. Kavita Awasthi
2. Rishi Kant Awasthi

20/24, Patkapur,
Kanpur,
Uttar Pradesh – 208 001. ….Appellants

Versus

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

Dr. S. K. Jain, PCS i/b. S K Jain & Co. for Appellants.

Mr. Pradeep Sancheti, Senior Advocate with Ms. Nidhi Singh, Ms. Binjal Samani, Ms. Aditi Palnitkar, Ms. Moksha Kothari, Advocates i/b. Vidhii Partners for the Respondent.

WITH
Appeal No. 493 of 2020

KPK Fin Consultancy Pvt. Ltd.
32/13, Ghumani Bazar,
Kanpur – 208 001. ….Appellant

Versus

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

Dr. S. K. Jain, PCS i/b. S K Jain & Co. for the Appellant.

Ms. Nidhi Singh, Advocate with Ms. Binjal Samani, Ms. Aditi Palnitkar, Ms. Moksha Kothari, Advocates i/b Vidhii Partners for the Respondent.

WITH
Appeal No. 553 of 2020

Paramjeet Singh
14, Gurudwara Road,
Allahabad – 211 003. ….Appellant

Versus

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

Dr. S. K. Jain, PCS i/b. S K Jain & Co. for the Appellant

Ms. Nidhi Singh, Advocate with Ms. Binjal Samani, Ms. Aditi Palnitkar, and Ms. Moksha Kothari, Advocates i/b Vidhii Partners for the Respondent.

WITH
Appeal No. 555 of 2020

Shrishti E Systems Pvt. Ltd.
117/25, N-Block,
Avon Market, Kakadeo,
Kanpur – 208 025. ….Appellant

Versus

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

Dr. S. K. Jain, PCS i/b. S K Jain & Co. for the Appellant.

Ms. Nidhi Singh, Advocate with Ms. Binjal Samani, Ms. Aditi Palnitkar, and Ms. Moksha Kothari, Advocates i/b Vidhii Partners for the Respondent.

WITH
Appeal No. 67 of 2021

Subodh Agarwal
2A/220, Azad Nagar,
Near Zoo Kanpur,
Nawabganj,
Kanpur – 208 002. ….Appellant

Versus

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

Mr. Zal Andhyarujina, Senior Advocate with Mr. Nirman Sharma and Ms. Akanksha Agarwal, Advocates i/b. Mr. Yahya Batatawala, for the Appellant.

Mr. Pradeep Sancheti, Senior Advocate with Ms. Nidhi Singh, Ms. Binjal Samani, Ms. Aditi Palnitkar, and Ms. Moksha Kothari, Advocates i/b. Vidhii Partners for the Respondent.

WITH
Misc. Application No. 91 of 2021
And
Appeal No. 131 of 2021

Mr. Raj Kumar
39, 2nd Floor, Pocket 1,
Jasola Vihar,
New Delhi – 110 025. ….Appellant

Versus

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

Mr Hetal Thakore, Advocate with Mr. Kunal Parekh, Advocate i/b. Dua Associates AOR for the Appellant.

Mr. Pradeep Sancheti, Senior Advocate with Ms. Nidhi Singh, Ms. Binjal Samani, Ms. Aditi Palnitkar, and Ms. Moksha Kothari, Advocates i/b Vidhii Partners for the Respondent.

WITH
Misc. Application No. 211 of 2021
And
Appeal No. 195 of 2021

Sulabh Engineers and Services Ltd.
206, 2nd Floor, Apollo Complex-
Premises Cooperative Society Ltd.,
R.K. Singh Marg,
Parsi Panchayat Road,
Andheri (East),
Mumbai – 400 069. ….Appellant

Versus

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

Mr. P.N. Modi, Senior Advocate with Ms. Kalpana Desai, Advocate and Mr. Ketan Rupani, CA i/b. Ketan Rupani & Co. for the Appellant.

Mr. Pradeep Sancheti, Senior Advocate with Ms. Nidhi Singh, Ms. Binjal Samani, Ms. Aditi Palnitkar, and Ms. Moksha Kothari, Advocates i/b. Vidhii Partners for the Respondent.

WITH
Appeal No. 354 of 2021

Deepa Mittal
2A/220, Azad Nagar,
Near Zoo Kanpur,
Nawabganj, Kanpur,
Uttar Pradesh – 208 002. ….Appellant

Versus

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

Mr. Ashim Sood, Advocate with Mr. Ketan Rupani Chartered Accountant i/b Ketan Rupani & Co. for the Appellant.

Mr. Pradeep Sancheti, Senior Advocate with Ms. Nidhi Singh, Ms. Binjal Samani, Ms. Aditi Palnitkar, and Ms. Moksha Kothari, Advocates i/b. Vidhii Partners for the Respondent.

WITH
Appeal No. 355 of 2021

Manoj Kumar Agarwal
53/07, Sri Niketan Naya Ganj,
Kanpur – 208 001,
Uttar Pradesh. ….Appellant

Versus

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

Mr. P.N. Modi, Senior Advocate with Ms. Kalpana Desai, Advocate and Mr. Ketan Rupani, CA i/b. Ketan Rupani & Co. for the Appellant.

Mr. Pradeep Sancheti, Senior Advocate with Ms. Nidhi Singh, Ms. Binjal Samani, Ms. Aditi Palnitkar, and Ms. Moksha Kothari, Advocates i/b Vidhii Partners for the Respondent

WITH
Appeal No. 356 of 2021

Santosh Kumar Agarwal
3/98, Hanumant Kripa,
Vishnupuri, Nawabganj,
Kanpur – 208 002,
Uttar Pradesh. ….Appellant

Versus

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

Mr. Kushal Shah, Authorised Representative with Mr. Ketan Rupani Chartered Accountant i/b Ketan Rupani & Co. for the Appellant.

Ms. Nidhi Singh, Advocate with Ms. Binjal Samani, Ms. Aditi Palnitkar, Ms. Moksha Kothari, Advocates i/b Vidhii Partners for the Respondent

WITH

Appeal No. 357 of 2021

1. Sandhya Agarwal
   3 /98, Hanumant Kripa,
   Vishnupuri, Nawabganj,
   Kanpur - 208002,
   Uttar Pradesh

2. Manish Agarwal
   3/98, Hanumant Kripa,
   Vishnupuri, Nawabganj,
   Kanpur - 208002,
   Uttar Pradesh.

3. Ruchi Agarwal
   3/98, Hanumant Kripa,
   Vishnupuri, Nawabganj,
   Kanpur - 208002,
   Uttar Pradesh.

4. Krishana Agarwal
   3/98, Hanumant Kripa,
   Vishnupuri, Nawabganj,
   Kanpur - 208002,
   Uttar Pradesh. ….Appellants

Versus

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

Mr. Kushal Shah, Authorised Representative with Mr. Ketan Rupani Chartered Accountant i/b Ketan Rupani & Co. for Appellants.

Ms. Nidhi Singh, Advocate with Ms. Binjal Samani, Ms. Aditi Palnitkar, and Ms. Moksha Kothari, Advocates i/b Vidhii Partners for the Respondent.

WITH

Appeal No. 477 of 2021

Mridula Agarwal
X-1/135, Krishnapuram,
Kanpur,
Uttar Pradesh- 208 007. ….Appellant

Versus

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

Mr. Vikas Bengani, Advocate for the Appellant.

Ms. Nidhi Singh, Advocate with Ms. Binjal Samani, Ms. Aditi Palnitkar, and Ms. Moksha Kothari, Advocates i/b Vidhii Partners for the Respondent.

WITH

Appeal No. 478 of 2021

Kamta Prasad Pandey
104A/138, Ram Bagh,
P. Road,
Kanpur – 208 012. ….Appellant

Versus

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

Dr. S. K. Jain, PCS i/b. S K Jain & Co. for the Appellant.

Ms. Nidhi Singh, Advocate with Ms. Binjal Samani, Ms. Aditi Palnitkar, and Ms. Moksha Kothari, Advocates i/b Vidhii Partners for the Respondent.

WITH
Appeal No. 479 of 2021

Akhilesh Kumar Agnihotri
A-211, NaiBasti,
Sukhaupurwa, Nawabganj,
Kanpur – 208 002. ….Appellant

Versus

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

Dr. S. K. Jain, PCS i/b. S K Jain & Co. for the Appellant.

Ms. Nidhi Singh, Advocate with Ms. Binjal Samani, Ms. Aditi Palnitkar, and Ms. Moksha Kothari, Advocates i/b Vidhii Partners for the Respondent.

WITH
Appeal No. 480 of 2021

Jeetendra Kumar Agnihotri
H.No. 109/30-A, Nehru Nagar,
P.S. Bajaria,
Kanpur – 208 001. ….Appellant

Versus

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

Dr. S. K. Jain, PCS i/b. S K Jain & Co. for the Appellant.

Ms. Nidhi Singh, Advocate with Ms. Binjal Samani, Ms. Aditi Palnitkar, Ms. Moksha Kothari, Advocates i/b Vidhii Partners for the Respondent.

WITH
Appeal No. 481 of 2021

Vasundhara Capital & Securities Ltd.
B-149, Street no. 5,
Ground floor back portion
Hari Nagar,
New Delhi – 110 064. ….Appellant

Versus

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

Dr. S. K. Jain, PCS i/b. S K Jain & Co. for the Appellant.

Ms. Nidhi Singh, Advocate with Ms. Binjal Samani, Ms. Aditi Palnitkar, Ms. Moksha Kothari, Advocates i/b Vidhii Partners for the Respondent.

WITH
Appeal No. 482 of 2021

Renu Agarwal
2A/220, Azad Nagar,
Near Zoo Kanpur,
Nawabganj,
Kanpur – 208 002. ….Appellant

Versus

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

Mr. Saurabh Bacchavat, Advocate i/b Mr. Yahya Batatawala, Advocate for the Appellant.

Ms. Nidhi Singh, Advocate with Ms. Binjal Samani, Ms. Aditi Palnitkar, Ms. Moksha Kothari, Advocates i/b Vidhii Partners for the Respondent.

WITH
Appeal No. 483 of 2021

Raj Kumar Agarwal
35/48, Bengali Mohala,
Kanpur – 208 001. ….Appellant

Versus

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

Mr. Saurabh Bacchavat, Advocate i/b Mr. Yahya Batatawala, Advocate for the Appellant.

Ms. Nidhi Singh, Advocate with Ms. Binjal Samani, Ms. Aditi Palnitkar, Ms. Moksha Kothari, Advocates i/b Vidhii Partners for the Respondent.

WITH
Appeal No. 484 of 2021

Subodh Agarwal (HUF)
2A/220, Azad Nagar,
Near Zoo Kanpur,
Nawabganj,
Kanpur – 208 002. ….Appellant

Versus

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

Mr. Saurabh Bacchavat, Advocate i/b Mr. Yahya Batatawala, Advocate for the Appellant.

Ms. Nidhi Singh, Advocate with Ms. Binjal Samani, Ms. Aditi Palnitkar, Ms. Moksha Kothari, Advocates i/b Vidhii Partners for the Respondent.

WITH
Appeal No. 803 of 2021

Class Commercial Pvt. Ltd.
(Formerly known as Scope Vyapar Pvt. Ltd.)
23/1, Principle Khudiram Bose Road,
Kolkata – 700 006. ….Appellant

Versus

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

Dr. S.K. Jain, PCS i/b Mr. Harsh Kesharia, Advocate for the Appellant.

Ms. Nidhi Singh, Advocate with Ms. Binjal Samani, Ms. Aditi Palnitkar, Ms. Moksha Kothari, Advocates i/b Vidhii Partners for the Respondent.

WITH

Appeal No. 804 of 2021

Bitter Commercial Private Limited
(Formerly known as SKM Travels Pvt. Ltd.)
23/1, Principle Khudiram Bose Road,
Kolkata – 700 006. ….Appellant

Versus

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

Mr. Vikas Bengani, Advocate i/b Mr. Harsh Kesharia, Advocate for the Appellant.

Ms. Nidhi Singh, Advocate with Ms. Binjal Samani, Ms. Aditi Palnitkar, Ms. Moksha Kothari, Advocates i/b Vidhii Partners for the Respondent.

WITH

Appeal No. 805 of 2021

Apex Commotrade Pvt. Ltd.
Stephen House, 4th Floor,
Room No. 58C,
56E Hemant Basu Sarani,
Kolkata – 700 001. ….Appellant

Versus

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

Mr. Harsh Kesharia, Advocate for the Appellant.

Ms. Nidhi Singh, Advocate with Ms. Binjal Samani, Ms. Aditi Palnitkar, Ms. Moksha Kothari, Advocates i/b Vidhii Partners for the Respondent.

WITH
Appeal No. 806 of 2021

Signet Vinimay Private Limited
23/1, Principle Khudiram Bose Road,
Kolkata – 700 006. ….Appellant

Versus

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

Mr. Harsh Kesharia, Advocate for the Appellant.

Ms. Nidhi Singh, Advocate with Ms. Binjal Samani, Ms. Aditi Palnitkar, Ms. Moksha Kothari, Advocates i/b Vidhii Partners for the Respondent.

WITH
Appeal No. 807 of 2021

Runicha Merchants Pvt. Ltd.
23/1, Principle Khudiram Bose Road,
Kolkata – 700 006. ….Appellant

Versus

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

Mr. Harsh Kesharia, Advocate for the Appellant.

Ms. Nidhi Singh, Advocate with Ms. Binjal Samani, Ms. Aditi Palnitkar, Ms. Moksha Kothari, Advocates i/b Vidhii Partners for the Respondent.

WITH
Appeal No. 808 of 2021

Winall Vinimay Pvt. Ltd.
23/1, Principle Khudiram Bose Road,
Kolkata – 700 006. ….Appellant

Versus

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

Mr. Harsh Kesharia, Advocate for the Appellant.

Ms. Nidhi Singh, Advocate with Ms. Binjal Samani, Ms. Aditi Palnitkar, Ms. Moksha Kothari, Advocates i/b Vidhii Partners for the Respondent.

WITH
Appeal No. 809 of 2021

Sankalp Vincom Private Limited
23/1, Principle Khudiram Bose Road,
Kolkata – 700 006. ….Appellant

Versus

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

Mr. Harsh Kesharia, Advocate for the Appellant.

Ms. Nidhi Singh, Advocate with Ms. Binjal Samani, Ms. Aditi Palnitkar, Ms. Moksha Kothari, Advocates i/b Vidhii Partners for the Respondent.

AND
Appeal No. 810 of 2021

Spice Merchants Private Limited
Stephen House, 4th Floor,
Room No. 58C,
56E Hemant Basu Sarani,
Kolkata – 700 001. ….Appellant

Versus

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

Mr. Harsh Kesharia, Advocate for the Appellant.

Ms. Nidhi Singh, Advocate with Ms. Binjal Samani, Ms. Aditi Palnitkar, Ms. Moksha Kothari, Advocates i/b Vidhii Partners for the Respondent.

CORAM : Justice Tarun Agarwala, Presiding Officer
Justice M.T. Joshi, Judicial Member

Per : Justice Tarun Agarwala, Presiding Officer

1. 52 appeals have been filed against a common order dated September 3, 2020 passed by the Whole Time Member ('WTM' for short) of the Securities and Exchange Board of India ('SEBI' for short) wherein the appellants were restrained from accessing the securities market for a specified period as mentioned in the impugned order and were further prohibited from buying, selling or otherwise dealing in the securities either directly or indirectly. Further, the directors of Sulabh Engineers and Services Limited ('the Company' for short) were prohibited from being associated with any listed Company for a period of 7 years. For facility, the facts stated in Appeal no. 319 of 2020 (Praveen Kurele & Anr. vs Securities and Exchange Board of India) is being taken into consideration.

2. SEBI received a reference from the Income Tax Department regarding misuse of the trading system for creation of bogus long term capital gains and short term capital gains. After preliminary investigation, SEBI decided that it will proceed against such entities who had violated the SEBI Act, 1992, Rules and Regulations.

3. In the matter of Sulabh Engineers and Services Limited SEBI conducted an investigation for the period December 1, 2011 to January 7, 2015 in order to ascertain as to whether there was any violation of the provisions of the SEBI Act and the SEBI (Prohibition of Fraudulent and Unfair Trade Practices relating to Securities Market) Regulations, 2003 ('PFUTP Regulations' for short). The investigation was divided into four patches. Patch 1-A was for the period December 1, 2011 to August 16, 2012 wherein there was a price rise by selling miniscule quantity of shares by connected noticees. Patch 1-B was price rise before the pre-split of the shares and beginning of the sale of the shares by the preferential allottees for the period August 17, 2012 to February 1, 2013. Patch- 2 was for the period February 4, 2013 to July 22, 2014 which was price rise and sale of the

shares post split of the shares and Patch – 3 was the price fall during the period July 23, 2014 to January 06, 2015.

4. In the investigation, it was found that Manoj Kumar Agarwal, noticee no. 9 and Deepa Mittal, noticee no. 10 acquired 1,09,650 shares (44.30%) of the total share capital of the Company through a share purchase agreement with the erstwhile promoters in February 2011. Thereafter the aforesaid two noticees acquired 39,200 shares (15.83%) through an open offer. Thus, the two promoters acquired 1,48,850 shares i.e. 60.14% of the total share capital of the Company for Rs. 53.09 lakh. Investigation further revealed that on March 21, 2011 14 noticees bought 54,800 shares (22.14%) of the total share capital from the erstwhile promoter family and on May 31, 2011 two connected noticees, namely, Samtal Financial Systems Pvt. Ltd. and Anant Fin Consultancy Pvt. Ltd. acquired 43,550 shares (17.64%). Investigation revealed that two promoters and the aforesaid 16 entities acquired 2,47,200 out of 2,47,500 of the share capital of the Company. The remaining 300 shares were held by one Mr. R.N. Dave. The investigation revealed that the share acquisition by the aforesaid 16 noticees were acquired with a common intention of consolidating the

shareholding of the Company and ensuring that there was no free float in the market.

5. On June 25, 2011 Samtal Financial Systems Pvt. Ltd. and Anant Fin Consultancy Pvt. Ltd. transferred 42,600 shares to 37 noticees and Samtal Financial Systems Pvt. Ltd. transferred 100 shares to another noticee on May 31, 2011. In March 2011 the new promoters issued the first preferential allotment to 27 persons. 28 lakh shares of Rs. 20/- each at a premium of Rs. 10/- each were issued to 27 persons which resulted in an inflow of Rs.5.60 crore to the Company. In March 2012 a second preferential allotment was issued wherein 70 lakh shares of Rs. 20/- each at a premium of Rs. 10/- each were issued to 46 persons bringing an inflow of Rs. 14 crore. Thus, through this two preferential allotment a sum of Rs. 19.60 crore came into the corpus of the Company for the purpose of expansion of the Company.

6. It was observed that a large number of buy orders were placed in the market from a wide set of noticees due to positive sentiment created with the share purchase agreement and open offer by the new promoters and the preferential allotment made by the Company. Since the entire free float was held by the promoters and connected noticees, no seller

came forward to sell despite huge buy orders of the scrip in question. As a result, till November 30, 2011 except for one sell order no trades were executed inspite of large buy orders pending on the Stock Exchange platform.

7. During Patch 1-A connected noticees started selling miniscule quantity of shares despite holding large number of shares. The miniscule sale of shares was made above the LTP and, as a result of the sale, the price of the scrip started increasing. It was noticed that during Patch 1-A period, the price moved from Rs. 11/- to Rs. 173.65 in 8 months. There was an increase by Rs. 162.65. It was also found that connected noticees had entered into 116 trades and 4560 shares were sold by 13 noticees but only 3910 shares were delivered and balance 650 shares were not delivered deliberately. Investigation further revealed that these 3910 shares sold by these 13 noticees were traced back to Anant Fin Consultancy Pvt. Ltd. who was connected to the Company Sulabh Engineers and Services Limited through a common director.

8. In Patch 1-B it was further found that during the period August 17, 2012 to February 1, 2013 the price increased from Rs. 173.65 to Rs. 494/- i.e. an increase by Rs. 300.35. In this

period 21 connected noticees sold on 89 days. It was observed that the noticees wanted to increase the price without increasing the free float which was done on two basis, non-delivery of shares after selling the same in the market which happened on 13 instances by 5 noticees and further Anant Fin Consultancy Pvt. Ltd. transferred 13,550 shares to 23 noticees and, out of 23 noticees, 13 connected notices were sellers and therefore it was noticed that the connected noticees were trading among themselves so that the free float remained with them so that the price of the scrip kept on increasing. It was observed that the connected noticees were predominantly sellers and contributed 85.04% as sellers and sold 1,35,398 shares and the liquidity of the shares in the market was meager as the 13 noticees in Patch 1-A became buyers in Patch 1-B.

9. The shares of the Company split in the ratio of 1:10 on February 4, 2013. In Patch – 2 for the period February 4, 2013 to July 22, 2014 it was observed that the price rose from Rs. 49.40 to Rs. 243/- and the connected noticees sold a net of 1,39,958 shares apart from the sale of shares made by the promoters and promoter groups as well as by the preferential

allottees and, in this manner, the connected noticees derived undue benefit.

10. Based on the aforesaid, a show cause notice was issued dated July 31, 2017 wherein it was alleged that Manoj Kumar Agarwal, Deepa Mittal and Santosh Kumar Agarwal devised a scheme whereby the entire free float of the shares of the Company was acquired by the promoters and connected entities. The scheme entailed that miniscule quantities of the shares were sold through connected entities at maximum possible price on a regular basis in connivance with each other by entering into singular trade on each day and at times defaulting on the delivery of the shares. It was alleged that through this scheme it led to an increase in the price of the scrip and at the same time maintained its level of the free float at a minimum. After the expiry of the lock in period the free float increased and also due to trading done by the connected entities whereby the connected entities created a momentum by buying shares at a higher price thereby increasing the price. In this process the connected entities benefited when they sold the shares at a higher price. The noticees were therefore called upon to show cause as to why suitable directions under Section 11 and 11B of the SEBI Act should

not be issued for violating Regulation 3 and 4 of the PFUTP Regulations.

11. Investigation was against 471 entities. The show cause notice was, however, issued to 150 noticees. The WTM exonerated 46 noticees but found that 104 noticees had violated Regulation 3 and 4 of the PFUTP Regulations and accordingly appropriate orders were passed against them restraining them from accessing the securities market. Out of 104 noticees who were found guilty only 52 noticees have filed the present appeals which are being heard and decided together.

12. The appellants filed their respective replies before WTM and contended that they had not violated the provisions of SEBI Act, Rules and Regulations framed there under. The WTM after considering the material evidence on record and after considering the replies and the arguments made by the respective noticees passed the impugned order restraining them for specified periods as mentioned in the impugned order.

13. The WTM held that appellants were connected with the Company or with the promoter or promoter group or were

connected to Subodh Agarwal or with Anil Khemka who in turn were connected to the Company. The WTM had exhaustively dealt the connection of each of the noticees with the Company in paragraph 24 of the impugned order.

14. While dealing with the 150 noticees the WTM divided noticees into 4 groups in the following manner:-

(a) Group A of Noticees who are connected to the company through its promoter directors (PDs) and being a preferential allottee, namely, Noticee Nos. 1, 2, 4 to 16, 31, 32, 83, 123 to 127, 129, 131 to 139, 142 to 148.

(b) Group B of Noticees who are connected to Subodh Agarwal and hence connected to the company, namely, Noticee Nos. 3, 17 to 29, 34, 37 to 40, 41, 42, 43, 46, 47, 53, 55, 56, 65, 71, 78, 88, 97, 105, 107, 108, 109, 113, 116, 119, 122, 128, 130, 140, 141, 149, 150.

(c) Group C of Noticees who are connected with Anil Khemka and hence connected to the company through Subodh Agarwal i.e. Noticee nos.45, 48 to

51, 57, 67, 73, 74, 76, 82, 86, 92, 94, 103, 110, 111.

(d) Group D of Noticees who are connected with other Noticees mentioned herein but were not connected with either Company or PDs or Subodh Agarwal or Anik Khemka, namely notices no. 52, 54, 59, 60, 62, 63, 64, 68, 69, 70, 72, 79, 81, 84, 87, 90, 93, 95, 96, 100, 101, 118.

(e) Group E of Noticees who had no connection with either Company or PDs or Subodh Agarwal or Anil Khemka, namely, notices no. 30, 33, 35, 36, 44, 58, 61, 75, 77, 80, 85, 89, 91, 98, 99, 102, 104, 106, 112, 114, 115, 117, 120, 121.

15. The WTM found that the noticees mentioned in Group D and E as stated above had no connection with the Company and accordingly exonerated them but found the other noticees in Group A, B and C to have indulged in an orchestrated scheme by manipulating the price through fraudulent means.

16. The WTM found that the promoters acquired 1,48,850 shares i.e. 60.14% and that 5 entities, namely, Samtal

Financial Systems Pvt. Ltd., Anant Fin Consultancy Pvt. Ltd., Rajendra Kaur, Paramjit Singh and Dilip Kumar Agarwal acquired 61,000 shares i.e. 24.97% of the total share capital and therefore between them had acquired 2,10,450 out of 2,47,500 shares i.e. 85% of the total share capital of the Company.

17. The WTM further found that in Patch 1-A the connected noticees and promoters had manipulated the price of the scrip and that 13 connected noticees had traded as sellers thereby increasing the price of the scirp. The WTM found that miniscule orders were being placed above LTP and that a single trade was executed on 116 trading days. The WTM observed that there was a pattern, namely, that these 13 noticees were placing orders above LTP thereby increasing the price and causing misleading appearance of trading. Further, out of 4560 shares only 3910 shares were delivered and the remaining 650 shares were not delivered by noticee nos. 17, 18, 21, 22 and 29 who were connected through Subodh Agarwal. The WTM further found that the non-delivery of the shares was advantageous to the noticees as it increased the price of the scrip and, by defaulting, the free float did not reduce and the noticees continued to control the

supply of the shares in the market. The WTM further found that these 3910 shares which was delivered was traced back to Anant Fin Consultancy Pvt. Ltd. who had acquired the shares through the erstwhile promoters and then transferred it to 13 entities. Thus, a premeditated scheme was hatched to sell miniscule shares in order to increase the price in spite of large orders being pending in the market.

18. The WTM found that in Patch 1-B out of 21 connected entities to whom show cause notice were issued, only 17 had indulged in manipulation of the shares and exonerated four noticees. It was observed that there were total 28 noticees who were trading among themselves and had manipulated the price and caused misleading appearance of trading. It was also found that 17 noticees were trading every other day over above the LTP and that a total of 95 trades were executed which were being traded amongst themselves through 13 noticees who were sellers in Patch 1-A but became buyers in Patch 1-B. Thus, the free float remained with the Company and the noticees. The WTM came to the conclusion that the trading pattern indicated that the connected noticees traded as a group and had manipulated the price.

19. The WTM, in Patch-2 (February 4, 2013 to July 22, 2014), found that 42 out of 83 connected noticees repeatedly bought shares above the LTP and thereby manipulated the price of the scrip. The WTM found that 41 noticees were not connected with this conspiracy and consequently exonerated them. The WTM further found that the 42 noticees traded on 223 days out of 365 trading days and that 5260 trades were executed above LTP. The WTM came to a conclusion that normally a buyer buys at a lower price but, in the instant case, the buyers were buying in significant quantity at a higher price with the sole object to benefit the sellers, namely, the promoters, preferential allottees and other connected noticees.

20. The WTM further observed from the investigation report that three sets of connected noticees benefitted by selling the shares, namely, the promoter director, promoter-cum-non-executive director and other promoters, namely, noticee nos. 9, 10, 11, 12, 13, 14 and 15, the price manipulators, who were noticees nos. 1, 2, 3, 4, 5, 6, 7 and 28 and the connected noticees including the preferential allottees who were connected to the Company and who were also connected with some of the price manipulators, namely noticee nos. 123, 124, 125, 126, 127, 128, 129, 130, 131, 132,

133, 134, 135, 136, 137, 138, 139, 140, 141, 142, 143, 144, 145, 146, 147, 148, 149 and 150.

21. We have heard Shri J.P. Sen, Senior Advocate, Shri P.N. Modi, Senior Advocate, Shri Zal Andhyarujina, Senior Advocate, Shri Neville Lashkari, Advocate, Shri Vikas Bengani, Advocate Shri Saurabh Bachhawat, Advocate, Shri Kunal Katariya, Advocate, Dr. S.K. Jain, PCS, Hetal Thakore, Advocate, Shri Ashim Sood, Advocate, Shri Kushal Shah, Authorised Representative appeared in respective appeals and Shri Pradeep Sancheti, Senior Advocate and Ms. Nidhi Singh, Advocate for the respondent.

22. Certain common contentions were raised by the appellants which are being dealt herewith.

23. It was contended that there was an inordinate delay in the initiation of the proceedings as well as in the culmination of the proceedings and therefore on this short ground the impugned order was liable to be set aside. It was urged that the period of investigation was from December 1, 2011 to January 7, 2015. The investigation was completed on March 16, 2017 and the show cause notice was issued on July 31, 2017 and the hearing was concluded by the WTM on January 23, 2019 and the impugned order was passed on September 3,

2020. Thus, there was a delay of 20 months from the last submissions made by the appellants. It was urged that the authority was required to pass orders within a reasonable period. There was no justification on the part of the respondent in belatedly issuing the show cause notice and in passing the impugned order. In support of this contention, the appellants have relied upon the decision of Supreme Court in ***Anil Rai vs State of Bihar in Criminal Appeal no. 387 of 1998***, wherein it was observed that justice delayed is justice denied. The appellant further relied upon certain decisions of this Tribunal in ***Ashok Shivlal Rupani vs Securities and Exchange Board of India in Appeal no. 417 of 2018 decided on August 22, 2019***, ***Anilkumar Nandkumar Harchandani & Ors. vs Securities and Exchange Board of India in Appeal no. 75 of 2019 decided on December 5, 2019*** and ***Mr. Rajiv Bhanot & Ors. vs Securities and Exchange Board of India in Appeal no. 396 of 2018 decided on July 9, 2021***. It was also urged that the respondents are required to exercise the powers within a reasonable period and in support of this submission has relied upon decision of the Supreme Court in ***Government of India vs Citedal Fine Pharmaceuticals Madras & Ors. (1989) SCC 177***.

24. On this issue, we are of the opinion that there is no inordinate delay in the initiation of the proceedings or in the passing of the impugned order after the conclusion of the hearing. We find that the investigation was started on the basis of receiving an alert from the Principal Director of Income Tax (Investigation) which led to the examination of 471 entities. Based on the examination with regard to the role played by each entity and the connection found *inter-se* between them, action was approved against 150 entities. We also find that investigation period spanned from 2011 to 2014 and the investigation involving violation in the nature of fraudulent and unfair trade practices is not only time consuming but the investigation required detailed deliberation regarding identification of the connection and the role played by each of the entities, Considering the complexity, due care and diligence was required by the investigating authority. We find that the investigation was concluded on March 16, 2017, the show cause notice was issued on July 31, 2017 which, in our opinion, was issued within a reasonable period and thus we do not find any inordinate delay in the issuance of the show cause notice. Further, the fact that it has taken 20 months for the WTM to issue the impugned order after concluding the hearing is not fatal to the initiation or of the

culmination of the proceedings. It does happen at times that the authority is required to collate the factual contention of each of the noticees with that of the material evidence that has been brought on record by the investigating agencies. Further, assimilating the submissions and putting it down in writing is a time consuming process and requires a lot of care and diligence on the part of the authority in passing an order based on appreciation of evidence. Such appreciation of evidence which is bulky and large in the instant case does require a considerable period of time to pass the impugned order. Thus, in our view there is no inordinate delay in the initiation of the proceedings nor there any inordinate delay in passing of the impugned order though we feel that the respondent should strive to deliver orders at the earliest without any undue delay. The contention raised by the appellants is misconceived and is rejected. The decisions cited by the learned counsel for the appellants are distinguishable and not applicable in the peculiar facts and circumstances of the present case.

25. Some of the appellants urged that the WTM has travelled beyond the allegations made in the show cause notice. It was urged that the WTM has tinkered with the allegations made in the show cause notice and appears to have

made a fresh investigation. It was alleged that the WTM had made several deletions, additions and amendments of the data as provided in the show cause notice which is not reflected in the impugned order. In this regard, we find that the said allegations are patently erroneous and does not amount to tinkering of the data given in the show cause notice. If one column of a table in the show cause notice has not been included in the table given in the impugned order it makes no difference since we find that the figures which have been given in the table are accurate and relevant to the issue that was involved. Nothing has been pointed out that the data provided in the table was erroneous or was not found in the show cause notice. Therefore, the technical objection raised by some of the appellants in this regard is patently erroneous and cannot be accepted.

26. For facility, the appellants before this Tribunal have been divided into three sets, namely, 1st set who are promoter directors, non-executive directors and other promoters including the Company. 2nd set are the price manipulators and noticees connected to the Company or Subodh Agarwal and the 3rd set are the preferential allottees including notice nos. 128, 130, 140 and 141.

27. The appellants in the 1st set are Manoj Kumar Agarwal, noticee no. 9 and main promoter who has filed Appeal no. 355 of 2021. Deepa Mittal, is the co-promoter and noticee no. 10 and has filed Appeal No. 354 of 2021. Santosh Kumar Agarwal, is promoter and non-executive director as well as preferential allottee in March 2011 and 2012 and is also father of the main promoter Manoj Kumar Agarwal and has filed Appeal No. 356 of 2021. Krishna Agarwal, is the promoter and preferential allottee in 2011 and is mother of Manoj Kumar Agarwal noticee no. 13 and has filed Appeal No. 357 of 2021. Sandhya Agarwal is promoter, preferential allottee in 2011-2012 and is wife of Manoj Kumar Agarwal noticee no. 15 and has filed Appeal No. 357 of 2021. Manish Agarwal, promoter, preferential allottee in 2011 and is brother of Manoj Kumar Agarwal and is noticee no. 12 and has filed Appeal No. 357 of 2021 and lastly, Ruchi Agarwal promoter, preferential allottee in 2011-2012 and is the wife of brother of Manoj Kumar Agarwal and is noticee no. 14 and has filed Appeal No. 357 of 2021. Noticee no. 16 is the Company, Sulabh Engineers and Services Limited and has filed Appeal no. 195 of 2021.

28. The contention of Manoj Kumar Agarwal that the promoters along with connected entities had acquired 85.11% of the total shareholding of the Company is incorrect. It was contended that the new promoters had acquired only 60.14% of the total shareholding of the Company and that the new promoters directors had no connection with the other entities who had acquired 24.97%, namely, Samtal Financial Systems Pvt. Ltd., Anant Fin Consultancy Pvt. Ltd. etc. It was contended that in this regard Samtal Financial Systems Pvt. Ltd, Rajendra Kaur and Dilip Kumar Agarwal have not been made noticees and no show cause notices have been issued to them and therefore the alleged connection with the connected entities is *per se* erroneous and was liable to be set aside. It was also urged in the alternative that if the appellants along with the other promoters had controlled the entire free float of the shares of the Company then they would have violated the minimum shareholding requirements but no such allegation to that effect was made in the show cause notice. It was further contended that the Company and its promoters had no connection with the preferential allottees and the finding that the preferential allottees are automatically connected persons with the Company and its directors is based on surmises and conjectures. It was further contended that 31 preferential

allottees out of the total of 66 preferential allottees have been exonerated who had sold shares worth Rs. 132 crores during the investigation period and, therefore, the finding in the impugned order that the remaining preferential allottees had a direct connection with the Company and were part of the fraudulent scheme to manipulate the price for personal gain on the basis of a tacit understanding was wholly erroneous. It was contended that many of the preferential allottees did not sell their shares and only a few allottees sold few of their shares and continued to hold the majority of their shares even after the investigation period. Thus, the conspiracy theory hatched by the respondent in the impugned order is patently erroneous.

29. The appellants further contended that the allegation of "tacit understanding" is contradictory and is belied by the Company's letter dated July 05, 2012 and November 09, 2013 wherein the Company had brought the price rise to the notice of the BSE Limited which fact has not been considered in the impugned order and has been brushed aside simply by stating that it is without any merit. It was contended that there is a remote connection with Subodh Agarwal which is historic and that there is no direct connection with Subodh Agarwal

with regard to the issue in question and such remote connection cannot be taken into consideration as having a direct connection with him. Further, other noticees are alleged to be connected with Subodh Agarwal and consequently such noticees cannot be considered to be directly connected with the promoters or with the Company. It was urged that the finding that the Company and its promoter directors were hand in glove with Subodh Agarwal and its connected entities is patently erroneous and based on surmises and conjectures.

30. The co-promoter Deepa Mittal submitted that the allegation against her that she participated in price manipulation is patently erroneous in as much as the appellant had no connection with any of the entities accused of market manipulation. It was urged that there is no evidence either direct or circumstantial wherein it could be suggested that the appellant was an active participant in any price manipulation. The appellant contended that she had no financial dealing with any of the primary accused persons including noticees no. 1 and 9 nor did she trade in the shares of the Company until November 2014 i.e. at the fag end of the investigation period and only sold less than 5% of her shareholding. It was

also contended that the appellant shareholding got diluted from 29% in February 2011 to 2.43% after the preferential allotment in March 2011 and further was reduced to 0.74% after the issuance of the second preferential allotment in March 2012. Further, the appellant ceased to be a director w.e.f. February 14, 2013. Such facts have not been taken into consideration while passing the impugned order. The contention that the appellant was connected to Subodh Agarwal on the basis of a memorandum of association of 2007 is wholly erroneous and too remote. It was contended that the entire tenor of charges against the appellant in the show cause notice is that of direct participation and perpetration in the fraudulent scheme and consequent deriving of benefit. It was contended that the aforesaid charge has not been proved and that the entire finding is based only on the ground that the appellant is the promoter director and connected to the Company. It was contended that the entire exercise carried out by the respondent demonstrate a predetermined approach and the finding arrived at is based on non-application of mind.

31. The other promoters and appellants in the 1st set have raised similar pleas. Santosh Kumar Agarwal contended that

he was a non-executive director and was not involved nor was in charge nor was responsible for the running of the day to day affairs of the Company and this fact has been accepted by the WTM in paragraph 126 of the impugned order. The WTM has given a categorical finding that there is no record to establish that Santosh Kumar Agarwal was in charge of and responsible for the conduct of the Company and therefore held that the appellant Santosh Kumar Agarwal was not part of the scheme. The appellant contended that inspite of this finding, the appellant has been debarred for a period of 5 years. The Company contended that the preferential allotment were issued after due compliances of all the statutory requirements and no objection was raised by BSE or SEBI at the time of the preferential allotment. Further, the show cause notice does not allege that the preferential allotments were fraudulent. Out of 66 allottees, the WTM has itself exonerated 31 preferential allottees and therefore the finding of the WTM that there was a so-called 'tacit understanding' between the Company and its promoters with the preferential allottees cannot be sustained. The 31 preferential allottees who were exonerated had sold shares worth more than Rs. 132 crore during the investigation period which have not been found to be manipulative. On the other hand, the remaining

preferential allottees have been discriminated without any shred of evidence against them. Further, many of these preferential allottees sold only a few of their shares and continue to hold shares even after the investigation period. The Company specifically denied that the price of the scrip of the Company was manipulated by the price manipulators who were alleged to be connected with the promoters of the Company. The Company further denied the connection with Mr. Subodh Agarwal and contended that Mr. Subodh Agarwal neither controlled nor financed the Company. The alleged connection of Mr. Subodh Agarwal with the promoters was way back in 2004 and 2007 which cannot be lead to any conclusion that Mr. Subodh Agarwal was acting hand in glove with the promoters / directors of the Company for the purpose of manipulating the price of the scrip of the Company.

32. Having heard the learned counsel for the parties, and having perused the impugned order and other documents that has been brought on record one finds that the new promoters, namely, Manoj Kumar Agarwal and Deepa Mittal had orchestrated a plan and carried out a scheme by artificially increasing the price of the shares of the Company along with

other connected noticees. Admittedly, Manoj Kumar Agarwal and Deepa Mittal were the whole time directors of the Company and, therefore, they had knowledge of the financial position of the Company. It has come on record that the financial position of the Company was very weak. In the financial year 2009 the profit was only 0.09 crores, in 2010 it was 0.05 crores, in 2011 it was 0.01 crores, in 2012 it was 0.15 crores and in 2013 it was 0.43 crores and in 2014 it was 0.37 crores. It is clear that the profits of the Company had reduced significantly from financial year 2008-2009 to 2010-2011 and in subsequent financial years it had a negligible profit. Further, huge unsecured loans and advances aggregating Rs. 16.72 crores for financial year 2013-2014 and Rs. 17.13 crores for financial year 2014-2015 were seen. Further, the admitted position is, that even though the Company was a listed Company its shares were never traded on the Stock Exchange platform except for a single trade on October 09, 2009. The trading in the scrip was observed from December 01, 2011 onwards after the scheme was hatched. We also find that there was no major corporate announcement during the investigation period and, thus, in our opinion, the Company had no strong fundamentals. Thus, the new promoters Manoj Agarwal and Deepa Mittal knew about the

weak fundamentals of the Company when they acquired 60.14% of the total shareholding of the Company in February 2011 along with the connected entities 24.97% was acquired and, therefore, 85% of the shareholding was cornered. Considering this fact, the issuance of preferential allotments in March 2011, inspite of weak fundamentals, does raise an eyebrow though it had brought in a cash flow of Rs. 19.60 crore in the Company. Further, there is nothing on record to show that the fundamentals of the Company had changed subsequently when the second preferential allotment was issued. Thus, knowing fully well that the financial position of the Company was weak and the shares were hardly being traded the issuance of the preferential allotments was with the tacit understanding between the Company its promoters directors and connected entities to manipulate the price of the scrip of the Company for the purpose of benefiting everyone, namely, the promoters, whole time directors and connected noticees.

33. We also find that there is a direct connection of the promoter directors of the Company Manoj Kumar Agarwal, Deepa Mittal with Subodh Agarwal who along with the connected entities have played a significant role in the entire

scheme. The record suggests that Subodh Agarwal was associated with Manoj Kumar Agarwal and Deepa Mittal since 2004/2007 as they were subscribers to the memorandum of association of Samtal Financial Systems Private Limited. Apart from this, there is also evidence to show that Subodh Agarwal was connected to the Company with Niranjan Swaroop Goel who was a director in the Company. These facts have not been disputed by the promoters and only a feeble plea has been raised that these are historic connections which has no relevance to the issue in hand. In fact, in our opinion, there is a direct close connection between the new promoters and Subodh Agarwal. The historic connection in fact discloses more closeness. Further, various noticees who are connected with Subodh Agarwal are connected to the Company and its promoter directors. We are of the opinion that Subodh Agarwal was part of the scheme orchestrated by the promoter directors of the Company.

34. The contention that the Company had informed the BSE about the increase in price and that it had no knowledge of any manipulation or connection between the promoter directors and other noticees is wholly erroneous as we are of the opinion that the said letter was only a smoke- screen /

distraction to overcome the tacit understanding amongst the appellant, its promoter directors, and other noticees with regard to the scheme that was orchestrated and executed.

35. We also find that the acquisition of 17.64% of the shares by the two connected entities Samtal Financial System Pvt. Ltd. and Anant Fin Consultancy Pvt. Ltd. took place on March 21, 2011 and May 31, 2011 and was not spread over a period of time. The acquisition made on March 21, 2011 was around the same time when the first preferential allotment was made. This is another indication to show that the promoter directors and the connected entities were cornering the entire free float of the shares of the Company so that they could control the buying and selling of the shares. Evidence has come indicating that inspite of large buy orders pending during Patch 1-A and Patch 1-B no sale were being made and only miniscule shares were being sold so that the price of the shares could rise since it was found that the shares that was being sold was above the LTP. We also find that during Patch 1-A, 4560 shares were sold by 13 noticees and whereas only 3910 shares were delivered, the balance 650 shares were not delivered. The selling of these miniscule shares above LTP raised the price from Rs. 11/- to Rs. 173.65. Further, we find

that these 3910 shares which were sold by the connected noticees were traced back to Anant Fin Consultancy Pvt. Ltd. and, therefore, the scheme got exposed to the extent that the Company wanted to keep the free float of the shares between the promoter directors and its connected noticees so that they could control the market to increase the price of the shares. This view is based on the finding that the connected noticees were predominantly the sellers contributing 85.04% as sellers and the liquidity of the shares in the market was meager. Further, we find that in Patch 1-B the 13 noticees who were sellers in Patch 1-A became the buyers in Patch 1-B. Thus, we are of the opinion, that the promoter directors and other connected noticees indulged in manipulation in the scrip and benefited by selling the shares in the subsequent patch period. We find that the entire scheme of acquiring the shares by the new promoters and ensuring this free float of shares prior to the resumption of trading on the Stock Exchange platform and using the same for manipulating the price so that the price of the scrip increased multifold which resulted in subsequent sale of shares to benefit from the manipulated price was carried out by the new promoters and connected noticees in connivance with each other. Such scheme was totally

fraudulent and violative of Regulation 3 and 4 of PFUTP Regulations. Thus, the Company cannot escape its liability.

36. Further, we find that the appellants in the 1st set, have reaped huge profit and this by itself indicates a strong presumption of them being aware of the manipulation in the scrip of the shares. The chart below will indicate the profits made by the appellants.

Name of Promoter	Initial Investment (in Rupees)	Sell Value (in Rupees)
Manoj Kumar Agarwal (Noticee No. 9/ A. No. 355 of 2021	27,10,000	10,95,45,280
Deepa Mittal (Noticee No. 10/ A. No. 354 of 2021)	26,80,000	93,71,250
Krishana Agarwal (Noticee No. 13/ A. No. 357 of 2021)	40,00,000	5,86,14,534
Sandhya Agarwal (Noticee No. 15/ A. No. 357 of 2021)	1,20,00,000	3,77,13,755
Manish Agarwal (Noticee No. 12/ A. No. 357 of 2021)	40,00,000	7,78,03,350
Ruchi Agarwal (Noticee No. 14/ A. No. 357 of 2021)	1,20,00,000	4,51,51,000

37. The WTM in paragraph 125 and 126 of the impugned order has held that there is no record to establish that Santosh Kumar Agarwal who is one of the promoters was in-charge of and responsible for the conduct of the business or day to day affairs of the running of the business of the Company or was aware of the financial planning of the Company and therefore

held that Santosh Kumar Agarwal, being a non-executive director of the Company, was not part of the orchestrated scheme nor was involved in the manipulation of the price of the scrip. In spite of this finding the WTM has debarred Santosh Kumar Agarwal from accessing the securities market for a period of 5 years.

38. In ***Chintalapati Srinivasa Raju vs SEBI (2018) 7 SCC 443***, the Supreme Court held:-

> *"Non-executive directors are, therefore, persons who are not involved in the day to day affairs of the running of the Company and are not in-charge of and not responsible for the conduct of the business of the Company".*

In view of the aforesaid ruling of the Supreme Court and in view of the finding given by the WTM that Santosh Kumar Agarwal was not involved in the day to day affairs of the Company and was not part of the orchestrated scheme to manipulate the price of the scrip, the order of the WTM debarring Santosh Kumar Agarwal for a period of 5 years does not make any sense. In the absence of any reasoning, the debarment order against Santosh Kumar Agarwal is wholly misplaced.

39. In view of the aforesaid, we are of the opinion that the appellants in the first set were guilty of violation of Regulation 3 and 4 of the PFUTP Regulations except the appellant Santosh Kumar Agarwal.

40. The second set of appellants are Subodh Agarwal, noticee no. 1 who has filed Appeal no. 67 of 2021, Manish Kumar Garg, noticee no. 4 who has filed Appeal no. 358 of 2020, Raghuvansh Agrofarms Ltd., noticee no. 43 who has filed Appeal no. 422 of 2020, Vasundhara Capital & Securities Ltd., noticee no. 78 who has filed Appeal no. 481 of 2021, Litmus Investments Ltd., noticee no. 107 who has filed Appeal no. 423 of 2020, Bakliwal Vyapaar Private Limited, noticee no. 55 who has filed Appeal no. 452 of 2020, Jasmine Commodities Pvt. Ltd., noticee no. 65 who has filed Appeal no. 462 of 2020, Aviral Industries Ltd., noticee no. 53 who has filed Appeal no. 463 of 2020, Santosh Kumar Agarwal, noticee no. 83, who has filed Appeal no. 531 of 2020, Kavita Awasthi and Rishi Kant Awasthi, noticee nos. 18 and 21 who have filed Appeal no. 492 of 2020, KPK Fin Consultancy Pvt. Ltd., noticee no. 42 who has filed Appeal no. 493 of 2020, Paramjeet Singh, noticee no. 38 who has filed Appeal no. 553 of 2020, Shrishti E Systems Pvt. Ltd.,

noticee no. 47 who has filed Appeal no. 555 of 2020, Kamta Prasad Pandey, noticee no. 56 who has filed appeal no. 478 of 2020, Akhilesh Kumar Agnihotri, noticee no. 17 who has filed Appeal no. 479 of 2021, Jeetendra Kumar Agnihotri, noticee no. 26 who has filed Appeal no. 480 of 2021, Renu Agarwal, noticee no. 20 who has filed Appeal no. 482 of 2021, Raj Kumar Agarwal, noticee no. 19 who has filed Appeal no. 483 of 202, Subodh Agarwal (HUF), noticee no. 28 who has filed Appeal no. 484 of 2021, Class Commercial Pvt. Ltd. (formerly known as Scope Vyapar Pvt. Ltd.), noticee no. 103 who has filed Appeal no. 803 of 2021, Bitter Commercial Private Limited (formerly known as SKM Travels Pvt. Ltd.), noticee no. 49 who has filed Appeal no. 804 of 2021, Apex Commotrade Pvt. Ltd., noticee no. 50 who has filed Appeal no. 805 of 2021, Signet Vinimay Private Limited, noticee no. 48 who has filed Appeal no. 806 of 2021, Runicha Merchants Pvt. Ltd., noticee no. 57 who has filed Appeal no. 807 of 2021, Winall Vinimay Pvt. Ltd., noticee no. 67 who has filed Appeal no. 808 of 2021, Sankalp Vincom Private Limited, noticee no. 45 who has filed Appeal no. 809 of 2021 and Spice Merchants Private Limited, noticee no. 51 who has filed Appeal no. 810 of 2021.

41. These appellants are alleged to be price manipulators who have traded either on the buy side or on the sell side in various patches and are connected not only to Subodh Agarwal but also to the Company.

42. Subodh Agarwal contended that he has no connection with the Company or other noticees. The said appellant contended that he is not a director or officer in Sulabh Engineers and Services Ltd. i.e. the Company and is the Managing Director in Raghuvansh Agrofarm Limited which has a turnover of Rs. 140 crores. The finding that the appellant is connected with the Company is too remote and is based on historical association with the promoters, namely, Manoj Kumar Agarwal and Deepa Mittal of 2007 which has nothing to do with the allegations made in the show cause notice. The appellant further contended that the alleged connection with the noticees are too remote and immaterial and cannot justify the alleged violation and the charge against the appellant. It was contended that the connection alleged in the show cause notice as well as in the impugned order are too remote and is not purposeful and is further contradictory. Further, the finding that the appellant has contributed to positive LTP is patently erroneous as admittedly the appellant

has not traded during Patch 1-A period. Further in Patch 1-A the appellant purchased some shares but there was no increase in the LTP through those purchases. The said appellant further contended that the allegation of price manipulation against the appellant is patently erroneous and is against the evidence on record.

43. Upon consideration of the submissions made by the appellants, we find that the connection of Subodh Agarwal with the new promoters Manoj Kumar Agarwal and Deepa Mittal is clear and deep rooted. Contention that it was only a historic association is a misnomer. In fact, it was a deep rooted connection going back to several years. Further finding is that Subodh Agarwal was a director of various companies and through these companies had provided off-market transactions to various connected entities who played in the market thereby raised the price of the scrip during Patch 1-A and Patch 1-B as well as in Patch-2. The Income Tax Department vide letter dated April 27, 2015 forwarded the statements of various accommodation entry providers and one such operator Anil Khemka stated he was in the business of providing accommodation entries through bogus companies. In his evidence he stated that the Company in question was

managed by one Subodh Agarwal and that many noticees to whom accommodation entries were provided have traded in the scrip of the Company. Evidence which is undisputed records that Subodh Agarwal was directly connected through the promoter directors Manoj Kumar Agarwal and Deepa Mittal and was part of the scheme orchestrated by the promoter directors of the Company. Further, various entities and connected noticees were connected to Subodh Agarwal either directly to a common directorship or through off-market transaction or where common shareholders in a Company.

44. We find that many of these entities / noticees connected through Subodh Agarwal traded during various patch periods and were responsible for a fraudulent scheme in the scrip of the Company.

45. All the aforesaid noticees were found to have indulged in trading in the scrip of the Company which resulted in the increase of the price. We are in complete agreement with the findings arrived at by the WTM and see no distinguishable factors to come to a different conclusion. We may also point out that when the pattern of trading was similar by all the notices, then individual transactions, howsoever miniscule it

may be, loses its relevance, in which case, trading pattern of the appellants as a group is required to be considered and that is what the WTM has endeavored and has given a finding that the trades executed not only raised the price but the noticees have also benefited tremendously by making huge profits through this manipulative scheme. We are in complete agreement with the findings given by WTM and do not find any reason to differ on this.

46. The WTM has gone into details indicating that some of the appellants as sellers traded amongst themselves and increased the price of the scrip off market. Shares received by some of the appellants were traded during Patch – 1A were given by Anant Fin Consultancy Pvt. Ltd. which is one of the noticee connected to Subodh Agarwal. Evidence has been depicted in paragraph 47 of the impugned order that the off market shares delivered to these appellants were traced back this noticee Anant Fin Consultancy Pvt. Ltd. and consequently the free float of shares remained with the promoters and its connected entities and, at the same time, it substantially increased the price of the scrip. It was also found that some of the appellants, as buyers, were buying above the last traded price. Normally a buyer would always like to buy a

share at a lower price. In the instant case, the financials of the Company was not such which would lead an investor to purchase the shares at a higher price. The WTM concluded that the purchasing of the shares by some of these noticees was only with the intention to increase the price of the scrip.

47. We also find that no dispute has been raised with regard to the finding given by the WTM regarding the connection of the appellants with Subodh Agarwal or with certain companies who were directly connected to Subodh Agarwal or with the Company. The only ground urged is that the connection given in the show cause notice was different to the connection drawn in the impugned order by the WTM which in our opinion is irrelevant since the connection drawn by the WTM has not been disputed.

48. These appellants contended that the connection showed in Annexure – 3 to the show cause notice was different and distinct to the connection shown by the WTM in paragraph 24 of the impugned order and that the connection shown by the WTM is farfetched. Further, no finding has been given of any connection with the counter party in the absence of which no fraud or manipulation charge could be levelled. It was contended in any case the trades executed were minuscule

which would have no impact on the price of the scrip nor on the contribution to positive LTP. The sellers also contended that the trades were miniscule which had no impact to the contribution of positive LTP nor raise the price of the scrip. The allegation that the trades executed by the sellers manipulated the price of the scrip by placing orders above LTP were totally unsubstantiated and could not form the basis of arriving at an adverse finding against the appellants. Some of the appellants had received shares of the scrip of the Company off market. The contention of these appellants was that there was long time gap between the receipt of the shares in off market the sale of the shares on market. The counter parties to the sell trades executed by the appellants have not been made parties to the show cause notice and therefore the purported connection of the appellants as alleged in the show cause notice or in the impugned order is not established on the touchstone of the connivance. It was alternatively contended that the trades executed by these appellants was miniscule and cannot be held to be manipulative or fraudulent.

49. In this regard we find that the Company was taken over by the new promoters which had carried out and / or orchestrated plan by artificially increasing the price of the

shares of the scrip of the Company so that the new promoters as well as the connected entities could benefit by selling substantial value of shares at manipulated price. The *modus operandi* can be seen that immediately after taking over the Company the promoter directors came with two preferential allotments and thereafter the price of the scrip was artificially manipulated by the price manipulators who were connected to the Company and promoter directors. Subsequently the connected entities sold substantial shares at manipulated price. The Company and the price manipulators connected to the Company not only controlled the supply of substantial shares and manipulated the price of the scrip but the connected noticees also sold substantial shares at inflated price and made substantial gain at the expense of the general investors. The price manipulation and subsequent selling of substantial shares at inflated price constituted a scheme wherein the Company, promoter directors, the promoter group, price manipulators and other connected noticees led their respective role and hence the entire scheme operated as a fraud in connection with the dealings in the securities and also amounted to unfair trade practice and therefore violated Regulation 3 and 4 of the PFUTP Regulations.

50. The scheme was fraudulent from the very inception as the Company had negligible profits and had very weak fundamentals. The shares of this Company was never traded and suddenly trading started from December 2011 onwards wherein the manipulators entered the market and jacked up the price while the Company controlled the free float of the shares of the Company. Thus, demand arose for purchase of shares but there was no willing supplier of shares except a few shares which was being sold by the manipulators in miniscule quantities above LTP so that the price could rise from Rs. 11/- to Rs. 173.65 in Patch 1-A and Rs. 173.65 to Rs. 494/- in Patch 1-B. The two promoters along with connected entities acquired a majority of the shares of the Company and controlled the free float which resulted in a position that there was a lot of demand for purchase of shares but the shares were only being sold in miniscule quantities and that too were sold above LTP with deliberate intention to jack up the price.

51. Further, 16 connected entities which acquired shares from the erstwhile promoters pointed out to a common intent of cornering the shares of the Company so that the entire paid

up share capital except 300 shares was cornered by the promoter group and the connected entities.

52. We are satisfied that connected noticees devised a scheme so as to manipulate the price of the scrip which was a dormant scrip. The scheme involved allotment of shares to connected entities, announcing a stock split, pumping up the share price artificially and eventually providing an exit to the other connected entities so that huge profits could be earned.

53. Perusal of the show cause notice and the impugned order shows that the connection was established in the impugned order which has not been disputed by the appellants.

54. It is well settled principle that two entities who are transferring shares in off market can be considered as connected entities. For the purpose of establishing a connection, it is irrelevant whether off market transaction is of the underlying scrip or of any other scrip for. The rationale is that the mere fact the appellants have transacted in off market are thus connected with each other. The entities who have an off market transfer have a common link and they know each other to enter into an off market transaction.

55. Thus, the appellants together with other noticees including the promoter directors etc together launched a fraudulent scheme by using a dormant low capital base and low public float company. Thus, the role of all the noticees as a group has to be seen and individual role of each of the appellants is thus not required to be considered unless there is a glaring departure of individual's role from the group's role. The very fact that by selling a small part of their holdings the appellants were able to generate huge profits compared to their initial investment by itself is an eye-opener of the wrong dealings and therefore the submissions of some of the appellants that they are still holdings shares have no relevance. The contention that there is no specific charge of price manipulation is wholly erroneous, the appellants by off loading their shares at inflated price had to enter the market only after the price rise and the execution of their trades made the price fall taking advantage of the huge price rise was by itself fraudulent.

56. In view of the aforesaid, the contention raised by the appellants does not hold merit and is rejected.

57. The 3rd set of appellants are 32 noticees, namely, noticee no. 123 Manoj Agarwal Appeal no. 399 of 2020,

noticee no. 124 Praveen Kurele Appeal no. 319 of 2020, noticee no. 125 Vinay Kumar Agarwal Appeal no. 501 of 2020, noticee no. 126 Som Prakash Goenka Appeal no. 323 of 2020, noticee no. 127 Naveen Kurele Appeal no. 319 of 2020, noticee no. 128 Mridula Agrawal Appeal no. 477 of 2021, noticee no. 129 Narender Kumar Appeal no. 400 of 2020, noticee no. 130 Manisha Sharma Appeal no. 435 of 2020, noticee no. 131 Seema Kapoor Appeal no. 480 of 2020, noticee no. 132 Sanjeev Sanghi Appeal no. 364 of 2020, noticee no. 133 Mahabir Persad HUF Appeal no. 400 of 2020, noticee no. 134 Deepak Kumar Agarwal Appeal no. 453 of 2020, noticee no. 135 Sanjay Kapoor Appeal no. 480 of 2020, noticee no. 136 Sapna Kapoor Appeal no. 480 of 2020, noticee no. 137 Sunil Kapoor Appeal no. 480 of 2020, noticee no. 138 Ashok Kumar Maheshwari Appeal no. 398 of 2020, noticee no. 139 Vivek Karwa Appeal no. 375 of 2020, noticee no. 140 Roopchandra Kumar (appeal not filed), noticee no. 141 Sabreen (appeal not filed), noticee no. 142 Sanjay Kumar HUF Appeal no. 400 of 2020, noticee no. 143 Arun Kumar HUF Appeal no. 400 of 2020, noticee no. 144 Raj Kumar Appeal no. 131 of 2021, noticee no. 145 Manish Maheshwari Appeal no. 398 of 2020, noticee no. 146 Mahak Maheshwari Appeal no. 398 of 2020, noticee no. 147 Sajan Kumar

Agarwal Appeal no. 374 of 2020, noticee no. 148 Narender Kumar HUF Appeal no. 400 of 2020, noticee no. 149 Shubham Agarwal Appeal no. 437 of 2020 and noticee no. 150 Ashish Agarwal Appeal no. 437 of 2020, Surendra Kumar Gupta, noticee no. 8, Appeal no. 324 of 2020, Divya Agarwal, noticee no. 2, Appeal no. 401 of 2020, Praveen Kumar Mishra, noticee no. 7, Appeal no. 376 of 2020, Geeta Mishra, noticee no. 3, Appeal no. 376 of 2020, Sanjay Kumar, noticee no. 5, Appeal no. 377 of 2020, Pranveer Singh, noticee no. 6, Appeal no. 365 of 2020. Majority of the appellants in this set are preferential allottees except noticee nos. 128, 130, 140 and 141 who have purchased shares through off market from an entity who is connected to Subodh Agarwal and therefore connected with the Company. The common submission in this group is that there is no allegation of price manipulation against the appellants. The show cause notice does not allege that the appellants have indulged in price manipulation of the scrip. The only contention is, that they were allottees under the preferential allotment and therefore were connected to the Company. Insofar as the four other noticees are concerned they had purchased shares through off market transactions and therefore the allegation is that they were connected to the

Company. Basic allegations against these appellants are that they are beneficiaries of the price manipulation having sold their shares at a time when the price of this scrip was higher. Further contention of the appellants is that there is no material to establish connection between the appellants and related parties who have alleged to play an individual role in the price manipulation and that an adverse inference has been drawn on the basis of surmises and conjectures on the sole ground that being preferential allottees or buying shares off market indicates that there is a connection between the parties. It was submitted that apart from the fact of purchasing off market by some of the appellants and other being preferential allottees there is no other evidence to show any other connection between the appellants and the Company and its directors. There is also no evidence to show that the appellants had indulged in price manipulation. It was further contended that 31 preferential allottees have already been exonerated who had sold shares amounting to Rs. 132 crore and therefore if such preferential allottees who were also connected to the Company and its promoter director there is no reason why a different treatment was being meted out to the appellants. It was urged that the appellants had only sold the shares and earned profits and by selling shares no fraud is made out

under Regulation 4(b) of the PFUTP Regulations. It was also contended that sales made by the appellants were traded / executed in the open market and that the appellants had no control over the price discovery and that the price was determined as per the market demand and supply mechanism. Further, the appellants only sold a small portion of the total shareholding and still hold a substantial portion. It was contended that if the appellants had any thought of price manipulation it would have off loaded the entire shares. It was urged that action of the respondent was wholly arbitrary as well as discriminatory.

58. There is no doubt that private placements of shares are rarely given to unknown entities and consequently it can be safely presumed that preferential allottees are known the Company. One could easily club the preferential allottees in the premeditated scheme to benefit them from the price manipulation which was launched by the promoter directors. However, we find that out of 66 preferential entities 31 preferential entities have been exonerated by the WTM. No reasons have been given as to why these preferential allottees who were exonerated had sold shares worth Rs. 132 crore. In the instant case, there is no finding that these preferential

allottees had increased the price of the scrip or contributed to positive LTP. Further, there is no finding that these preferential allottees had any connection with the counter parties. Thus, merely because the appellants reaped in huge profits by selling the shares cannot make them part and parcel of the fraudulent scheme hatched by the Company and the new promoters including Subodh Agarwal.

59. Some of the preferential allottees, namely, noticee no. 2, 3, 5, 6, 7 and 8 are also alleged to have received some shares from another entity in which Subodh Agarwal was a director and on that basis these preferential allottees have been booked. In our opinion, merely because these preferential allottees also received some shares from another entity in which Subodh Agarwal was a director does not make their trades tainted unless it is shown that they also traded for the purpose of increasing the price of the scrip. Merely by selling the shares does not manipulate the price of the scrip or become a part of the fraudulent scheme. Similarly the connection drawn for noticee nos. 128, 130, 140 and 141 is too remote and cannot lead to a conclusion that these noticees are also part of the fraudulent scheme.

60. Considering the aforesaid, we are of the opinion that the case of these preferential allottees and the four noticees is required to be considered afresh. The WTM is required to go into the trades executed by these preferential alottees and is required to consider as to whether the trades executed by these preferential allottees and the four noticees are similar to the trades executed by the 31 preferential entities who were exonerated. If the circumstances are similar then in our opinion these preferential allottees are required to be given similar benefit that was given to the 31 preferential allottees. In the event trades have been executed by the preferential allottees which contributed to positive LTP or if it is found that the trades were manipulative and were part of the orchestrated scheme and created an impact in which case appropriate orders would be passed.

61. In view of the aforesaid, Appeal no. 356 of 2021 filed by Santosh Kumar Agarwal is allowed. The impugned order insofar as it relates to this appellant is quashed. Appeal nos. 399 of 2020 filed by Manoj Agarwal, 319 of 2020 filed by Praveen Kurele and Naveen Kurele, 501 of 2020 filed by Vinay Kumar Agarwal, 323 of 2020 filed by Som Prakash Goenka, 477 of 2021 filed by Mridula Agrawal, 400 of 2020

filed by Narender Kumar, Mahabir Pershad HUF, Sanjay Kumar HUF, Arun Kumar HUF and Narender Kumar HUF, 435 of 2020 filed by Manisha Sharma, 364 of 2020 filed by Sanjeev Sanghi, 453 of 2020 filed by Deepak Kumar Agarwal, 480 of 2020 filed by Seema Kapoor, Sanjay Kapoor, Sapna Kapoor and Sunil Kapoor, 398 of 2020 filed by Ashok Kumar Maheshwari, Manish Maheshwari and Mahak Maheshwari, 375 of 2020 filed by Vivek Karwa, 131 of 2021 filed by Raj Kumar, 374 of 2020 filed by Sajan Kumar Agarwal, 437 of 2020 filed by Shubham Agarwal and Ashish Agarwal, 324 of 2020 filed by Surendra Kumar Gupta, 401 of 2020 filed by Divya Agarwal, 376 of 2020 filed Geeta Mishra and Praveen Kumar Mishra, 377 of 2020 filed by Sanjay Kumar and 365 of 2020 filed by Pranveer Singh are allowed. The impugned order insofar as it relates to these appellants is quashed. The matter is remitted to the WTM to re-decide the matter insofar as these appellants are concerned in the light of the observation made above after giving them an opportunity of hearing. All other appeals are dismissed. The miscellaneous applications are disposed of. In the circumstances of the case, parties shall bear their own costs.

62. This order will be digitally signed by the Private Secretary on behalf of the bench and all concerned parties are directed to act on the digitally signed copy of this order. Certified copy of this order is also available from the Registry on payment of usual charges.

Justice Tarun Agarwala
Presiding Officer

Justice M.T. Joshi
Judicial Member

29.04.2022
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