

**BEFORE THE SECURITIES AND EXCHANGE BOARD OF INDIA
CORAM: MADHABI PURI BUCH, WHOLE TIME MEMBER
FINAL ORDER**

**Under Sections 11(1), 11(4) and 11B of the Securities and Exchange Board of
India Act, 1992**

**In Re: Securities and Exchange Board of India (Prohibition of Fraudulent and
Unfair Trade Practices Relating to Securities Market) Regulations, 2003**

In respect of:

S. No.	Name of the Entity	PAN
1.	Mr. Amit Chouhan	AGHPC1982E

In the matter of Hasti Finance Ltd.

BACKGROUND

1. Hasti Finance Ltd. (hereinafter referred to as “**HFL / Company**”) is in the business of leasing, hire purchase and investment banking. The company is listed on BSE.
2. Securities and Exchange Board of India (hereinafter referred to as “**SEBI**”) conducted an investigation in the scrip of HFL based on a reference received from the Principal Director of Income Tax (Investigation), Kolkata. The focus of the investigation was to ascertain whether there were any violations of the provisions of Securities and Exchange Board of India Act, 1992 (hereinafter referred to as “**SEBI Act**”) and SEBI (Prohibition of Fraudulent and Unfair Trade Practices relating to Securities Market) Regulations, 2003 (hereinafter referred to as “**PFUTP Regulations**”) by certain entities in the scrip of HFL during the period August 27, 2010 to August 31, 2015 (hereinafter referred to as “**Investigation Period**”).

3. During the investigation period, corporate announcements were related to AGMs, declaration of financial results, consolidation of share capital, issuance of GDRs, preferential allotment, and other disclosures. No major impact of the corporate announcements on the scrip price was observed. Further, it is observed from the Investigation Report (hereinafter referred to as “IR”) that the company showed a rise in profit during the year ended March 2011 from ₹ 0.06 crore to ₹ 0.68 crore and thereafter showed a continuous fall between years ended March 2012 to March 2016. The company made a loss of ₹ 0.05 crore during year ended March 2016.
4. Based on price rise/fall, 6 patches were identified. A brief summary of the said 6 patches is as follows:

Period	Date		Opening Price (volume) on first day of the period(₹)	Closing price (volume) on last day of the period (₹)	Low price(volume) during the period (₹) / Date	High Price(volume) during the period (₹) / Date	Avg. Price / No. of (shares) traded daily during the period
Pre-Invsg.	27/05/2010 to 26/08/2010	Price	25.3	23.9	20.4 (27/05/2010)	36 (08/07/2010)	26.70
		Volume	1420	481	1 (14/06/2010)	15471(06/07/2010)	1738
Investigation – Patch 1	27/08/2010 to 06/06/2011 (price rise)	Price	23	84.2	18.35 (30/09/2010)	84.75 (06/06/2011)	44.75
		Volume	991	10271	1(31/07/2010)	76445 (07/04/2011)	6719
Investigation – Patch 2	07/06/2011 to 08/10/2012 (price fall)	Price	86.5	52.5	48.5 (17/09/2012)	88.8 (09/06/2011)	70.17
		Volume	5607	2307	1(05/09/2011)	73460 (05/07/2011)	4653
Investigation – Patch 3	09/10/2012 to 03/12/2012 (price rise)	Price	52.5	84.9	48.1 (10/10/2012)	89.65 (30/11/2012)	71.94
		Volume	1653	14195	10 (29/11/2012)	77982 (26/10/2012)	9249
Investigation – Patch 4	04/12/2012 to 05/04/2013 (price fall)	Price	84.65	43.2	43.20 (05/04/2013)	84.75 (05/12/2012)	71.70
		Volume	5289	1	1 (28/03/2013)	21742 (22/01/2013)	2628
Investigation – Patch 5	*11/04/2013 to 31/03/2014 (price rise)	Price	45.35	76.8	45.35 (11/04/2013)	80.9 (14/05/2013)	67.34
		Volume	1	1	1 (11/04/2013)	7500 (13/09/2013)	11797

Investigation - Patch 6	**09/04/2014 to 31/08/2015 (price fall)	Price	76.8	12.05	10.8 (29/07/2015)	76.8 (09/04/2014)	25.10
		Volume	3	2	1 (05/05/2014)	24580 (13/08/2014)	746
Post Investigation	01/09/2015 to 30/11/2015	Price	12.05	15.49	10.93 (09/10/2015)	15.49 (30/11/2015)	13
		Volume	20	18	1 (19/11/2015)	38838 (30/11/2015)	2229

* no trading between April 6, 2013 to April 10, 2013

** no trading between the period April 1, 2014 to April 8, 2014

SHOW CAUSE NOTICE

5. Consequent to the investigation, a show cause notice dated September 26, 2017 (hereinafter referred to as “SCN”) was sent to Mr. Amit Chouhan (hereinafter referred to as “Noticee”) in the extant matter. The SCN *inter alia* alleged as follows:

a) The Last Traded Price (hereinafter referred to as “LTP”) analysis of the 6 patches was done and the details of Patch 3 is given below:

LTP Analysis: Patch 3 - Price rise patch from October 9, 2012 to December 3, 2012:

- During this patch, the scrip price opened at ₹ 52.50 and closed at ₹ 84.90. The net rise in the scrip price is ₹ 32.40. Since this was a price rise patch, buy side of the trades were analysed. On the basis of their net positive LTP contribution as buyers, the following top 10 entities were considered for further analysis:

Sr. No.	Entity	All trades			LTP Diff. >0			LTP Diff. < 0			LTP Diff. =0		% of +ve LTP to Total Mkt +ve LTP
		LTP impact	Sum of Quantity	No of trades	LTP impact	Sum of Quantity	No of trades	LTP impact	Sum of Quantity	No of trades	Sum of Quantity	No of trades	
1	CHETAN MUKUNDRAI PAREKH	98.25	27718	412	140.85	8159	140	-42.60	7940	120	11619	152	20.09
2	AMIT CHOUHAN	83.55	393	57	95.35	166	39	-11.80	64	8	163	10	13.60

3	ASHOK KUMAR SAMANTRAY	24.30	11351	154	50.8	927	40	-26.5	7395	71	3029	43	7.25
4	DILIP VANVIR SHAH	21.15	51673	187	38.40	17772	58	-17.25	12733	55	21168	74	5.48
5	NEETA M SANKHE	16.65	2000	37	16.8	839	23	-0.15	486	2	675	12	2.40
6	SHRAVAN KESHUJI CHAVADA	13.85	11220	116	25.5	1989	37	-11.65	3182	48	6049	31	3.64
7	BHAVANA JITENDRA MAYEKAR	13	418	13	13.3	43	7	-0.30	375	6	0	0	1.90
8	PADMANABHA JAGANNATH KOTIAN	10.90	3547	28	10.90	1153	11	0	0	0	2394	17	1.55
9	VIJAY GENBHAU GULVE	7.65	5491	39	14.75	1654	12	-7.10	77	5	3760	22	2.10
10	SURENDRA KUMAR TOWRANI	7.55	645	32	16.10	38	9	-8.15	32	4	575	19	2.30
	Total LTP of Top 10 entities	296.85	114456	1075	422.75	32740	376	-125.50	32284	319	49432	380	60.30
	Remaining entities	-264.45	227788	1580	278.45	59816	327	-543.30	71372	644	96600	609	39.71
	Market LTP	32.40	342244	2655	701.20	92556	703	-668.80	103656	963	146032	989	100.00

- From the above table, it is noted that top 10 buy entities have contributed ₹ 422.75 to positive LTP (60.30% of total market positive LTP) out of ₹ 701.20 total market positive LTP in the price rise period. Net positive LTP contribution of above mentioned entities is ₹ 296.85.
- Out of the total purchase through 57 trades, Noticee contributed ₹ 95.35 to positive LTP (13.60% of total market positive LTP) through 39 trades. On analysis of these 39 positive LTP contributing trades, it was noted that in 38 trades, the buy orders were placed after respective sell orders. While for the remaining 1 trade, the buy order was placed before the sell order. However on further analysis of the positive LTP contributing trades of Noticee the following was noted:

Sl. No.	Description	No. of trades	LTP Contribution (₹)	% of total market positive LTP
1	Trades where buy order qty is 1 share	27	79.55	11.34

2	Trades where buy order qty is 2 - 10 shares	8	10.9	1.55
3	Trades where buy order qty is more than 10 shares	4	4.9	0.70
4	All buy trades which contributed to positive LTP	39	95.35	13.60

- As can be seen from the above, out of the 39 buy trades of the Noticee contributing positive LTP of ₹ 95.35, for 35 trades (89.74% of his total positive trades) the buy order quantity was in the range of 1-10 shares which contributed to positive LTP of ₹ 90.45 during Patch 3. It was noted that 14 out of the 39 positive LTP contributing trades of the Noticee were self trades where positive LTP contribution was ₹ 54 (7.70% of the total market positive LTP). It was also observed that these 14 trades included the top 5 positive LTP contributing trades. An illustration of these top 5 positive LTP contributing trades is given below:

Batch Date	Buyer Name	Seller Name	Trade Time	Buy Order Time	Sell Order Time	Trade Price	LTP Difference	Buy Order Price	Sell Order Price	Trade Qty	Sell Order Disclosure Vol	Buy Order Qty
10.10.2012	AMIT CHOUHAN	AMIT CHOUHAN	09:08:28.1682480	09:06:57.6394830	09:06:55.4365350	65.2	10.2	0	65.2	1	1	1
10.10.2012	AMIT CHOUHAN	AMIT CHOUHAN	09:22:23.3123180	09:22:23.2442100	09:22:22.0257480	55.95	7.85	56	55.95	1	1	1
11.10.2012	AMIT CHOUHAN	AMIT CHOUHAN	09:08:27.2564370	09:06:59.2389050	09:06:57.8480510	62.4	7.05	62.45	62.4	1	1	1
09.10.2012	AMIT CHOUHAN	AMIT CHOUHAN	10:05:30.3290930	10:05:30.3064400	10:05:29.1807960	55.95	5.95	56	56.9	1	3	1
25.10.2012	AMIT CHOUHAN	AMIT CHOUHAN	09:32:44.6521370	09:32:44.5504380	09:32:43.2237820	68.95	4.9	69	68.95	5	5	5

- Considering that Noticee had repeatedly entered into such trades (35 instances including 14 self trades), it is alleged that Noticee was not acting as genuine buyer and had no bona fide intention to buy. It is further alleged from the above trading pattern that the intention of Noticee was to mark the price higher.

b) In view of the above it is alleged that the Noticee had manipulated the price of the scrip and created a misleading appearance of trading in the scrip by such trades.

Hence, it is alleged that Noticee has violated Regulations 3(a),(b),(c),(d) and Regulations 4(1), 4(2)(a) and (e) of PFUTP Regulations.

- c) The Noticee was advised to show cause as to why suitable actions/directions in terms of Sections 11(1), 11(4) and 11B of SEBI Act should not be initiated against her for the alleged violation of the provisions of PFUTP Regulations.

REPLY & HEARING

6. Considering no reply was received from the Noticee in response to the SCN, the Noticee was advised vide a letter dated July 19, 2017 to submit a reply in the matter on or before August 3, 2018. Proof of service of the letter is on record. However, SEBI has not received any reply in the extant matter from the Noticee till date.
7. Vide hearing notice dated November 12, 2018, Noticee was granted an opportunity of hearing on December 12, 2018 at SEBI Bhavan, Mumbai. However, due to administrative exigency, the scheduled hearing in the matter was postponed to December 13, 2018. The same was informed to the Noticee vide hearing notice dated December 10, 2018. Proof of service of hearing notice is on record.
8. Noticee failed to appear for the personal hearing without giving any reason. In view of the facts and circumstances of the case and failure of the Noticee to avail the opportunity of hearing, I am of the view that principles of natural justice have been followed in the matter and I deem it appropriate to decide the matter on the basis of facts / material available on record.

FINDINGS & CONSIDERATIONS

9. Before delving into the merits of the case, I note that the Noticee has neither replied to the SCN inspite of being reminded vide letter dated July 19, 2017 nor has attended the hearing. Proof of reminder letter and hearing notices are on record. In this regard, the observations of Hon'ble Securities Appellate Tribunal (hereinafter referred to as 'SAT') in the matter of *Sanjay Kumar Tayal & Others Vs. SEBI* decided on February 11, 2014 is pertinent here. The Hon'ble Tribunal observed as follows:

"...As rightly contended by Mr. Rustomjee, learned senior counsel for respondents,

appellants have neither filed reply to show cause notices issued to them nor availed opportunity of personal hearing offered to them in the adjudication proceedings and, therefore, appellants are presumed to have admitted charges leveled against them in the show cause notices...”

10. Without prejudice to the above observation, I proceed to examine the matter on merits. To that effect, I have perused the SCN and other materials available on record. On perusal of the same, the following issues arise for consideration:

- (i) Whether the Noticee has manipulated the price in the scrip of HFL and created a misleading appearance of trading in the scrip during the period October 9, 2012 to December 3, 2012?
- (ii) If answer to issue No. (i) is in affirmative, whether the Noticee has violated the provisions of PFUTP Regulations?
- (iii) If answer to issue Nos. (ii) is in affirmative, what directions, if any should be issued against the Noticee?

11. The provisions of PFUTP Regulations relevant for necessary discussions in the extant matter, is reproduce hereunder:

Regulation 3. Prohibition of certain dealings in securities

No person shall directly or indirectly—

- (a) buy, sell or otherwise deal in securities in a fraudulent manner;
- (b) use or employ, in connection with issue, purchase or sale of any security listed or proposed to be listed in a recognized stock exchange, any manipulative or deceptive device or contrivance in contravention of the provisions of the Act or the rules or the regulations made there under;
- (c) employ any device, scheme or artifice to defraud in connection with dealing in or issue of securities which are listed or proposed to be listed on a recognized stock exchange;

(d) engage in any act, practice, course of business which operates or would operate as fraud or deceit upon any person in connection with any dealing in or issue of securities which are listed or proposed to be listed on a recognized stock exchange in contravention of the provisions of the Act or the rules and the regulations made there under.

Regulation 4. Prohibition of manipulative, fraudulent and unfair trade practices

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

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

(a) indulging in an act which creates false or misleading appearance of trading in the securities market;

...

(e) any act or omission amounting to manipulation of the price of a security;

Issue No. 1 - *Whether the Noticee has manipulated the price in the scrip of HFL and created a misleading appearance of trading in the scrip during the period October 9, 2012 to December 3, 2012?*

12. It is observed from the IR that during the relevant patch i.e. patch-3 of the investigation period, the price of the scrip opened at ₹ 52.50 and closed at ₹ 84.90. The net rise in the scrip price is ₹ 32.40 which is an increase of 61.71%. The price rise in the scrip happened without any underlying fundamental reasons or without any significant corporate announcements. During the same time the S&P BSE SENSEX increased by 2.71%.

13. It is noted from the material made available on record that out of the total purchase through 57 trades, Noticee contributed ₹ 95.35 to positive LTP (13.60% of total

market positive LTP) through 39 trades, which is 68.42% of his total trade in the scrip. It is further observed that for 35 trades out of 39 trades (89.74% of his total positive trades) the buy order quantity is in the range of 1-10 shares which contributed to positive LTP of ₹ 90.45 during Patch 3. It is noted that 14 out of the 39 positive LTP contributing trades of the Noticee (35.89% of his positive LTP trades), were self trades where positive LTP contribution was ₹ 54 (7.70% of the total market positive LTP). It is also observed that these 14 trades included the top 5 positive LTP contributing trades. An illustration of these top 5 positive LTP contributing trades is given below:

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14. I note that trades at higher than LTP, undoubtedly have a potential of raising the price of the scrip and the same gives a wrong impression about the price of the scrip in the market based on miniscule quantities traded. It must not be forgotten that every trade establishes the price of the scrip and trades executed at higher than LTP results in the price of the scrip going up which may influence the innocent/gullible investors. In cases of market manipulation, admittedly, no direct evidence would be forthcoming / available. Manipulative transactions are to be tested on the conduct of parties and abnormality of practices which defy normal logic and laid down procedures. What is needed, is to prove that in a factual matrix, preponderance of probabilities indicate a fraud. In this regard, the observations of Hon'ble Supreme

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

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

15. In the instant matter Noticee has executed 68.42% of his total trades in the scrip over the LTP and 61.40% of his total trades in the scrip is for miniscule quantity (less than or equal to 5 shares). Further the Noticee has repeatedly placed buy orders for miniscule quantity of shares over the LTP at frequent intervals, i.e., on 35 instances on 24 trading days between the period, October 9, 2012 to November 12, 2012. Even if for a moment, it is assumed that the Noticee had a great desire to buy the shares, it is noted that on 13 instances when the trade for single share got executed, the sell order disclosed volume was for more than 1 share. Thus, sell orders for higher quantities were existing in the system when the Noticee had placed order for single share. If the Noticee was a genuine buyer then he had the opportunity to buy more than one share of the company on multiple occasions but still he chose not to buy shares more than one at a time and continued to execute buy trades over the LTP by buying just one share at a time. It is not the case of the Noticee that on multiple occasions he had placed buy orders for more than 5 shares at LTP or lower than LTP and his order was not executed during the Patch. Further, the fundamentals of the company also do not support the persistent interest shown by the Noticee in buying

the scrip at prices higher than LTP.

16. Here, I would like to quote the order of Hon'ble SAT in the matter of *Shri Lakhi Prasad Kheradi Vs. SEBI* decided on June 21, 2018 wherein the Hon'ble Tribunal was addressing the issue wherein the entity had contributed to 9.17% of the market New High Price in 9 trades for 1 share each for the total value of 9 shares within a span of two weeks. The Hon'ble Tribunal observed as follows:

"...Very fact that the appellant had indulged in self trades/ LTP/ NHP without giving any justifiable reason, clearly justifies the inference drawn by the AO that the trades executed by the appellant were manipulative trades..."

17. During the period, October 9, 2012 to December 3, 2012, the average trading volume in the scrip was 9,249 shares which was a jump of 49.69% from the previous period of June 7, 2011 to October 8, 2012. From the IR, it is noted that there were other buyers in the scrip who have executed large number of trades for significant volume at LTP or lower than LTP. Considering the Noticee was active in the scrip, instead of executing 68.42% of his trades over LTP, he had the opportunity to buy shares at LTP or lower than LTP which is evident from his trade details, confirming that he had also bought shares at LTP or lower than LTP.

18. Here, it is noteworthy to quote the observations of Hon'ble Securities Appellate Tribunal in the matter of *Saumil Bhavnagari Vs. SEBI* decided on March 21, 2014 wherein it was observed as follows:

"...It is relevant to note that out of 85 trades, most of the trades placed are above the LTP and some of the trades placed by appellant were below the LTP. This was done evidently with ulterior motives, because, if shares were available for a lesser price, there was no reason to place orders at a price higher than the LTP and if orders at prices higher than LTP were placed on account of the financial status of the company then there was no reason to place some orders below the LTP..."

19. Furthermore, it is noted from the records that the Noticee has also executed 14 self trades in the scrip which had a significant positive LTP contribution of ₹ 54/-

representing 7.70% of the total market positive LTP. It is noted from the order log trade log that the said 14 self trades were executed at frequent intervals between the period October 8, 2012 to October 23, 2012. In other words, in 12 trading days, the self trades were executed on 6 trading days. Further, in 10 of such self trades, the counter party buy order was placed within seconds of placing of the sell order. In this regard, Hon'ble SAT in the matter of *Chirag Tanna Vs The Adjudicating Officer* dated June 16, 2011 observed as follows:

"... we have on record the trade and order logs from which it has been pointed out by the learned counsel for the respondent Board that the appellant had executed self trades i.e. trades in which he was both the buyer and the seller. Such trades are, admittedly, fictitious and create artificial volumes in the traded scrip..."

20. Taking support of the aforesaid Hon'ble SAT observations and findings arrived at paragraph 18, I have no hesitation in holding that the aforesaid 14 trades are fictitious in nature as there was no change in the beneficial ownership of the shares traded. Such trades are only meant to create artificial volumes and price and they disturb the market equilibrium. It is also not the case of the Noticee that these trades were accidental in any way.

21. In view of the above, the findings that have been gathered from various circumstances for instance miniscule volume of the trade effected, the period of persistence in trading in the scrip and the particulars of the buy and sell orders including the self trades, the totality of the picture that emerges, indicates that the Noticee is not a genuine investor in the scrip of HFL. By placing buy orders for miniscule quantity on 35 instances, the Noticee has contributed to market positive LTP creation of ₹ 90.45. Further, by executing self trades in the scrip, the Noticee's positive LTP contribution is ₹ 54. Therefore, it is held that the Noticee had no bona-fide intention to buy the shares but to mark the price higher than the last traded price and manipulate the price of the scrip of HFL during the period October 9, 2012 to December 3, 2012. It has also created a misleading appearance of trading in the scrip.

Issue No. 2 - *If answer to issue No. (i) is in affirmative, whether the Noticee has violated*

the provisions of PFUTP Regulations?

22. In view of the conclusion arrived at paragraph 20, I find that the Noticee has violated Regulations 3(a),(b),(c),(d) and Regulations 4(1), 4(2) (a) and (e) of PFUTP Regulations.

Issue No. 3 - *If answer to issue Nos. (ii) is in affirmative, what directions, if any should be issued against the Noticee?*

23. In view of the violations committed by the Noticee, I find that it becomes necessary for SEBI to issue appropriate directions against the Noticee.

ORDER

24. In the facts and circumstances of the case, I, in exercise of the powers conferred upon me in terms of Section 19 read with Sections 11(1), 11(4) and 11B of the Securities and Exchange Board of India Act, 1992, hereby restrain Mr. Amit Chouhan (PAN; AGHPC1982E) from accessing the securities market for a period of four years from the date of this order and further prohibit him from buying, selling or otherwise dealing in securities, directly or indirectly, or being associated with the securities market in any manner, whatsoever, for a period of four years, from the date of this order. During the period of restraint, the existing holding, including units of mutual funds, of the Noticee shall remain frozen.

25. The order shall come into force with immediate effect.

26. A copy of this order shall be served upon all recognised Stock Exchanges, Depositories and the Registrar and Share Transfer Agents to ensure compliance with the above directions.

-Sd-

DATE: December 28 , 2018

PLACE: Mumbai

**MADHABI PURI BUCH
WHOLE TIME MEMBER
SECURITIES AND EXCHANGE BOARD OF INDIA**