

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.	Shri Abhijeet Chandrahas Asai	AGEPA8137G

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 only 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-Inv.	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 Shri Abhijeet Chandrahas Asai (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 1 is given below:

LTP Analysis: Patch 1 - Price rise patch from August 27, 2010 to June 6, 2011:

- During this patch, the scrip price opened at ₹ 23.00 and closed at ₹ 84.20. The net rise in the scrip price is ₹ 61.20. 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	MOHAMMADILIYA S I SHAIKH	49.30	35226	170	57.10	23672	110	-7.80	1327	18	10227	42	4.47

2	ABHIJEET CHANDRAHAS ASAI	43.45	5172	264	121.50	1014	70	-78.05	1765	151	2393	43	9.51
3	PARAG RAMESH KALWANKAR	37.80	3607	214	87.85	629	59	-50.05	1258	103	1720	52	6.88
4	VANMALA DWARPALAK	31.60	49893	208	40.2	12394	70	-8.60	6496	25	31003	113	3.15
5	SURENDER KUMAR SUNTWAL	29.15	54551	131	35.05	26868	74	-5.90	8666	6	19017	51	2.75
6	MIITESH CHUNILAL DESAI	24.10	38938	144	30.35	19244	67	-6.25	4073	19	15621	58	2.38
7	FAST TRACK MARKETING SERVICES PRIVATE LIMITED	19.40	55081	79	20.15	6218	17	-0.75	4453	4	44410	58	1.58
8	HIMADRI ACHARYA BHADURI	18.15	1664	25	19.85	54	5	-1.70	8	8	1602	12	1.55
9	RATNAPRABHA VASANTRAO JADHAV	17.20	22245	47	23.35	16024	24	-6.15	1533	9	4688	14	1.83
10	BABABHAI PARMAR MANUBHAI	16.75	1300	6	16.75	1300	6	0	0	0	0	0	1.31
	Total LTP of Top 10 entities	286.90	267677	1288	452.15	107417	502	-165.25	29579	343	130681	443	35.41
	Remaining entities	-225.70	1002231	4963	824.85	222794	1124	-1050.55	266685	1522	512752	2317	64.59
	Market LTP	61.20	1269908	6251	1277.00	330211	1626	-1215.80	296264	1865	643433	2760	100.00

- From the above table, it is noted that top 10 buy entities have contributed ₹ 452.15 to positive LTP (35.41% of total market positive LTP) out of ₹ 1277.00 total market positive LTP in the patch 1, price rise period. Net positive LTP contribution of above mentioned entities is ₹ 286.90.
- Out of the total purchase through 264 trades, Noticee contributed ₹ 121.50 to positive LTP (9.51% of total market positive LTP) through 70 trades. On analysis of these 70 positive LTP contributing trades, it was noted that in 66 trades, the buy orders were placed after respective sell orders. While for the remaining 4 trades, the buy orders were placed before the sell order. The counter parties to the above mentioned 70 trades were scattered. No connection was observed between the Noticee and the major counter parties to his positive LTP contributing trades. However, on further analysis of the positive LTP contributing trades of the Noticee, it was observed that in 61 out of the 70 positive LTP contributing trades, buy order placed by the Noticee was for 1 share even though sell orders were available for higher quantities. Details of the 70 positive trades are as under:

Sl. No.	Description	No. of trades	LTP Contribution (₹)	% of total market positive LTP
1	Trades where buy order qty is 1 share	61	106.9	8.37
2	Trades where buy order qty is 2 - 10 shares	2	4.6	0.36
3	Trades where buy order qty is more than 10	7	10	0.78
4	All buy trades which contributed to positive LTP	70	121.5	9.51

- As can be seen from the above, out of the 70 buy trades of the Noticee contributing positive LTP of ₹ 121.50, for 63 trades (90% of his total positive trades) the buy order quantity was in the range of 1-10 shares which contributed to positive LTP of ₹ 111.50, during Patch 1, price rise of the investigation period. An illustration of the top 5 positive LTP contributing trades of 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 Disclose Volume	Buy Order Qty
12.05.2011	ABHIJEET	AMIT JAYESH SHETH	11:03:20.8733450	11:03:20.8194340	10:43:06.7814150	71.75	6.35	71.75	71.75	1	300	1
19.05.2011	ABHIJEET	BHARTIBEN KANTILAL SHAH	09:27:44.1426540	09:27:44.1141450	09:21:41.2709610	71.9	5.4	71.9	71.9	1	200	1
24.05.2011	ABHIJEET	AMIT JAYESH SHETH	11:17:33.6101490	11:17:33.5511610	09:49:22.8141980	68.95	3.9	68.95	68.95	1	162	1
12.05.2011	ABHIJEET	AMIT JAYESH SHETH	09:17:05.5199780	09:17:05.4737990	09:16:35.5196000	71.85	3.85	71.85	71.85	1	500	1
23.05.2011	ABHIJEET	STUISH CAPITAL SERVICES	09:35:51.1708370	09:35:51.1428720	09:31:18.2087220	69.85	3.75	69.9	69.85	1	50	1

- As can be seen from the above illustration in respect of top 5 positive LTP contributing trades, while the disclosed volume of the sell orders were large, buy orders were placed for 1 share, for which quantity the above trades were executed. These 5 trades for small quantity were executed on 4 days and contributed to significant positive LTP.
- Considering that Noticee had repeatedly entered into such trades (63 instances), it is alleged that Noticee was not acting as genuine buyer and had no bona fide intention to buy because in spite of most of the disclosed quantity of sell orders being larger, he was placing small quantity buy orders by

matching or placing orders at prices slightly higher than sell order price which were already above LTP thereby contributing to significant positive LTP. It is further alleged from the above trading pattern that the intention of Noticee was to mark the price higher and not merely to enter into the buy transactions..

- 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. Vide letter dated July 19, 2018, the Noticee was advised to submit a reply to the SCN on or before August 3, 2018, failing which SEBI will proceed further in the matter. In response to the said letter, the Noticee vide his letter dated July 26, 2018 stated that he has not received the SCN in the matter and requested to be provided with the SCN. Noticee was sent a copy of the SCN, vide letter dated August 2, 2018. Further, the Noticee was advised to submit a reply to the SCN on or before August 24, 2018.
- 7. In response to the letter dated August 2, 2018, the Noticee vide his letter dated August 13, 2018 submitted that he is adopting the reply made before the Adjudicating Officer in the extant matter in the extant proceedings. Noticee's submission *inter alia* is as follows:
 - Please note that I had a Demat account bearing no. ABIH0076 which I hold with India Infoline Ltd. at Vile Parle. I am a small- time investor and used to invest in stocks for the purpose of investment.
 - My trade book as on April 2010 to March 2012 *inter alia* reflects the transactions done by me between the period 26 August 2010 to 7 June, 2011 ("Relevant

Period"). Copy of the trade book for the period April 2010 to March 2012 is attached. I am shocked to see some of the transactions reflected in the trade book as these transactions were never executed by me. I have highlighted the transactions which were not executed by me in the foregoing attachment. The reason being, I never had account balance in my savings bank account to execute these transactions, as can be seen from the attached account statement.

- I had my saving account with ICICI Bank, Dombivli branch bearing saving account no. 008801009995. For my trading purposes, I used the foregoing saving account. I used to make payment and receive the amount into this account by buying and/or selling the securities. As per the account statement from August 2010 till June 2011, it can be seen that I used to not have huge amount of balance in my account.
 - A statement of 'pay-ins' and 'pay outs' of my Demat account for the Relevant Period clearly reflects that I was not a regular person who used to deal in securities on the stock exchange
 - The transactions mentioned in the Letter were also not executed by me as can be seen from my trade books and the savings bank account statement In view thereof, I say that the allegations of price manipulation is therefore baseless and not based on correct findings. I believe that either the transactions mentioned in the Letter have been traded by some-one else and wrongly mentions my demat account number or some person had been trading under my name and also having access of my personal information.
8. Vide hearing notice dated November 12, 2018, Noticee was granted an opportunity of hearing on December 12, 2018 at SEBI Bhavan, Mumbai. In response to the hearing notice, the Noticee vide his letter dated November 20, 2018 confirmed his attendance for the hearing on behalf of his mother. 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 an email dated December 10, 2018.

9. On the day of the scheduled hearing, the Noticee along with his authorised representative, Ms. Sheetal Kotecha attended the hearing. The Noticee and the authorised representative made the following submissions:

- The Noticee is a graduate and a web designer employed by Reliance Industries Ltd. He earns a monthly salary of ₹ 20,000/-.
- He had opened a demat account in the year 2009-2010 based on the advice of a friend to invest the surplus funds with him.
- He has done some transaction in his account on his own but he is not aware of the alleged transactions in the scrip of HFL. He came to know about the said transaction only after he has received a notice from SEBI.
- He has never seen / checked the demat statements / contract notes send by his stock broker India Infoline Ltd.
- The Noticee has admitted that the demat account, ABHI0076 belongs to him only and the said demat statement as available in SEBI's records pertains to him.
- The Noticee submitted that he has not taken any steps to figure out who has done transaction in his demat account and he has also not filed any complaint with respect to the same with his stock broker.

The Noticee was advised to submit an additional reply in the matter along with his demat statement for the years 2010-2012 on or before January 2, 2019.

10. Pursuant to the hearing, the Noticee vide letter dated December 31, 2018 *inter alia* submitted as follows:

- The Noticee traded on the basis of some graphical movements of volatility which he saw on some stock trading websites and while sometimes he made some profits, he was very cautious that he should at least not make any losses, being a small time investor.
- The Noticee states that he has never received any SMS or contract note in physical form for the alleged traded transactions which he never had any intention to trade in and he cannot be held responsible for any price manipulation since he has not been part of the trading activities of the said scrip, HFL. In the case that

he would have received the same, he would have known about it and would have taken immediate action for investigating it.

- The Noticee states that, he always maintained his portfolio by himself and did not allow anyone else to operate it. The Noticee once again approached IIFL to question them as to how so many trades not intended nor instructed were committed from his trading cum demat account. The representatives of IIFL very bluntly reverted to the Noticee stating that the trades could not have taken place without the approval or instructions of the Noticee himself. The Noticee has been in a state of shock and tried various measures of investigation, after receiving the Notice for personal hearing issued by SEBI, only to discover a number of contract notes. IIFL has not only placed sell and buy orders of shares but has also dealt with futures and options through the trading account of the Noticee.
- The Noticee states that someone has wilfully and deliberately caused such trades and conveniently done so without the need to transfer any funds from the savings account of the Noticee but simply rolling the amounts in the trading account out of final settlements of contracts.
- The Noticee states that his savings account statements show that he had never transferred the funds from his savings account for the purpose of buying the shares. The Noticee relies upon the bank statement and the pay-in and pay-out statements.
- A police complaint has been filed by the Noticee as soon as he was summoned for personal hearing on December 13, 2018 by the SEBI. The reason that the police complaint was not filed earlier was that the notices were sent for the alleged offences if any, committed in the period 2010 -2015 only in the year 2017 and after the Noticee replied to the said notices, no further queries came from SEBI thus leaving an impression that the reply was justified with the revert by the Noticee. However, now the police complaint has been filed by the Noticee against IIFL with the Wagle Estate Thane police station on December 27, 2018. Also, a legal notice has been addressed to IIFL and its group of Office bearers calling upon them to reveal as to how the trades come to be executed without any

instructions.

- Assuming without admitting, that there were contract notes issued to this effect in the way that they are directly uploaded on the demat account and the Noticee would not be able to view it unless he logs onto his account and accesses the link reserved for viewing the contract notes and which he would not do until there is a cause of suspicion or to do so, it would remain to be viewed. It is as much surprising that the Noticee never discovered any excess funds in his account and the transactions took place through the settlement amounts only, thus the question of transfer from the savings bank account for the purpose of trading, by way of pay-ins and pay-outs did not arise at all and on the basis of which there could never arise a suspicion that his account is being operated by some other person.
- The Noticee further states that the question of manipulation of pricing cannot arise at all. In all the cases of his intentional trading, he only places an order to buy the shares after a particular amount of pay-in. The order gets executed through the trade engine and one would never know how many vendors for that particular scripts are there until the order is not executed. Generally, he places a limit price for buying orders and if there would be more than one vendor the trade order would get split through the trade engine and this would come to the knowledge of the buyer only on execution. The person who may have placed orders through the account of the Noticee, in such case of an allegation, could only be someone who is an Inside-Trader and has knowledge of the vendor and the buyer and can match the trade orders exactly at the said point of time. There could hardly be any human involvement for meeting the parameters of orders as alleged as these are first placed on the server and then passed onto the Exchanges and matched at the Exchange Level. All such trades as alleged were essentially done on a price time priority. Such trading is beyond the imagination of the Noticee.
- The Noticee has not been the beneficiary to any of the traded transactions. None of the pay-ins and pay-outs from the Noticee's bankers prove the intention to

trade for the said scrip at the said times. Also, the sell orders are placed prior to the buy orders unlike the way the Noticee generally trades as would be made out from the statement of his intentional trades. The Noticee was not aware that such kind of trading is even possible where the sell orders can be placed prior to the buy orders. The Noticee is a mere graduate and has least knowledge of trading.

FINDINGS & CONSIDERATIONS

11. I have perused the SCN, written submissions, oral submissions 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 August 27, 2010 to June 6, 2011?
- (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?

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 August 27, 2010 to June 6, 2011?*

12. It is noted from the material made available on record that the Noticee has executed 70 trades in the scrip over the LTP for 1,014 shares. The Noticee contributed ₹ 121.5 to positive LTP which is 9.51% of the total market positive LTP through the said 70 trades in the scrip. Out of the said 70 trades, on 63 instances the available sell orders were in the range of 15 shares to 500 shares, yet the Noticee placed buy orders for single share on 61 instances and on 2 instances between 2 to 10 shares. If the Noticee was a genuine buyer and had an interest in the scrip, he would have bought shares more than one at a time. It is not the case of the Noticee that he had put buy orders in substantial quantity and his buy orders were not being executed which made him

put buy orders in minuscule quantity. Further, it is noted that on 11 instances out of 63, although there was a pending sell order in the system, still the Noticee was putting buy orders over the sell order price. Thus, the Noticee was willing to pay more than what the seller was asking, which is completely opposite of a reasonable buyer behavior of buying shares at a low price.

13. It is noted from the IR that when the Noticee was executing trades for 1 share, the daily average number of traded shares in the scrip was 6,719 shares compared to 1,738 shares during the previous period of August 27, 2010 to June 6, 2011, i.e. an increase of 74.13% in average number of shares traded daily. This shows that liquidity in the scrip had increased at the relevant time. It is also noted from the top 10 net LTP contributors as buyers that there were other buyers in the scrip who have executed trades for significant volume at LTP or lower than LTP. In light of the aforesaid, it can be said that the Noticee instead of executing 26.5% of his trades over the LTP, had the opportunity to buy shares at LTP or lower than LTP which is evident from his trade details also, confirming that he had also bought shares at LTP or lower than LTP.
14. Furthermore, out of the said 63 over the LTP trades, it is noted that the frequency of putting buy orders over the LTP was at a regular interval and sometimes on multiple instances within the same trading day. The same shows a consistency (both in terms of volume and price) in the way the Noticee was putting orders in the scrip. Further, the fundamentals of the company also does not justify Noticee's persistence of putting buy orders over the LTP.
15. At this juncture, I would like to quote the order of Hon'ble Securities Appellate Tribunal 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...”

16. In the extant matter the Noticee by executing single trade on 61 occasions has contributed to ₹ 106.9/- to the positive LTP which is 8.37% of total market positive LTP (second highest net LTP contributor during the Patch). Further, the only justification given by the Noticee for executing such trades is that one someone else has executed the trades in the scrip from his trading account.
17. The said explanation itself casts a strong shadow of doubt on the genuineness of the said trades. Without prejudice, to all the preceding findings in pre paragraphs, I note from the submission of the Noticee wherein he has submitted his *“admittedly trading”* statement that during the period when the alleged trades for single shares were being executed in the scrip of HFL from the Noticee’s trading account, he has also traded in 6 other scrips in the month of May, 2011. More so on May 3,6,9,11 and 19, 2011 when the trades in single share took place in the scrip of HFL, Noticee has traded in one of the said 6 scrips. Further, from the said *“admittedly trading”* statement, it is also noted that the Noticee was quite active during the period between February, 2011 to May, 2011. He has traded in 16 scrips including the aforesaid 6 scrips during the period between February, 2011 to May, 2011.
18. From the above, it is noted that if the Noticee was taking / giving deliveries in other scrips, which indicates that he must be perusing / checking his demat account / broking statement. Consequently, he must also be aware that the demat statement is also reflecting that he has done transactions in the scrip of HFL, as he was not doing intraday trading / jobbing in the scrip of HFL. So any suspicion that he had about the trading in the scrip of HFL, should have been raised at that point in time and not at this belated stage which leads to the conclusion that it is an afterthought. Therefore, the submission of the Noticee that someone else has traded in his account or that the contract notes were directly uploaded in his demat account and he would not be able to view it unless he logs into his account, is not acceptable.
19. The submission of the Noticee regarding the police complaint not being filed earlier

than when the notices were sent for the alleged offences if any, committed in the period 2010 -2015 only in the year 2017 and after the Noticee replied to the said notices, no further queries came from SEBI thus leaving an impression that the reply was justified, is also not tenable. The reasoning being that misuse of trading account is a grave offence as it results into a host of illegal activities including breach of trust, misappropriation, benami transactions etc. and to effectively deal with the said issues, a police complaint has to be filed / other action has to be taken irrespective of the reply to SEBI.

20. 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...”

21. In the instant matter Noticee has repeatedly placed buy orders (63 instances) for miniscule quantity of shares (less than 10 shares) over the LTP at frequent intervals, even though the sell order disclosed volume was for more than one share on multiple occasions. 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 on 61 instances. Moreover, he was also placing buy orders over and above the existing sell order price. 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.

22. In light of the aforesaid findings, it is held that the Noticee’s trading in the scrip was manipulative in nature and had 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?*

23. Before embarking upon the necessary discussions, I would like to reproduce the relevant provisions of PFUTP Regulations:

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;

24. In view of the conclusion arrived at paragraph 22 wherein it has been held that the trades for single share / miniscule quantity executed by the Noticee over the LTP in the scrip are manipulative and misleading in nature, it is also held that such trades are fraudulent in nature and would operate as deceit upon any person trading in the extant scrip. Further, as discussed in preceding paragraphs, the Noticee by executing impugned trades in the scrip has also manipulated the price of the scrip. I therefore, 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?*

25. Section 11 of SEBI Act casts a duty on the Board to protect the interests of investors in securities and to promote the development of and to regulate the securities market. For achieving such object, it has been authorised to take such measures as it thinks fit. Thus, power to take all measures necessary to discharge its duty under the statute which is a reflection of the objective disclosed in the preamble has been conferred in widest amplitude. Pursuant to the said objective, PFUTP Regulations have been framed. The said Regulations apart from other things aims to preserve and protect the market integrity in order to boost investor confidence in the securities market. By executing manipulative trades, as has been executed by the Noticee in the instant matter, the price discovery system itself is affected. It also has an adverse impact on the fairness, integrity and transparency of the stock market. In view of the same and considering the violations committed by the Noticee, I find that it becomes necessary for SEBI to issue appropriate directions against the Noticee.

ORDER

26. 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. Abhijeet Chandrahas Asai (PAN: AGEPA8137G) 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. Needless to say, in view of prohibition on sale of securities, it is clarified that during the period of restraint, the existing securities holding, including units of mutual funds, of the Noticee shall remain frozen.

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

28. 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: January 23, 2019

PLACE: Mumbai

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