

SECURITIES AND EXCHANGE BOARD OF INDIA

CORAM: ANANTA BARUA, WHOLE TIME MEMBER

ORDER

Under Sections 11(1), 11(4) and 11B of the Securities and Exchange Board of India Act, 1992 in the matter of Secunderabad Healthcare Limited

In respect of:

Sr. No.	Name of the Noticee	PAN
1.	Adamina Traders Private Limited	AAICA0681J

1. Securities and Exchange Board of India (hereinafter referred to as “**SEBI**”) issued a Show Cause Notice (hereinafter referred to as “**SCN**”) dated September 28, 2017 to Adamina Traders Pvt Ltd. (hereinafter referred to as “**Noticee**”) alleging that the Noticee manipulated the price of the scrip of Secunderabad Healthcare Ltd. (hereinafter referred to “**SHL**” or “**the company**”) and created a misleading appearance of trading in the scrip by its trades and thereby violated Regulation 3(a),(b),(c) and (d) and Regulation 4(1), 4(2)(a) and (e) of SEBI (Prohibition of Fraudulent and Unfair Trade Practices Relating to Securities Market) Regulations, 2003 (hereinafter referred to as “**PFUTP Regulations**”) during the period from November 01, 2011 to January 15, 2015 (hereinafter referred to as ‘**investigation period**’). The scrip of SHL is listed only on BSE. The relevant extracts of trade log

of the Noticee in respect of its impugned trades were also enclosed as annexure with the SCN. The SCN also called upon the Noticee to show cause as to why suitable directions under Section 11(1), 11B and 11(4) of the Securities and Exchange Board of India Act, 1992 (hereinafter referred to as “**SEBI Act**”) should not be issued against it.

Service of Show Cause Notice, replies and Personal Hearing

2. The SCN returned undelivered and vide a letter dated November 03, 2017, the SCN was forwarded to an alternative address of the Noticee. A copy of the SCN was also affixed at the Noticee’s last known address as per SEBI’s records on July 27, 2018. Since no reply was received from the Noticee, a date of hearing was granted to the Noticee on November 19, 2018. The notice of hearing returned undelivered.
3. Thereafter, a letter dated December 10, 2018 was received from the Noticee wherein the Noticee sought certain documents in the matter. In view of the same, vide letter dated December 26, 2018, a CD containing the documents sought by the Noticee was forwarded to it along with an intimation of hearing scheduled on January 17, 2019. As the Noticee refused to accept the letter dated December 26, 2018 through Hand Delivery, a copy of the same was sent through courier. Vide an email dated January 14, 2019, SEBI received a request for adjournment of hearing from the Authorized Representatives (hereinafter referred to as ‘**AR**’) of

the Noticee and accordingly, another opportunity of hearing was granted to the Noticee on January 25, 2019 wherein the Noticee failed to appear. A final opportunity of hearing was granted to the Noticee on May 02, 2019. The AR of the Noticee appeared before me during the hearing on May 02, 2019 and filed a reply on the same date. The AR argued that there has been a delay of four years in issuing the SCN as a result of which the Noticee may not be able to present an effective reply. It was argued that as per the SCN, the Noticee had carried out 554 trades contributing to a positive Last Traded Price (hereinafter referred to as “LTP”) of Rs. 130.31 but details of only 176 trades has been provided to the Noticee. The AR argued that in order to put up a proper reply, the Noticee needs to examine all the 554 trades. The AR also requested for copies of all relevant order logs and trade logs and the basis of connection between the Adamina Group as alleged in the SCN. In response to the said request of the Noticee, an email dated June 12, 2019 was sent to the Noticee reiterating that the relevant trade log had already been provided to it and additionally providing copy of the bank transactions of the Noticee evidencing fund transfer between the Noticee and SHL. Thereafter, vide letter dated July 12, 2019 the Noticee made additional submissions. Vide email dated December 13, 2019 the Noticee was further requested to inform whether it had any further submissions to make. The Noticee once again sought the complete order log and trade log in the matter, to which, vide email dated December 23, 2019, a reply was forwarded by SEBI reiterating that relevant extracts of the trade logs had already been provided to the Noticee.

4. The Noticee has made the following submissions during the hearing, in its reply and additional submissions:
- a) It had, vide letter dated December 10, 2018 requested for investigation report as well trade logs and order logs for the investigation period and also requested for details of basis of connection that the Noticee forms part of the 'Adamina group' as referred to in the SCN. However, these documents had not been received from SEBI.
 - b) The SCN suffers from great delay and latches which is against the principle of natural justice and has caused great prejudice to the Noticee.
 - c) The investigation period is from 01.11.2011 to 15.01.2015 which is more than 4 yrs long period. This is very unusual and abnormal. Investigation period is divided into 4 patches. However, only trades during patch 3 are considered towards positive LTP Contribution. Thus again treating only 1 patch out of the whole investigation is absurd and has no meaning.
 - d) The power to issue directions under section 11(4) and Section 11B is a having serious civil consequences and ramifications on the repute and livelihood of those against whom it is directed. Said power is not available for routine and retrospective application and cannot be used for penal action.
 - e) Out of total 6519 trades of the Noticee during Patch 3, 4121 trades resulted into 0 LTP, 1844 trades resulted into negative LTP and only 554 trades allegedly resulted into positive LTP. Had it been the intention of the Noticee

to manipulate the price of the SHL scrip, it would have created LTP for every trade and not only 554 trades out of 6519 total trades.

- f) The allegation against the Noticee of generating positive LTP defies logic based on the following:
- Actual price rise during the Patch 3 is Rs. 12.05. Noticee's alleged positive LTP contribution is Rs. 130.31 out of which objectionable is Rs 50.23 and total market positive LTP is Rs. 190.68. Hence, there cannot be any correlation between the price rise and LTP alleged
 - There is change in beneficial ownership of the shares. Further in many of the cases, positive LTP price had already prevailed on previous days. Further trading at +ve LTP does not lead to any price rise of the security as LTP may /may not result into NHP.
 - All the trades are executed within permissible circuit limits and hence no illegality can be attributed to these trades.
- g) The Noticee was not part of the 'Adamina group' as alleged or otherwise.
- h) The total buy volume of the Noticee is 8,64,961 shares during Patch 3. However, the Noticee has been alleged positive LTP contribution for the orders of quantity 1, 2, 5 and 10 shares only amounting to 233 shares. The Noticee's trades were in the ordinary course of trading/ investment business.
- i) There is huge difference in order 'key-in' time of buyer and seller, all buy orders of the Noticee were limit orders and the Noticee placed its buy orders and modified its orders after seeing the market based on the best 5 available sell quotes.

- j) The SCN is ambiguous as it lacks material particulars such as benefit attributed to the Noticee by way of increase in price.
- k) SEBI has only given the trade logs for the trades considered objectionable in the SCN. It is known fact that an order results into multiple trades. In the absence of order log data, Noticee cannot comment on objectionable orders.
- l) Further, on the basis of the analysis of the order logs done by the Noticee, it was found that orders were modified to match the market price and positive LTP of Rs.6 was created on account of the modified order and not the actual order. The Noticee has however, not enclosed the details of this order.
- m) The documents provided to it by SEBI seeks to establish connection between the Noticee and the company SHL, not among the members of the 'Adamina group' as alleged in the SCN. SEBI has provided the Noticee with the details of the bank transactions in order to show the connection between SHL and the Noticee, The details of the said bank transaction reflects the fund transfer of amount of Rs 20 lakh between the Noticee and SHL. The said fund transfer is in relation to purchase of four lakh equity shares of Mohan Steel (India) Pvt. Ltd. The Noticee states that a debit Note was issued in favour of the notice by SHL for the purchase. However, Noticee has not provided copy of the same.

Consideration of Issues and Findings

5. Before dealing with the issues involved in the matter, it would be appropriate to refer to the provisions of laws which have been alleged to have been violated by the Noticee and the relevant extracts of the same is reproduced below:

Relevant extract of the 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 the 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) including 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;

.....”

6. The Noticee has raised certain preliminary issues relating to delay and non-furnishing of certain documents to the Noticee. Before dealing with the case on merit, it would be appropriate to deal with these issues. It is observed that SEBI had received a reference from the Principal Director of Income Tax (Investigation), Ahmedabad (DIT) vide letter dated February 10, 2015 alleging that certain entities, through stock exchange mechanism, generated bogus Long Term Capital Gain (LTCG) in many scrips. SEBI, on receipt of this letter, initiated investigation into such scrips and SHL was one such scrip, and the numerous entities dealing in the said scrips. The investigation period was between November 01, 2011 and January 15, 2015 for SHL. Thereafter, SEBI, after completion of investigation in the matter, initiated proceedings against the Noticee on June 21, 2017 and

consequently, the SCN has been issued. From these facts and circumstances of the case, it cannot be said that there was a delay in initiation of the proceedings. After several attempts the SCN could be delivered to the Noticee as detailed in para 2 and 3 above, and the Noticee has submitted the first reply to the same only on December 10, 2018. The Noticee has referred to the judgment of *HB Stockholdings Ltd. Vs. SEBI* (Appeal no. 112 of 2013 decided on August 08, 2013) of the Hon'ble Securities Appellate Tribunal (hereinafter referred to as "**SAT**"), in its reply. It is noted that in *HB Stock Holding's case* (supra), the Hon'ble SAT held that delay is not fatal in each and every case. I note that there is no provision in the SEBI Act which provides limitation period for taking action for the violation of the provisions of the Act or the Regulations made thereunder. I note in terms of Section 24(1) of the SEBI Act, any contravention to the provisions of SEBI Act and the Rules and Regulations framed thereunder is punishable with imprisonment for a term which may extend to the period of ten years and thus there is no limitation for initiating action for the same. In *Ravi Mohan & Ors. v. SEBI* and other connected appeals (decided on August 27, 2013), the Hon'ble SAT while referring to its own decision in *HB Stockholdings Ltd. v. SEBI* (supra) and decision of Hon'ble Supreme Court in *Collector of Central Excise, New Delhi v. Bhagsons Paint Industry (India)* reported in 2003 (158) ELT 129 (S.C.), held as under:

"....Based on decision of this Tribunal in case of HB Stockholdings Ltd. vs. SEBI (Appeal no. 114 of 2012 decided on 27.08.2013) it is contended on behalf of the appellants that in view of the delay of more

than 8 years in issuing the show cause notice, the impugned order is liable to be quashed and set aside. There is no merit in this contention, because, this Tribunal while setting aside the decision of SEBI on merits has clearly held in para 20 of the order, that delay itself may not be fatal in each and every case. Moreover, the Apex Court in case of Collector of Central Excise, New Delhi vs. Bhagsons Paint Industry (India) reported in 2003 (158) ELT 129 (S.C) has held that if there no statutory bar for adjudicating the matter beyond a particular date, the Tribunal cannot set aside the adjudication order merely on the ground that the adjudication order is passed after a lapse of several years from the date of issuing notice....”

The ratio laid down by Hon'ble SAT in the aforesaid case, was upheld and reiterated by it, in its order in the matter of *Kunal Pradip Savla & Ors v. SEBI* (Appeal no. 231 of 2017) decided on April 13, 2018. The aforesaid legal position apart, I find that there is no delay in this case.

7. Regarding the non-furnishing of complete order log, I note that the Noticee has been provided with trade logs pertaining to the 176 trades of the Noticee impugned in the SCN. In this regard it would be apt to refer to the observations of the Hon'ble SAT in the matter of *Mayrose Capfin Pvt. Ltd. Vs SEBI* (Appeal No. 20 of 2012 decided on 30.03.2012) wherein the Tribunal has stated that:

“...no prejudice has been caused to the appellant on this count as the extract of the relevant trade logs and order logs pertaining to the appellant was made available which was enough for him to defend himself or to make proper representation against the proposed action.”

In view of the same, I find that the Noticee has been provided with the relevant trade logs relied upon in the SCN and therefore the contention of the Noticee in this regard is not tenable.

8. I note from the SCN that the investigation period was taken as November 01, 2011 to January 15, 2015. The Noticee has submitted that the period of investigation was four years which is abnormal. I find that the Noticee's alleged manipulative trades took place during the patch of May 14, 2013 to October 24, 2013 (hereinafter referred to as “**Patch 3**”), i.e over a period of five months. Therefore, for the purpose of the present matter the relevant period for consideration is from May 14, 2013 to October 24, 2013 in respect of the trades of the Noticee in the scrip of SHL.
9. It has been alleged in the SCN that the Noticee had repeatedly entered into trades by placing buy orders of very small quantity (less than or equal to 10 shares) although sell orders of bigger quantities were available in the system (ranging from 100 to 10,000 shares). It is alleged that such trades (176 in number) on several

days (57 days) during the period between May 14, 2013 and October 24, 2013, contributed to significant positive LTP of Rs. 50.23 (26.34% of total market positive LTP) in Patch 3 of the investigation period in the scrip of SHL. It is alleged that the intent of the Noticee was to mark the price higher and not merely to enter into the buy transactions. The Noticee in its defense has stated that during the Patch 3, out of 4121 trades carried out by the Noticee only 554 trades allegedly resulted into positive LTP; the Noticee also carried out trades which resulted in negative or zero LTP, that there was change in the beneficial ownership of the shares, that positive LTP price had already prevailed on previous days and that these trades were all within the circuit limit. The Noticee has also stated that there was huge difference in order 'key-in' time of buyer and seller and that the orders placed by it were modified to match the market price.

10. In this regard, I note that, based on price trend of the scrip of SHL(rise/ fall), the investigation period was split into four patches, details of Patch 3 are as follows:

Table I			
Patch	Period	Close price movement during the period (at BSE)	Price Trend (Rise/ Fall)
Patch 3	14/05/2013 - 24/10/2013	12.05 - 24.05	Rise

11. I note that 78.05% of total market positive LTP during this patch was contributed by 6 entities which included the Noticee. The Noticee participated in 554 trades as a buyer in Patch 3 which had a positive LTP impact. On analysis of the Noticee's trades which created positive LTP, I note that with respect to majority of these trades, the Noticee had placed buy orders for very small quantities. The details of the same are as follows:

Table II: Details of Noticee's buy orders which resulted in trades during Patch 3			
Description	No. of trades	LTP Contribution (Rs)	% of total market positive LTP
Trades where buy order qty is 1 share	386	96.04	50.37
Trades where buy order qty is 2 - 10 shares	29	6.23	3.27
Trades where buy order qty is more than 10 shares	139	28.04	14.71
All buy trades which contributed to positive LTP	554	130.31	68.34

12. As can be seen from the above, out of 554 trades in which the Noticee participated as a buyer and which contributed to positive LTP of Rs 130.31, for 386 trades (which constitutes 69.68%), the quantity of the buy order placed by the Noticee was 1 share. These 386 trades contributed to positive LTP of Rs 96.04. Further,

for 415 trades in which the Noticee participated as a buyer and which had positive LTP impact, the quantity for the orders placed by the Noticee was in the range of 1-10 shares. These 415 trades contributed to positive LTP of Rs 102.27 which was 53.64% of total market positive LTP during the patch.

13. It is noted that out of the above 554 trades of the Noticee which resulted in positive LTP impact, with respect to 176 trades the Noticee placed buy orders of small quantities (less than or equal to 10 shares), although the disclosed quantity of sell order in the system was large (more than or equal to 100 shares). These 176 trades were spread over 57 days out of total 80 days when the Noticee had bought shares and these trades resulted in LTP contribution of Rs 50.23 (26.34% of total market positive LTP). An illustration of the top 5 LTP contributing trades among these 176 trades is given as follows:

Table III												
Batch Date	Buyer Name	Seller Name	Trade Time	Buy Order LMT	Sell Order LMT	Trade Price	LTP Diff	Buy Order LMP	Sell Order LMP	Trade Quantity	Sell Order Disclose Volume	Buy Order LM Q

16.07.2013	Adamin a	Pratik Kantilal Shah	13:44:4 1.5377 410	13:44:4 1.5222 630	09:33:0 8.6836 110	18.0 0	1.3 0	18.0 0	18.0 0	1	100	1
17.07.2013	Adamin a	Mittal Kalpesh Tank	11:43:1 9.1292 010	11:43:1 9.1186 850	11:20:1 3.1246 800	18.5 0	1.4 0	18.5 0	18.5 0	1	100	1
23.07.2013	Adamin a	Jaya V Kadagad	15:14:3 1.8931 630	15:14:3 1.8715 030	11:04:5 5.4566 600	17.3 0	1.6 0	17.3 0	17.3 0	1	300	1
26.07.2013	Adamin a	Jihan Mercantile Private Limited	11:47:2 5.7312 940	11:47:2 5.7042 240	09:30:5 6.7460 720	16.4 5	1.2 5	16.4 5	16.4 5	1	4000	1
26.07.2013	Adamin a	Godavari Commerci al Services Pvt Ltd	15:19:5 7.8514 100	15:19:5 7.8108 340	14:52:5 5.5603 370	16.2 5	1.0 5	16.2 5	16.2 5	1	1000	1

14. As can be seen from the above illustration, in respect of these five trades mentioned above, while the disclosed volume of the sell orders was large (ranging from 100 to 4000 shares, as shown in the table above), buy orders were placed for small quantities (one share on each day). These 5 trades contributed to significant positive LTP. The Noticee has not provided any explanation for placing

buy orders for minimal quantities for these particular 176 trades which are alleged to be manipulative.

15. The Noticee has stated that it had also participated in trades which had no LTP impact or zero LTP impact. However, those trades are not relevant to this case. The Noticee's contention that there was change in beneficial ownership is also not relevant since there is no such allegation in the SCN. The Noticee has also contended that there was huge difference in order 'key-in' time of buyer and seller, all buy orders of the Noticee were limit orders and the Noticee placed its buy orders and modified its orders after seeing the market price based on the best 5 available sell quotes. The Noticee has contended that the sell orders were already available in the system when it had placed the buy orders. All these submissions by the Noticee do not provide any explanation regarding the Noticee's pattern of trading. I note that though the trade executed by Noticee may have been on the basis of best available counter sell orders, but the notable fact is that the Noticee chose to place buy orders above LTP in small quantities despite the presence of large sell orders in the system and the Noticee continued this pattern of buying shares of SHL on 57 trading days. I note that in some instances the Noticee placed buy orders in small quantity by either matching or placing slightly higher than sell order rate (which were already above LTP at the time of buy order entry) and in other instances by placing buy orders at prices above LTP which were subsequently matched by sell orders, thereby contributing to significant positive LTP. I note that had the Noticee not executed the buy trade on each day, the sell

orders existing in the system would not have been matched and consequently, the LTP would not have been set and the price of the scrip would not have risen. Even if sell orders are available in the system at a price higher than LTP, it is the unlikely that a buy trader will put in buy orders at a rate higher than LTP for small quantity of shares to be purchased so much so that its buy trades would have a price impact of Rs 50.23 (26.34% of total market positive LTP) in the Patch 3. The Noticee has not provided any rationale or explanation for such trades except for stating that they were limit orders and in the ordinary course of business. Limit orders are with respect to price of the scrip but in the Noticee's case the conclusion regarding the manipulative trading is not drawn from the price alone but from the pattern of trading, i.e. placing buy orders for very small quantities, in some cases only one share, at price above LTP for 57 days in one scrip. Since the Noticee has failed to provide any rationale for this pattern of trading, it is clear that such buy orders were placed to influence the price of the scrip of SHL. Moreover, as regards the Noticee's contention that neither has it earned any profit from the trades nor any such profit has been attributed to it in the SCN, I observe that, though profit earning is an important motive for undertaking the trades, however, it is not a criteria to determine whether the trades executed are manipulative or not, which has to be determined by taking into account the attending facts and circumstances of the case. I find that, there is sufficient facts and circumstances to indicate that the trades executed by the Noticee were manipulative. Therefore, this contention of Noticee is not tenable.

16. The Noticee has also submitted a copy of the judgment of the Hon'ble Supreme Court of India in the matter of *Ritesh Agarwal Vs. SEBI* [2008] 144 CompCas 12 (SC) stating that in the said order the Hon'ble Supreme Court has held that the purpose of proceedings under Section 11 and 11B of the SEBI Act is regulatory in nature and not punitive. I have perused the order and do not find any such ratio laid down in the said order. However, in the present case, directions which are being issued against the Noticee are not punitive, rather, they are in the interest of the investors and securities market and for prevention of reoccurrence of such manipulative conduct in the securities market. The Hon'ble Apex Court in *SEBI v. Pan Asia Advisors* (AIR 2015 SC 2782) have held that:

“Under Section 11(4)(a) and (b) apart from and without prejudice to the provisions contained in sub-section (1), (2) (2A) and (3) as well as Section 11B, SEBI can by an order, for reasons to be recorded in writing, in the interest of investors of securities market either by way of interim measure or by way of a final order after an enquiry, suspend the trading of any security in any recognized stock exchange, restrain persons from accessing the securities market and prohibiting any person associated with securities market to buy, sell or deal in securities

.....

The purport of the statutory provision is protection of interests of investors in securities and the securities market.”

17. In view of the discussion above, I conclude that the Noticee was not acting as genuine buyer and that the intent of the Noticee was to mark the price higher and not merely to enter into the buy transactions carried out by it and that the Noticee had placed buy orders of small quantities in order to execute trades which had a positive LTP impact. Therefore, I find that the Noticee has violated Regulations 3(a),(b),(c) and (d) and Regulation 4(1), 4(2) (a) and (e) of the PFUTP Regulations.

Direction:

18. In view of the above, I, in exercise of the powers conferred upon me under sections 11(1), 11(4) and 11B read with section 19 of the Securities and Exchange Board of India Act, 1992, hereby restrain the Noticee, Adamina Traders Pvt. Ltd. (PAN: AAICA0681J) from accessing the securities market and further prohibit it 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 three 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.
19. The order shall come into force with immediate effect.
20. A copy of this order may be forwarded to Principal Director of Income Tax (Investigation), Ahmedabad (DIT).

21. A copy of this order shall be served on all recognized Stock Exchanges, Commodity Derivatives Exchanges, Registrars and Transfer Agents and depositories to ensure compliance with above directions.

-Sd-

Place: Mumbai

ANANTA BARUA

Date : January 08, 2020

WHOLE TIME MEMBER

SECURITIES AND EXCHANGE BOARD OF INDIA