

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

FINAL ORDER

Under Sections 11B read with 11(4) 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 the matter of
Seshasayee Paper and Boards Ltd.**

In respect of:

S. No.	Entity's Name	PAN
1	Fidelity Multitrade Pvt. Ltd.	AABCF0017A
2	Pasha Finance Pvt. Ltd.	AAACP8316P
3	Acira Consultancy Pvt. Ltd.	AAICA9489N
4	Bharat Jayantilal Patel	AAAPP6652R
5	Nirshilp Commodities and Trading Private Limited	AABCN4361M

1. Securities and Exchange Board of India ('SEBI') carried out an investigation into the trading activities of certain entities in the scrip of Seshasayee Paper and Boards Ltd. ("SPBL"/ "company") during the period December 15, 2011 to October 09, 2014 ("the Investigation Period") to ascertain any violation of the provisions of the Securities and Exchange Board of India Act, 1992 ("SEBI Act") and the Securities and Exchange Board of India (Prohibition of Fraudulent and Unfair Trade Practices relating to Securities Market) Regulations, 2003 ("PFUTP Regulations").

2. The price and volume movement of the scrip of the company at BSE, before, during and after the investigation period is summarized below:

TABLE 1

Period	Dates	Price & Vol.	Opening Price & Vol. on first day of the period (Rs)	High price & vol. (date) during the period (Rs.)	Low price & vol. (date) during the period (Rs.)	Closing price & vol. on last day of the period (Rs.)	Avg. no. of (shares) traded daily during the period.
Before Investigation Period	15/09/2011 – 14/12/2011	Price	197	232.95 (04/11/2011)	181 (14/12/2011)	181	757
		Vol	4	7,820 (15/11/2011)	1 (20/10/2011)	45	
During Investigation period	15/12/2011- 09/10/2014	Price	189.9	291 (23/11/2012)	157 (30/12/2011)	231	3,142
		Vol	54	5,41,268 (28/03/2013)	1 (on 30 trading days)	71	
After Investigation Period	10/10/2014 – 10/01/2015	Price	232	288 (24/11/2014)	202 (16/10/2014)	246.5	5,044
		Vol	116	1,09,086 (24/11/2014)	1 (21/10/2014)	20,881	

3. Further, the price and volume movement of the scrip of the company at NSE, before, during and after the investigation is summarized under:

TABLE 2

Period	Dates	Price & Vol.	Opening Price & Vol. on first day of the period (Rs)	High price & vol. during the period (Rs.)	Low price & vol. during the period (Rs.)	Closing price & vol. on last day of the period (Rs.)	Avg. no. of (shares) traded daily during the period.
Before Investigation Period	15/09/2011 – 14/12/2011	Price	198.45	250 (03/11/2011)	178.5 (09/12/2011)	189.05	1,400
		Vol	7	20,322 (20/09/2011)	7 (15/09/2011)	56	
During Investigation period	15/12/2011- 09/10/2014	Price	181	292 (23/11/2012)	155.5 (05/03/2012)	225.8	3,696
		Vol	1,704	4,52,978 (21/03/2012)	1 (on 8 trading days)	525	
After Investigation Period	10/10/2014 – 10/01/2015	Price	222	288 (24/11/2014)	201.2 (17/10/2014)	247.1	11,607
		Vol	96	1,96,544 (24/11/2014)	31 (30/10/2014)	60,223	

4. As noted in the Tables above, the scrip of SPBL witnessed a sharp rise in the price and volume during the investigation period.
5. During investigation, a group of 16 entities were identified to be investigated (hereinafter referred to as “Bharat Patel Group”) on the basis of KYC documents, MCA details, bank account statements and off-market transactions. The constituents of the group and the basis of connection amongst them are mentioned in the table below:

TABLE 3

Sr. no.	Entity Name	Basis of Connection
1	Bharat Jayantilal Patel	1. Stock broker (SEBI Regd. No. INB010613015) of BSE and director in Fidelity Multitrade Ltd. (sr. no. 14), Pranav Holdings Pvt. Ltd. (sr. no. 13), Pasha Finance Pvt. Ltd. (sr. no. 16) and PAT Financial Consultants Ltd. (sr. no. 9) 2. Stock broker at BSE. 3. Off-market shares transfer with Pat Financial Consultants Pvt. Ltd. (sr. no. 9). 4. Fund movement with Prashant Jayantilal Patel, Gandiv Investment Pvt. Ltd., Ruchit Bharat Patel, Minal Bharat Patel
2	Minal Bharat Patel	1. MD in Finquest Securities Pvt. Ltd. (Member, BSE) Director in Fidelity Multitrade Pvt. Ltd. (sr. no. 14) and Pasha Finance Pvt. Ltd. . (sr. no. 16) 2. Wife of Bharat Jayantilal Patel 3. Off-market shares transfer with Hardik Bharat Patel (sr. no. 3).
3	Hardik Bharat Patel	1. Director in Finquest Securities Pvt. Ltd. (Member, BSE), Pat Financial Consultants Pvt. Ltd. (sr. no. 9) 2. Son of Bharat Jayantilal Patel & Minal Bharat Patel 3. Off-market shares transfer with Minal Bharat Patel (sr. no. 2), Pat Financial Consultants Pvt. Ltd. (sr. no. 9) and Hridaynath Consultancy Pvt. Ltd. (sr. no. 12).
4	Ruchit Bharat Patel	1. Director in Fidelity Multitrade Pvt. Ltd. (sr. no. 14) & Pat Financial Consultants Pvt. Ltd. . (sr. no. 9) 2. Son of Bharat Jayantilal Patel Minal Bharat Patel 3. Off-market shares transfer with Hardik Bharat Patel (3) & Pat Financial Consultants Pvt. Ltd. (sr. no. 9).
5	Prashant Jayantilal Patel	1. Trading member (NSE) & Director in Pat Financial Consultants Pvt. Ltd. (sr. no. 14) 2. Brother of Bharat Jayantilal Patel 3. Fund movement with Bharat Jayantilal Patel
6	Pankaj Jayantilal Patel	1. MD in JHP Securities Pvt. Ltd. (Member, BSE) & Director in Pranav Holdings Pvt. Ltd. (sr. no. 13)
7	Vanraj Vinodchandra Shah	Director in Hridaynath Consultancy Pvt. Ltd. (sr. no. 12)
8	Ajaykumar Banwarilal Kejriwal	Off-market shares transfer with Hridaynath Consultancy Pvt. Ltd.

9	Pat Financial Consultants Pvt. Ltd.	1. Bharat Jayantilal Patel (sr. no. 1), Hardik Bharat Patel, (sr. no. 3), Ruchit Bharat Patel (sr. no. 4) and Prashant Jayantilal Patel (sr. no. 5) are the directors. 2. Off-market shares transfer with Bharat Jayantilal Patel (sr. no. 1). 3. Fund movement with Moneybee Realty Pvt. Ltd., Acira Consultancy Pvt. Ltd., Vanraj Vinodchandra Shah HUF, Hridaynath Consultancy Pvt. Ltd.
10	Acira Consultancy Pvt. Ltd.	1. Shanker Tuljaram Kirpalani is one of the directors. 2. Shanker Tuljaram Kirpalani, Minal Bharat Patel (sr. no. 2), Hardik Bharat Patel (sr. no. 3) are directors in Finquest securities Pvt. Ltd.
11	Gandiv Investment Pvt. Ltd.	1. Tejas Bhalchandra Trivedi and Shivani Tejas Trivedi are the directors. 2. Off market with Prashant Jayantilal Patel (sr. no. 5). 3. Fund movement with Acira Consultancy Pvt. Ltd.
12	Hridaynath Consultancy Pvt. Ltd.	1. Vanraj Vinodchandra Shah and Geeta Vanraj Shah are the directors. 2. Off-market transactions with Hardik Bharat Patel (sr. no. 3).
13	Pranav Holdings Pvt. Ltd.	1. Bharat Jayantilal Patel (sr. no. 1), Pankaj Jayantilal Patel (sr. no. 6) are the directors.
14	Fidelity Multitrade Pvt. Ltd.	1. Bharat Jayantilal Patel (sr. no. 1), Minal Bharat Patel (sr. no. 2) and Ruchit Bharat Patel (sr. no. 4) are the directors. 2. Off-market transactions with Bharat Jayantilal Patel (sr. no. 1) and Pasha Finance Pvt. Ltd. (sr. no.16).
15	Moneybee Realty Pvt. Ltd.	1. Dhiren Shevantilal Shah is one of the directors. 2. Dhiren Shevantilal Shah and Bharat Jayantilal Patel (sr. no. 1) are directors in Tee Ventures (India) Ltd.
16	Pasha Finance Pvt. Ltd.	1. Bharat Jayantilal Patel (sr. no. 1) and Minal Bharat Patel (sr. no. 2) are the directors. 2. Off-market shares transfer with Fidelity Multitrade Pvt. Ltd. (sr. no. 14).

6. It was observed that out of total 16 entities of “Bharat Patel Group”, 11 entities at NSE and 12 entities at BSE traded in the scrip during the investigation period. They purchased 15,55,990 shares (63.12% of total market volume) and sold 11,27,198 (45.72% of total market volume) at NSE and purchased 8,57,380 shares (40.79% of total market volume) and sold 11,22,687 (53.41% of total market volume) at BSE during the investigation period. Trading among “Bharat Patel Group” accounted for 39.60% and 35.33% of the total market traded volume at NSE and BSE, respectively. It was further observed that certain entities belonging to “Bharat Patel Group”

executed trades in a circular manner. The details of such circular trades are tabulated as under:

TABLE 4

Date	Buy Client Name	Sell Client Name	Buy and Sell Member	Exchange	Qty.	% of total Mkt. Vol.
05/03/2012	Fidelity Multitrade Pvt. Ltd.	Bharat Jayantilal Patel	Finquest	NSE	235000	9.53
12/03/2012	Pasha Finance Pvt. Ltd.	Fidelity Multitrade Pvt. Ltd.	Securities Pvt. Ltd.	BSE	244998	11.65
15/03/2012	Acira Consultancy Pvt. Ltd.	Pasha Finance Pvt. Ltd.		BSE	286224	13.62
21/03/2012	Bharat Jayantilal Patel	Acira Consultancy Pvt. Ltd.		NSE	285224	11.57

7. From the above table it was observed that Fidelity Multitrade, Pasha Finance, Bharat Patel and Acira Consultancy executed circular trades at either NSE or BSE during the investigation period. The said circular trades constituted 21.10% (9.53%+11.57%) and 25.27% (11.65%+13.62%) of total market traded volume at NSE and BSE, respectively and created misleading appearance of trading in the scrip without any intention of change in ownership of the security at the group level.
8. An examination of the buy broker and sell broker concentration during the investigation period revealed that trading member named Finquest Securities Pvt. Ltd. had the highest contribution of 57.06% in gross buy and 51.82% in gross sell at NSE and 43.17% in gross buy and 54.46% in gross sell at BSE respectively during the investigation period.
9. Finquest Securities Pvt. Ltd. also acted as the buy and sell broker of Fidelity Multitrade Pvt. Ltd., Bharat Jayantilal Patel, Pasha Finance Pvt. Ltd. and Acira Consultancy Pvt. Ltd., in the abovementioned circular trades.

10. It was noticed that the Broker Finquest Securities Pvt. Ltd. is connected to the entities who indulged in circular trades in the following manner:

10.1. Minal Bharat Patel (wife of Bharat Jayantilal Patel) is the director in Finquest Securities Pvt. Ltd., Fidelity Multitrade Pvt. Ltd. and Pasha Finance Pvt. Ltd.

10.2. Bharat Jayantilal Patel is the director in Fidelity Multitrade Pvt. Ltd. and Pasha Finance Pvt. Ltd.

10.3. Shanker Tuljaram Kirpalani is the director in Acira Consultancy Pvt. Ltd. and Finquest Securities Pvt. Ltd.

11. In view of the above, it was alleged that Fidelity Multitrade Pvt. Ltd., Bharat Jayantilal Patel, Acira Consultancy Pvt. Ltd. and Pasha Finance Pvt. Ltd. (i.e. Noticees No. 1 to 4) have indulged in circular trades at BSE (25.27% of total market volume) & NSE (21.10% of total market volume) during the investigation period and created misleading appearance of trading in the scrip without any intention of change in ownership. It was alleged that Noticees No. 1 to 4 have violated Sec. 12A(a), (b) and (c) of the SEBI Act, 1992 read with Regulations 3(a), (b), (c) and (d), 4(1), 4(2)(a) and (g) of the SEBI (PFUTP) Regulations, 2003.

12. Apart from the above, as a part of the investigation, the Top 10 Last Traded Price (LTP) contributors were analyzed and it was observed that on BSE, top 10 entities contributed positive LTP of Rs. 4762.9 (47.71% of total market positive LTP) in 1,988 trades for 4,92,279 shares.

13. It was observed that Nirshilp Commodities and Trading Private Limited (hereinafter referred to as "Nirshilp") contributed Rs. 3051.3 (30.56% of total market positive LTP) in 1,314 trades for 1,456 shares. Top 5 counterparties of Nirshilp contributed 17.88% of total market positive LTP. The top counterparty to Nirshilp is Nirshilp itself i.e. through self-trades and accounted for 9.56% of total market positive LTP. The remaining top counterparties were found to be scattered.

14. On further analysis of Nirshilp's 1,314 positive LTP trades, it was observed that in 435 trades for 442 shares, buy orders were placed after sell orders, at buy order rates higher than the prevailing sell order rates with negligible buy order quantity. Further, Nirshilp had repeatedly matched sell orders that were placed above LTP with market orders, with negligible buy order quantity and repeatedly executed self-trades in negligible quantity. Few instances of such order pattern are tabulated below-

TABLE 5

Date	Order Type	Order No	Order Time (LM)	Order Qty. (LM)	Order Rate (LM)	Counter parties Pending Order Qty.	Counter parties Pending order Price range	Trade time	Trade Qty.	Trade Price	Diff in LTP (Rs.)
02/01/2012	Buy	12000048004462	09:46:56	1	178.15	215	175-193	09:46:56	1	175	13.75
	Sell	14000052010556	09:29:36	1	175	1133	135.6-161.25				
03/01/2012	Buy	13000216016606	10:31:34	1	173.25	864	173-208	10:31:34	1	173	11.95
	Sell	13000216016926	10:17:27	2	173	1564	143-165.35				
11/01/2012	Buy	16000036008410	09:21:39	1	193.85	135	193.75-195	09:21:39	1	193.75	18.25
	Sell	15000046006993	09:20:34	10	193.75	630	151.6-162.05				
16/01/2012	Buy	21000052019618	09:47:59	1	201.7	542	194-229.75	09:47:59	1	194	14.95
	Sell	11000068001209	09:18:40	10	194	779	156-160				
21/01/2013	Buy	14000138001087	09:32:07	1	249	44	245-282	09:32:07	1	245	13.9
	Sell	18000142010111	09:19:44	1	245	1003	206.95-231.15				

15. From the above Table, it was observed that Nirshilp repeatedly placed buy orders above prevailing sell order rates after the sell orders are available in the system with negligible buy quantity (1 share each) and contributed LTP of Rs. 804.80 (8.06% of total market positive LTP). Such buy order pattern of Nirshilp allegedly induced sellers to place sell order above the last traded price. It was observed that a genuine buyer would not repeatedly place buy orders at a price higher than the sell order price and for a quantity lesser than the available sell order quantity. Thus, it was alleged that Nirshilp repeatedly placed the aforesaid orders which was manipulative in nature and led to increase the price of the scrip.

16. Out of 1,314 positive LTP trades, Nirshilp placed market buy order (i.e. buy or sell order to be executed immediately at current market price) in 291 trades for 405 shares. Such trades contributed Rs. 634.05 (6.35% of total market positive LTP). Few market buy orders of Nirshilp that contributed to the highest LTP are tabulated below:

TABLE 6

Date	Order Type	Order No	Order Time (LM)	Order Qty (LM)	Order Rate (LM)	Counter party Pending Order Qty.	Counter party Pending order Price range	Trade time	Trade Qty	Trade Price	Difference in LTP (Rs.)
25/05/2012	Buy	13000125012287	10:36:04	1	MO	1797	199.9-225	10:36:04	1	199.9	9.9
	Sell	14000162047061	10:26:31	5	199.9	1259	157-190.8				
10/12/2012	Buy	22000125308368	15:22:22	1	MO	1866	274.95-316	15:22:22	1	274.95	8.1
	Sell	12000124189866	15:19:39	100	274.95	4375	224.1-261.05				
12/02/2013	Buy	20000030216175	15:29:09	1	MO	1217	227.1-281.9	15:29:09	1	227.1	9.05
	Sell	20000030210342	15:23:01	8	227.1	4410	189.7-217.05				

Date	Order Type	Order No	Order Time (LM)	Order Qty (LM)	Order Rate (LM)	Counter party Pending Order Qty.	Counter party Pending order Price range	Trade time	Trade Qty.	Trade Price	Difference in LTP (Rs.)
12/02/2013	Buy	13000022311672	15:16:58	1	MO	1251	224.7-281.9	15:16:58	1	224.7	3.7
	Sell	20000030068401	15:11:56	46	224.7	4730	189.7-221.55				
13/02/2013	Buy	19000154232162	15:29:22	2	MO	1033	228.9-265.05	15:29:22	2	228.9	9.65
	Sell	13000107030145	14:49:14	16	228.9	4737	189.3-220.35				

17. From the above Table, it was observed that Nirshilp repeatedly placed market orders with negligible buy quantity after the sell orders are available in the system and contributed LTP of Rs. 634.05 (6.35% of total market positive LTP). It was observed that in 1169 instances Nirshilp has placed buy order quantity of 1 share during the investigation period. It was thus observed that the above trading pattern of Nirshilp of matching sell orders with market orders in negligible buy quantity, was to deliberately increase the scrip price thereby manipulating the price.

18. Details of self-trades executed by Nirshilp at BSE during the investigation period are as under:

TABLE 7

Entity Name	Broker on both buy and sell side	Total self-trades vol.	No. of self-trades	No. of self-trades days	% of self-trades qty. to mkt. vol.	No. of self-trades from same terminal	Net LTP contribution by self-trades
Nirshilp	Shailesh Shah Securities Pvt. Ltd.	436	426	216	0.021	130	590.80

18.1. It was observed from the above table that Nirshilp executed 426 self-trades for 436 shares on 216 trading days. Hence, the above Self-trades were repetitive in nature. Further, it was observed that 130 self-trades for 137 shares were executed from the same terminal ID and the broker on buy and sell side in self-trades was Shailesh Shah Securities Pvt. Ltd.

18.2. In this regard, LTP contributed by Nirshilp through self-trades at BSE is as under:

TABLE 8

Buyer Name	All Trades			LTP Diff. > 0			LTP Diff. < 0			LTP Diff. = 0		% of Positive LTP to Total Mkt. Positive LTP
	Sum of LTP (Rs.)	Sum of Qty.	No. of trades	Sum of LTP (Rs.)	Sum of Qty.	No. of trades	Sum of LTP (Rs.)	Sum of Qty.	No. of trades	Sum of Qty.	No. of trades	
Nirshilp	590.8	436	426	954.75	227	227	-363.95	142	135	67	64	9.56
Total Market	41.1	2102093	33372	9983.1	1055860	5094	-9942	208898	5582	837335	22696	100.00

18.3. It was observed that Nirshilp contributed Rs. 954.75 i.e. 9.56% of total market positive LTP through self-trades, which were repetitive in nature. The above order pattern of self-trades by Nirshilp allegedly inflated the scrip price. Further, Nirshilp executed 426 self-trades for 436 shares on 216 trading days, out of which 170 self-trades for 176 shares were executed from the same terminal ID. It was also seen that the broker for these trades of Nirshilp on buy and sell side was Shailesh Shah Securities Pvt. Ltd. Hence, it was observed that the self-trades of Nirshilp which contributed towards 9.56% of total market positive LTP and being repetitive in nature, were manipulative in nature and led to increase in scrip price.

18.4. It was also observed from the MCA data that Nirshilp and Shailesh Shah Securities Pvt. Ltd. have common registered address i.e. Office No.141, Centre Point Somnath Daman Daman-396210, and email ID as sandeep.bhanushali@dolatcapital.com. Further, Jigar Pankaj Shah is the common Managing Director of both entities during the investigation period.

19. In view of the above, it was alleged that Nirshilp traded in a manner which led to a misleading appearance of trading in the scrip and manipulated the price of the scrip without any intention of change in ownership of the security thereby violating Section 12A(a), (b) and (c) of the SEBI Act, 1992 read with Regulations 3(a), (b), (c) and (d), 4(1), 4(2)(a), (b), (e) and (g) of the SEBI (PFUTP) Regulations, 2003.

20. ISSUANCE AND DELIVERY OF SHOW CAUSE NOTICE

20.1. On the basis of the above observations and allegations made in the investigation, a show cause notice dated July 3, 2019 (hereinafter referred to as the “SCN”) was issued to Bharat Jayantilal Patel, Fidelity Multitrade Pvt. Ltd., Pasha Finance Pvt. Ltd., Acira Consultancy Pvt. Ltd. and Nirshilp Commodities and Trading Private Limited (hereinafter collectively referred to as “the Noticees” and individually by their respective names) calling upon them to show cause as to why suitable directions under sections 11(4) and 11B read with section 11(1) of the SEBI Act, 1992 should not be issued against them.

20.2. The SCN was hand delivered to all the Noticees except Acira Consultancy, in respect of whom the SCN was served by way of a public notice dated August 18, 2019.

21. REPLIES SUBMITTED BY THE NOTICEES: in response to the SCN, replies were received from two entities namely, Bharat Patel and Nirshilp Commodities. The same are summarized in the following paragraphs.

21.1. BHARAT PATEL

21.1.1. At the outset I have to write that the SCN refers to a group of 16 entities identified as 'Bharat Patel Group' on the basis of KYC documents, MCA details, bank account statements and off-market transactions. The inference as well as the analysis by investigation as regards 16 entities as Bharat Patel Group is completely baseless, arbitrary, and devoid of any merit and the conclusion arrived is on the basis of conjectures, surmises and imagination. It is pertinent to note that some of the entities are my family members as well as I am a Director in some. However, each one of them are independent and their transactions in the market are in no connection with my transactions. It is categorically submitted that entire relationship sought to be alleged is erroneous. It is pertinent to note that all of them are financially independent and trade independently. No inference can be drawn against me because they have dealt in the script.

21.1.2. I understand that SEBI had conducted investigation during the period 15th December, 2011 to 9th October 2014. Without prejudice to my rights and contentions, I have to write as under:

21.1.2.1. In accordance with the provisions of regulation 18 of SEBI (Stock-Brokers and Sub-Brokers) Regulations, 1992, a stock broker is required to preserve the Books of Account and other records maintained under Regulation 17 thereof for a **minimum** period of 5 years. I have to inform you that I have no records available with me for the period prior to 1st April, 2014 in respect of the activities or the allegations made in your SCN under reference.

21.1.2.2. Further, in view of such a **mandatory** provision for maintenance of books of Account and records only for a period of 5 (five) years, it would not be just, proper and/or advisable to comment on the data collected by you and mentioned in the SCN under reference. Similarly, it would not be just, proper or legal on the part of SEBI to investigate any

activities of any intermediary including that of a broker for a period prior to the period for which he is not required to maintain Books of Account or would be able to reflect on any of his activities or deal with any of the allegations. Such an investigation in my respectful submission would be barred by law of limitation.

21.1.2.3. It is submitted that these transactions were executed by dealer/s and I have no role in execution of the same. It is pertinent to note that I had from time to time given instructions to my brokers/dealers to buy or sell in the scrip on the basis of the price range and the quantity, which I would stipulate. Execution of the orders were left to the "dealer/s" and I expected them to get me the best available prices.

21.1.2.4. In view of the above, it is best judgment of dealer/s to execute trade with the parameters given to them. Therefore, nothing can be alleged as regards execution of trades. It is also submitted that my order/s were given in the normal course of business and no adverse inference can be drawn.

21.1.2.5. I am unable to comment or clarify in view of non-availability of records as well as execution of trades.

21.1.3. Having regard to what is stated hereinabove, I humbly request you to withdraw the SCN and further submit that no adverse inference should be drawn for non-- availability of records and inability to clarify any points referred in your SCN pertaining to period before 1st April, 2014.

21.1.4. In the event, if you do not withdraw the SCN under reference, please do let me know the same and without prejudice to my rights and contentions in the matter, I reserve my right to deal with and respond to the SCN in detail and on the merits of the allegations made against me in the matter.

21.2. Nirshilp Commodities and Trading Pvt. Ltd.

21.2.1. We deny each and every allegation and/ or contention and/ or observation made in the said notice and nothing therein stated should be

deemed to have been admitted and/ or inferred to have been admitted by us, save and except to the extent specifically admitted.

21.2.2. We most humbly submit that the assumption that a genuine buyer would not repeatedly place buy orders at a price higher than the sell order price and for a quantity lesser than the available sell order quantity is completely incorrect and is based on false assumption and appreciation of facts and market practice.

21.2.3. Assuming without admitting that we have contributed to the positive LTP, we deny that we had knowingly and with manipulative intent contributed towards the alleged contribution to the LTP.

21.2.4. We most humbly state that no adverse inference may be drawn against us in view of the fact that we are amongst top 10 net positive LTP contributors as Buyers.

21.2.5. We most humbly state that our trading in the shares of SPBL is based on the NSE BSE Arbitrage Strategy and Systematic Investment Plan Strategy which is briefly explained herein under:

21.2.6. NSE BSE Arbitrage: We follow NSE BSE arbitrage strategy i.e. We buy and sell various scrips on BSE and correspondingly sell/buy on NSE and vice versa to take advantage of the price differential in the two markets.

21.2.7. The trades at BSE are done through our broker Shailesh Shah Securities Pvt. Ltd. and trades at NSE are done through our broker Nirpan Securities Pvt. Ltd. Both brokers are our associate / group companies.

21.2.8. Our brokers have in place an automated system which has more chances of capturing the price difference available than is available to the manual traders. Further, in our case the quantity that we put in order is the same as the best bid and asks quantity available at the other Exchange i.e. NSE or BSE. The order quantity that we input is always less than the

available demat stock we are holding in particular scrip. As soon as any trade gets executed on one Exchange say for example, on NSE the automated system squares off the opposite trade in other Exchange, i.e., BSE with similar quantity at market rate or "Zero rates" which is synonyms to market rate and immediately and simultaneously cancels the remaining pending order.

21.2.9. We state that placing of any order is based on the arbitrage price difference that may be available between two Exchanges. It is submitted that orders, buy or sell are placed in NSE depending upon the bid and ask price of BSE and vice versa. If bid and ask price quotes are available then we place an order just below the ask price or above the bid price. If bid and ask price are not available then we place an order to earn a positive difference of approximately 0.35% of the other Exchange. It may also be noted that all these trades are carried out within a very narrow price range and this is the actual essence of arbitrage. We have thus, executed trades in SPBL with miniscule margins.

21.2.10. It is submitted that the entire realm of arbitrage has to be considered in accordance with the technicality; intention, frequency, volume of trades etc. We state that factors such as order time, price, etc. is a condition precedent before placing any order.

21.2.11. It may be appreciated that volatility and liquidity are the essence of arbitrage activities. We have traded in the shares of SPBL which was listed under 'B Group' during the investigation period which signifies good category scrip as per the Exchange categorization.

21.2.12. The Gross profit earned before all statutory expenses for the trades in the scrip of SPBL during the investigation period is Rs. 26,11,07 only.

21.2.13. The details of our trades done on NSE corresponding to our trades done on BSE mentioned in the SCN are provided. The same clearly shows that the trades were done by us under the arbitrage strategy.

- 21.2.14. The details of our entire trades done of NSE and BSE in the scrip of SPBL during the investigation period are enclosed. The details are given with order time, order number, trade time, trade number, terminal ID and exchange on which executed. The data shows that we have executed more than 43,000 trades during the investigation period. We have bought and sold 23546 shares on NSE and BSE combine. Further you can also observe that there are many instances where the trades are executed more than 5 shares.
- 21.2.15. Reliance is placed on the orders of Whole Time Member, SEBI and Adjudicating Officer SEBI in the matter of *Winsome Yarns Ltd.*
- 21.2.16. Systematic Investment Plan Strategy: We were buying shares of more than 1000 scrips almost every alternate day to create a portfolio of different scrips of different sectors and categories like large cap, mid cap and small cap. The entire data of systematic investment executed during the investigation period in SPBL is enclosed. Thus, no adverse inference may be drawn from the observation that in spite of sell order quantity being large, we bought small quantity of shares in each transaction which contributed to price rise through positive LTP. We repeat that our orders were placed in order to even out the arbitrage position as is evident from Annexures to our reply.
- 21.2.17. We deny our self-trades which contributed towards 9.56% of total market positive LTP and being repetitive in nature, manipulative and were with an intent to increase the price of the scrip.
- 21.2.18. It is submitted that we have not only sold but also bought shares in SPBL during the investigation period. Our trades have also resulted in negative LTP as reflected vide Table K under para 13 on page 12 of the SCN. It is therefore, submitted that concluding on the basis of gross aggregation of LTP is flawed.

21.2.19. Without prejudice to the aforesaid contention, it is submitted that the self-trade prevention check was introduced by the Exchanges only in the year 2015 and was not available during the investigation period.

21.2.20. None of the software systems available in capital market during the investigation period had the capability to restrict a particular order which may result in a self-trade. Thus, the Exchanges were ill- equipped to deal with the concept of self-trades and the orders would match unintentionally at times leading to the broker and counter broker being the same party.

21.2.21. On automated and blind mechanism of the exchange such matching of the trades was beyond our control or knowledge and therefore no adverse inference may be drawn there from.

21.2.22. Reliance has been placed on various orders passed by Adjudicating Officers of SEBI wherein self-trades have not been found be blameworthy. With regard to the specific facts of the present case, the following is noted:

21.2.22.1. It may be appreciated that the self-trades have occurred on account of buy and sell orders placed at different point of time in trading system and these have matched with each other on account of movement in price of the stock of the scrip. Also, the quantum of self-trades (0.021% of the market volume) as not of such magnitude vis-a-vis total volume in stock of scrip on daily basis that it could adversely affect equilibrium of the market as a whole in terms of price or liquidity in stock of scrip. Self-trades were few in the light of the total transactions in the scrip.

21.2.22.2. Further, the self-trades are executed in either side of price not particularly in one direction to influence the price discovery process. Therefore, it cannot be suggested that self-trades were executed with the intent of bringing price rise in the scrip of SPBL.

- 21.2.23. There should be regulatory distinction between unintentional trades and intentional, manipulative (and illegal) wash trades. Intentional wash trades are illegal self-trades that can manipulate markets by giving the impression of legitimate trading interest or activity at a certain price, time, and size. However practically self-matches can also occur unintentionally. Such trades can occur in the course of normal trading when orders of one broking firm from two independent trading strategies/terminal coincidentally interact with each other. Though completely legitimate, and without an intent to manipulate, the two buy-sell orders on Stock Exchange from two independent dealers/terminal can end up matching with each other.
- 21.2.24. Arbitragers see opportunity in stocks traded at more than one exchange/ segment to encash upon price differential in one exchange/ segment vis-a-vis another by putting corresponding orders.
- 21.2.25. The necessity of 'intent' and the element of 'fraud' is a pre-requisite for violation of Regulation 3 and 4 of the PFUTP Regulations.
- 21.2.26. In instances, where evidence of 'material market harm' is absent and where self- trades constitute low fraction of the total trading volume in the scrip whereby the materiality of those trade on market is negligible, those self- trades like synchronized trades, should not be considered to be manipulative under PFUTP regulations.
- 21.2.27. Therefore, a distinction needs to be made between 'willful self-trades' which is done with a motive to induce other to trade in that particular stock and 'unintentional self-trades' which are in the nature of jobbing and had occurred due to technicalities of the anonymous trading system.
- 21.2.28. Self-trades would be fraudulent in nature if done on a persistent basis in connivance with manipulator / promoter and have intention to influence liquidity or price. The unintentional random trades on either side of direction of price should not be construed as manipulative

22. PERSONAL HEARING AND WRITTEN SUBMISSIONS:

22.1. An opportunity of personal hearing was provided to all the Noticees on October 24, 2019. The hearing notices in that regard were delivered on all the Noticees except Acira Consultancy to whom it was delivered subsequently by way of a newspaper publication dated October 12, 2019. On receipt of the hearing notices, Bharat Patel, Fidelity Multitrade and Pasha Finance submitted their responses dated October 22, 2019, which are summarized as under :

22.1.1. SEBI does not bother to send any letter or communication in spite of having best of surveillance system with it and various Exchanges and keeps quiet for 7-8 years after the transaction. When a stage is reached when no record is available about transaction, It cannot be expected to wake up after 7-8 years and seek explanation and issue show cause notice and expect Noticee to explain where in there are no records available. At this point we find it pertinent to note that human memory has a short shelf life so even to remember the transaction is not possible due to passage of time. Particularly in background of or large volume of transactions that will be travesty of justice if SEBI can draw an adverse inference.

22.1.2. We are shocked to note that there is absolutely no explanation as to why there has been a delay of 7 years in issuing of SCN. As stated earlier, the inordinate delay in proceeding with the show cause notice caused immense prejudice to Noticees and it is an abuse of the process of law and highhanded behaviour of SEBI. The said proceeding has become harrasive in nature and is contrary to the ends of justice. It also amounts to deprivation of the constitutional right of the Noticees to speedy investigation and trial for an offence alleged to have been committed.

22.1.3. SEBI have violated the Noticee's right under Article 21 of the Constitution of India as SEBI has been acting with arbitrariness and perversity.

22.1.4. We again request SEBI to withdraw the show cause notice in the interest of fairness, reasonableness and justice. In the circumstances that the SCN issued to us be withdrawn without compelling us to any further proceedings in Tribunal or Court or even to call us for personal hearing. The intention of pursuing such proceeding is only to punish us and compel us to redress our grievances in court of law. In the event, if you are not inclined to withdraw the SCN under reference, please do let us know the same to enable us to take appropriate proceedings in the matter.

22.2. With regard to the hearing scheduled on October 24, 2019, Nirshilp Commodities requested for adjournment. The Noticee namely, Acira Consultancy vide letter dated October 18, 2019 submitted that its address had changed and that it had not received the SCN earlier because of which it is not in a position to appear for personal hearing. Acceding to the request of Acira Consultancy, a copy of the SCN and annexures was sent to it on the address provided by it.

22.3. Thereafter, another opportunity of hearing was provided to Nirshilp Commodities and Acira Consultancy on December 3, 2019 and the hearing notice in that regard was delivered on Nirshilp Commodities. The hearing notice could not be served on Acira Consultancy even on the new address provided by it. In order to deliver the hearing notice, a contact number was procured from the neighbours of Acira Consultancy's new address. When contacted on the said number, the entity provided an email ID which was confirmed with the records available on MCA portal. The hearing notice was then sent on the said email ID which did not bounce back and was thus delivered.

22.4. On the said date of hearing, no one appeared on behalf of Acira Consultancy, while the authorized representatives on behalf of Nirshilp Commodities appeared and made, *inter alia*, the following submissions :

22.4.1. The trades executed by it in the scrip of Sheshahayee Paper and Boards Limited were part of its NSE-BSE arbitrage strategy. They placed

reliance on the Order of SEBI in the matter of *Winsome Yarns Limited*. The Noticee submitted the List of scrips in which it had traded.

- 22.4.2. The trades were executed through automated system.
- 22.4.3. There was no intention to increase the LTP of the scrip. it had traded below the LTP in approximately 26,000 trades.
- 22.4.4. There was no checks for self-trades. The brokers of the Noticee and counter party (Noticee itself) were same. The self-trades were done unintentionally and happened due to automated system and matching the trade could not be controlled/checked.
- 22.4.5. Self- trades are not illegal per se and the quantity is also negligible.

The Noticee was also given time to file additional written submissions along with the sample of trades executed by it on BSE and NSE as its arbitrage strategy.

23. Thereafter, vide letter dated December 9, 2019, Nirshilp Commodities submitted the corresponding opposite arbitrage trades executed on NSE of the 435 trades executed on BSE as per the show cause notice. The details were given with order time, order number, trade time, trade number, terminal ID and exchange on which executed. It also submitted the approval letters given by BSE and NSE to its brokers for carrying out automated trading. Subsequently, vide a letter dated January 13, 2020, it submitted further submissions explaining its trading strategy as was mentioned by it earlier.

CONSIDERATION OF ISSUES:

24. It is noted that the SCN in the present matter has two distinct parts wherein the first part relates to allegations against 4 Noticees namely, Bharat Patel, Fidelity Multitrade, Pasha Finance and Acira Consultancy, and the second part relates to allegations against Nirshilp Commodities. The two parts are independent of each other and are therefore being dealt with separately.

25. I have perused the allegations levelled against the Noticees in the SCN, the replies and written submissions filed by them, oral arguments made by them during the hearing and other material available on record. On perusal of the same, the following issues arise for consideration:

- A. Whether the 4 Noticees namely, Bharat Patel, Fidelity Multitrade, Pasha Finance and Acira Consultancy indulged in circular trades at BSE and NSE in the scrip of SPBL and thereby created a misleading appearance of trading in the scrip of SPBL during the investigation period without any intention of change in beneficial ownership and thereby violated the provisions of SEBI Act and PFUTP Regulations as alleged in the SCN?
- B. Whether the Noticee namely Nirshilp Commodities traded in a manner which manipulated the price of the scrip and indulged in self-trades not resulting in change of beneficial ownership of the security thereby causing a misleading appearance of trading in the scrip of SPBL in violation of the provisions of SEBI Act and PFUTP Regulations as alleged in the SCN?
- C. If answer to issue no. A and/or B is in affirmative, what directions should be issued against the Noticees?

26. The consideration of these issues in light of the submissions made by the Noticees is contained in the paragraphs below.

A. Whether the 4 Noticees namely, Bharat Patel, Fidelity Multitrade, Pasha Finance and Acira Consultancy indulged in circular trades at BSE and NSE in the scrip of SPBL and thereby created a misleading appearance of trading in the scrip of SPBL during the investigation period without any intention of change in beneficial ownership and thereby violated the provisions of SEBI Act and PFUTP Regulations as alleged in the SCN?

27. The Noticee named Bharat Patel in his initial reply had made a submission that all the entities who have been clubbed as the *Bharat Patel Group* entities are independent of each other and their transactions in securities market are independent of his

transactions. In this regard, it is noted that the allegations in the SCN are levelled against 4 entities belonging to the *Bharat Patel Group* namely, Bharat Patel, Fidelity Multitrade, Acira Consultancy and Pasha Finance. The connection amongst these 4 Noticees is noted in the table below:

Sr. no.	Entity Name	Basis of Connection
1	Bharat Jayantilal Patel	1 Director in Fidelity Multitrade Ltd. and Pasha Finance Pvt. Ltd. 2. Stock broker at BSE.
2	Acira Consultancy Pvt. Ltd.	1. Finquest Securities Pvt. Ltd. also acted as the buy and sell broker of these 4 Noticees. 2. Shanker Tuljaram Kirpalani is one of Acira's directors, who is also a director of Finquest securities Pvt. Ltd. 2. Shanker Tuljaram Kirpalani, Minal Bharat Patel (Bharat Patel's wife), Hardik Bharat Patel (son of Bharat Patel) are common directors in Finquest securities Pvt. Ltd.
3	Fidelity Multitrade Pvt. Ltd.	1. Bharat Jayantilal Patel, Minal Bharat Patel (Bharat Patel's wife), and Ruchit Bharat Patel (son of Bharat Patel) are Fidelity's directors. 2. Off-market transactions with Bharat Jayantilal Patel and Pasha Finance Pvt. Ltd.
4	Pasha Finance Pvt. Ltd.	1. Bharat Jayantilal Patel and Minal Bharat Patel (Bharat Patel's wife) are the directors. 2. Off-market shares transfer with Fidelity Multitrade Pvt. Ltd.

28.. The Table above clearly brings out the connection of these 4 Noticees amongst each other. It is important to mention that the veracity of the facts noted in the above table have not been disputed by the Noticees. It is also relevant to mention that the primary allegation against these 4 Noticees in the SCN is that they had traded in a circular manner in the scrip of SPBL. The purpose behind highlighting the connection amongst these entities is to show that they were known to each other, which has not been disputed by any of the Noticees. Mr. Bharat Patel has contended that these entities were financially independent in order to demonstrate that they were not acting as group but independently. In this regard, it is noteworthy that these 4 Noticees had traded amongst each other with Finquest Securities being the broker on both buy and sell side. As noted during investigation, Finquest Securities is also connected to the Bharat Patel group since Minal Patel (Bharat Patel's wife and a director of Fidelity and

Pasha Finance) is a director in Finquest and a person named Shanker Tuljaram Kirpalani is the director in Acira Consultancy and Finquest Securities. Also looking at the trading behaviour of these Noticees, it is noted that the shares were purchased / sold by these Noticees in a peculiar manner as they were purchased / sold by way of *bulk deals* through single trades (except for the purchase by Bharat Patel from Acira Consultancy in 2 trades) and these trades were the largest trades (in terms of quantity) executed by these Noticees in the scrip of SPBL during the investigation period as against their usual trades which were majorly for quantities in single / double digits. Further, I also find it important to note here that in the present case, the allegations of violation of provisions of SEBI Act / PFUTP Regulations are based on the transactions carried out by these entities in scrip of SPBL amongst each other, which can be viewed regardless of the financial independence of these Noticees. Considering the above, I find that the 4 Noticees had traded amongst each other as a group connected to each other.

29. A common argument raised by these 4 Noticees is that the transactions are very old and SEBI kept quiet all this while and then all of a sudden, it issued the show cause notice. Further, it is claimed that the inordinate delay in proceeding with the show cause notice caused immense prejudice to Noticees and it is an abuse of the process of law by SEBI. The Noticees have submitted that they do not have the records of the concerned transactions and due to passage of time, they do not have any memory about the transactions in question. Bharat Patel has also submitted that as per regulation 18 of the Stock Brokers Regulations, a stock broker is only required to preserve records for a period of 5 years and not thereafter. Based on the above, the Noticees have prayed that in the interest of fairness, reasonableness and justice, the SCN should be withdrawn.

30. In this context, it is noteworthy that as a generally accepted principle regarding enforcement action by any enforcement authority, investigation/inquiry against any subject entity and the consequent action in pursuance of the same should be completed in a reasonable time frame which would serve the objective of balancing the rights of the persons subjected to enforcement action and the investors whose

rights are being protected through enforcement proceedings. However, it is equally true that the time consumption in investigation or consequent enforcement actions can be caused due to multiplicity of factors such as the violation coming to the notice of the enforcement authority on a later date, the requisite data / material not being readily available, non-cooperation by the subject entities, pendency of connected matters before other courts / authorities, etc. in the present case, it is not out of relevance to mention that that delay was caused on account of reasons including the violation coming to SEBI's notice on a later date, non-cooperation by certain Noticees, etc. Thus, in order to address the contention raised by the Noticees, it would be appropriate to consider the facts and circumstances of the case in light of the legal principles in this regard.

31. With regard to the above arguments regarding withdrawal of the SCN against the Noticees, I find that the factum of delay in completion of investigation and / or initiation of enforcement proceedings, in itself, cannot be a ground for withdrawal of proceedings. Only in cases where the Noticee is adversely affected, can such a submission be considered. In this context, I find it relevant to refer to the order passed by Hon'ble SAT in the case of *Metex Marketing Pvt. Ltd. vs. SEBI* (order dated June 4, 2019) wherein Hon'ble SAT held that: *"This Tribunal has consistently held that in the absence of any specific provision in the SEBI Act or in the Takeover Regulations, the fact that there was a delay on the part of SEBI in initiating proceedings for violation of any provision of the Act cannot be a ground to quash the penalty imposed for such violation."*

32. The contention of the Noticees that the proceedings against them is unfair and unjust because they have not maintained the records relating to the transactions in question, is unacceptable for the reason that the Noticees have been provided with the relevant trade logs and order logs and the also other material on which the allegations levelled in the SCN are based. The Noticees were also provided an opportunity to attend personal hearing and offer their explanations but the same was not availed by them. Therefore, there is no prejudice caused to the Noticees on this ground of non-availability of information to defend the case. Further, if such

an argument is accepted, it would form a basis for entities (who are not specifically obligated under law to maintain any records) to contend that it would not be just and fair for SEBI to issue any show cause notice seeking explanations of the entity just because they don't have the records, which they are not obligated to maintain.

33. Regardless of the above, the Stock Broker Regulations provide for maintenance of records for a "*minimum*" period of 5 years and not otherwise. It may be mentioned here that nothing prevented the Noticees from preserving the records for the period prior to April 1, 2014. Moreover, the records are majorly contained in the digital / electronic mode and therefore space crunch or logistics issue cannot be adduced as the justification for non-maintenance of the same for a period more than 5 years. Thus, the argument that the Noticees do not have the records prior to April 1, 2014 does not come to the support of case of the Noticees.

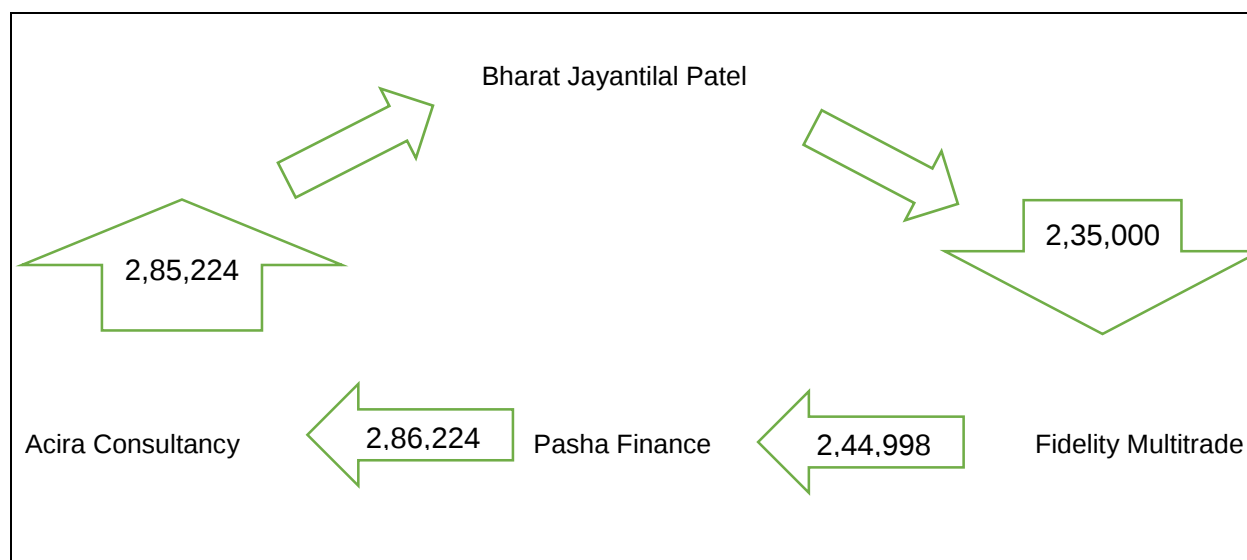
34. In my view, proceedings cannot be quashed on the ground that the same had been initiated at a late stage or could not be concluded in a reasonable period unless the delay creates prejudice to the Noticee. Since all the material on which the allegations levelled in the SCN were based, have been provided to the Noticees, they were not in any manner constrained to submit their defence to the allegations levelled in the SCN. In fact, the other Noticee in the matter (i.e. Nirshilp) has submitted detailed response on merits on the basis of the same data which was provided to these 4 Noticees. I, therefore, find that the above noted contention of the Noticees with regard to delay in initiation of proceedings are devoid of merit and cannot be accepted.

35. Without prejudice to the above, it is noted that depending on the facts and circumstances of each case, time consumption initiation and completion of proceedings can be considered as a mitigating factor for suitably modifying the directions to be issued against the Noticee, if Noticees are adjudged to be violative of the allegations against them, which in effect cater to the objective of balancing the rights of the Noticee subjected to enforcement action vis a vis interest of investors

36. Coming to the allegations levelled in the SCN against these 4 Noticees, the table below contains the particulars of the alleged circular trades amongst them:

Date	Buy Client Name	Sell Client Name	Buy and Sell Member	Exchange	Qty.	% of total Mkt. Vol.
05/03/2012	Fidelity Multitrade Pvt. Ltd.	Bharat Jayantilal Patel	Finquest Securities Pvt. Ltd.	NSE	2,35,000	9.53
12/03/2012	Pasha Finance Pvt. Ltd.	Fidelity Multitrade Pvt. Ltd.		BSE	2,44,998	11.65
15/03/2012	Acira Consultancy Pvt. Ltd.	Pasha Finance Pvt. Ltd.		BSE	2,86,224	13.62
21/03/2012	Bharat Jayantilal Patel	Acira Consultancy Pvt. Ltd.		NSE	2,85,224	11.57

37. Thus, all the 4 Noticees bought shares in excess of 2,35,000 shares from one related entity and sold shares in excess of the same quantity to another related entity thereby creating misleading appearance of trading without the actual transfer of beneficial ownership of shares. A pictorial description of the circular transactions amongst the 4 Noticees (figures showing the shares sold) is as under:



38. As per the SCN, the said circular trades constituted 21.10% (9.53%+11.57%) and 25.27% (11.65%+13.62%) of total market traded volume at NSE and BSE and created misleading appearance of trading in the scrip without any intention of change in ownership of the security. The broker – Finquest Securities Pvt. Ltd. through whom all these trades were carried out, was also connected to the 4 Noticees in the manner noted earlier in this order. None of the 4 Noticees (i.e. Bharat Patel, Fidelity Multitrade, Pasha Finance and Acira Consultancy) have disputed the transactions nor have they offered any explanation regarding their trades even though the trade log and order log in the scrip of SPBL during the investigation period was provided to them. They also did not avail the opportunity of personal hearing provided to them in respect of the present proceedings.

39. One argument has been put forth by Bharat Patel that the trades in question were executed by his dealers and he had only given them the instructions. In my view, such an argument does not advance the case of the Noticee in any manner since any trade, regardless of the manner of its execution, belongs to the client and as long as the client was aware of the trade, he cannot shun the ownership of the trade for the reason that it was executed by a dealer. Further, as already mentioned, Bharat Patel had bought and sold shares of SPBL by way of bulk deals through a broker (who was connected to Bharat Patel) from / to entities who were connected to it Bharat Patel. As a matter of fact, this purchase and sale was the largest trades of Bharat Patel in the scrip of SPBL and were executed through two trades (in case of purchase and a single trade (in case of sale). Considering these facts also, it appears impossible that Bharat Patel had no idea about how his trades were executed. Without prejudice to the above, it has already been established that Bharat Patel had acted as a group with Fidelity Multitrade Pvt. Ltd. Pasha Finance Pvt. Ltd. and Acira Consultancy Pvt. Ltd. while dealing in the scrip of SPBL. In view of the above, I am unable to accept the contention of Bharat Patel in this regard.

40. Considering the above, I am of the view that in the facts and circumstances of the present case and the findings / observations recorded above, the preponderance

of probability lies against the 4 Noticees namely, Bharat Patel, Fidelity Multitrade, Pasha Finance and Acira Consultancy. Resultantly, I am inclined to hold that these 4 Noticees who were connected to each other and bought and sold shares of SPBL through a common connected broker, acted as a group under a premeditated scheme / plan to indulge into circular trades at BSE (contributing to 25.27% of total market volume) and NSE (contributing to 21.10% of total market volume) during the investigation period and created misleading appearance of trading in the scrip without any intention of change in beneficial ownership. Such acts/conduct on part of these Noticees was directly in violation of the provisions of section 12A(a), (b) and (c) of the SEBI Act, 1992 read with Regulations 3(a), (b), (c) and (d), 4(1), 4(2)(a) and (g) of the SEBI (PFUTP) Regulations, 2003. I, therefore, hold that the above named 4 Noticees have violated the provisions of the SEBI Act and PFUTP Regulations noted above and have become liable for issuance of suitable directions.

B. Whether the Noticee namely Nirshilp Commodities traded in a manner which manipulated the price of the scrip and indulged in self-trades not resulting in change of beneficial ownership of the security thereby causing a misleading appearance of trading in the scrip of SPBL in violation of the provisions of SEBI Act and PFUTP Regulations as alleged in the SCN?

41. The allegations levelled against Nirshilp in the SCN are *inter alia* based on the following counts:

- Nirshilp contributed Rs. 3051.3 (30.56% of total market positive LTP) in 1,314 trades for 1,456 shares. The top counterparty to Nirshilp was Nirshilp itself i.e. through self-trades and accounted for 9.56% of total market positive LTP.
- On analysis of Nirshilp's 1,314 positive LTP trades, it was observed that in 435 trades for 442 shares, buy orders were placed after sell orders, at buy order rates higher than the prevailing sell order rates with negligible buy order quantity. By way of such trades, Nirshilp contributed LTP of Rs. 804.80 (8.06% of total market positive LTP). Such buy order pattern of Nirshilp allegedly

induced sellers to place sell orders above the last traded price. It was observed that a genuine buyer would not repeatedly place buy orders at a price higher than the sell order price and for a quantity lesser than the available sell order quantity.

- Further, Nirshilp had repeatedly matched sell orders that were placed above LTP with market orders, with negligible buy order quantity and repeatedly executed self-trades in negligible quantity. Out of 1,314 positive LTP trades, Nirshilp placed market buy order in 291 trades for 405 shares. By such orders, Nirshilp contributed LTP of Rs. 634.05 (6.35% of total market positive LTP). It was observed that in 1169 instances Nirshilp has placed buy order quantity of 1 share during the investigation period.
- Nirshilp executed 426 self-trades for 436 shares on 216 trading days. Hence, the Self-trades were repetitive in nature. Further, it was observed that 130 self-trades for 137 shares were executed from the same terminal ID and the broker on buy and sell side in self-trades was Shailesh Shah Securities Pvt. Ltd.
- Nirshilp contributed Rs. 954.75 i.e. 9.56% of total market positive LTP through self-trades, which were repetitive in nature. The above order pattern of self-trades by Nirshilp allegedly inflated the scrip price.

BSE-NSE arbitrage strategy adopted by Nirshilp:

42. Nirshilp, in its submissions, has denied all the allegations levelled in the SCN and has submitted that it follows NSE - BSE arbitrage strategy to take advantage of the price differential in the two markets. It submitted that its trades at BSE are done through the broker Shailesh Shah Securities Pvt. Ltd. and trades at NSE are done through the broker Nirpan Securities Pvt. Ltd. both of whom are its associate / group companies. It was submitted that Nirshilp's brokers have in place an automated system which has more chances of capturing the price difference available than is available to the manual traders. It also submitted the approval letters with respect to its algorithmic trading issued by BSE and NSE.

43. It has been explained by Nirshilp that the quantity that it puts in an order is the same as the best bid and asks quantity available at the other Exchange i.e. NSE or BSE. As soon as any trade gets executed on one Exchange, the automated system squares off the opposite trade in other Exchange. Further, the order quantity that it inputs is always less than the available demat stock it is holding in particular scrip so that even if the counter leg transaction does not go through, Nirshilp's trade will never go in auction for settlement. Nirshilp has also given the details of the deliveries it had taken in the scrip of SPBL during the investigation period.

44. Nirshilp also submitted that it had traded in the shares of SPBL which was listed under 'B Group' during the investigation period which signifies good category scrip as per the Exchange categorization. Further, the Gross profit earned before all statutory expenses for the trades in the scrip of SPBL during the investigation period is Rs. 26,107 only.

45. Nirshilp submitted the details of entire trades in the scrip of SPBL done under its NSE- BSE arbitrage strategy for the entire investigation period. For explaining its stand, it also submitted the details of its corresponding orders and trades at NSE for the trades shown in SCN in Table H of para 12 (a) as under :

Trx Date	Order No	Order Time	Trade No	Trade Time	Buy Qty	Buy Rate	Buy Amt	Sell Qty	Sell Rate	Sell Amt	Exchange
02/01/12	2012010275076607	09:46:47	75109804	09:46:55	0	0.00	0.00	1	177.95	177.95	NSE
02/01/12	12000048004462	09:46:56	1002	09:46:56	1	175.00	175.00	0	0.00	0.00	BSE
03/01/12	13000216016606	10:31:33	1004	10:31:33	1	173.00	173.00	0	0.00	0.00	BSE
03/01/12	2012010375290988	10:31:14	75326549	10:31:33	0	0.00	0.00	1	173.90	173.90	NSE

16/01	20120116752	09:47	75153	09:47					202.	202.	
/12	32779	:54	125	:58	0	0.00	0.00	1	40	40	NSE
16/01	21000052019	09:47		09:47		194.	194.				
/12	618	:59	1002	:59	1	00	00	0	0.00	0.00	BSE
21/01	20130121668	09:32	66853	09:32					248.	248.	
/13	89501	:04	337	:06	0	0.00	0.00	1	65	65	NSE
21/01	14000138001	09:32		09:32		245.	245.				
/13	087	:07	1002	:07	1	00	00	0	0.00	0.00	BSE

46. A reading of the above table along with the table noted in the SCN (table 5 above) shows that the trades were done by Nirshilp at BSE as the contra leg of trades done at NSE as the trade time of the both the legs have very minimal time difference. The same conforms with the submission of Nirshilp that it had traded deploying its BSE-NSE arbitrage strategy.

47. It is noted from the submissions made by Nirshilp that it had executed more than 43,000 trades during the investigation period and bought and sold 23,546 shares on NSE and BSE combined.

48. The summary of NSE BSE arbitrage done in the scrip SPBL during the investigation period as submitted by Nirshilp is given below:

Scrip Name	Buy Qty	Avg. Buy Rate	Buy Amount (in rs.)	Sell Qty	Avg. Sell Rate	Sell Amount (in rs.)	Exchange
SESHA PAPER	12951	216.11	27,98,896.25	10604	214.19	22,71,314.55	BSE Total
SESHA PAPER	10595	213.12	22,57,963.45	12942	217.25	28,11,652.20	NSE Total
Grand Total	23546	214.77	50,56,859.70	23546	215.87	50,82,966.75	

Quantity of shares in an order being automatically determined:

49. As regards the quantity of shares traded, it has been submitted that the quantity depends on the number of trades which get executed / are available on the other exchange. Few instances are given below where trade quantity is 5 shares or more:

Trx Date	Order No	Order Time	Trade No	Trade Time	Buy Qty	Buy Rate	Buy Amount	Sell Qty	Sell Rate	Sell Amount	Exchange
15/12/11	22000054143121	14:53:38	1001	14:53:38	20	189.90	3798.00	0	0.00	0.00	BSE
15/12/11	2011121576727025	14:03:44	76223155	14:53:38	0	0.00	0.00	20	191.95	3,839.00	NSE
21/12/11	11000219046456	11:15:42	1009	11:25:24	0	0.00	0.00	10	179.95	1,799.50	BSE
21/12/11	2011122175833655	11:25:24	75444353	11:25:24	10	177.95	1,779.50	0	0.00	0.00	NSE
28/12/11	2011122876068143	14:21:08	75645179	14:21:13	0	0.00	0.00	21	174.45	3,663.45	NSE
28/12/11	17000257182301	14:21:14	1002	14:21:14	21	173.40	3641.40	0	0.00	0.00	BSE
28/12/11	17000257182811	14:22:10	1005	14:22:10	25	173.50	4337.50	0	0.00	0.00	BSE
28/12/11	2011122876132157	14:22:04	75647412	14:22:10	0	0.00	0.00	25	174.45	4,361.25	NSE
28/12/11	2011122876133539	14:22:25	75647994	14:22:30	0	0.00	0.00	25	174.45	4,361.25	NSE
28/12/11	17000257182971	14:22:31	1006	14:22:31	25	173.50	4337.50	0	0.00	0.00	BSE
10/01/12	15000046147638	15:17:52	1008	15:17:52	5	174.10	870.50	0	0.00	0.00	BSE
10/01/12	2012011077000440	15:17:52	76317237	15:17:52	0	0.00	0.00	5	175.15	875.75	NSE
17/02/12	11000219185650	12:37:42	1015	12:59:14	0	0.00	0.00	5	179.75	898.75	BSE

Trx Date	Order No	Order Time	Trade No	Trade Time	Buy Qty	Buy Rate	Buy Amount	Sell Qty	Sell Rate	Sell Amount	Exchange
17/02 /12	2012021777 263737	12:59 :14	76258 794	12:59 :14	5	177. 00	885.0 0	0	0.00	0.00	NSE
21/03 /12	1700005200 5123	09:22 :05	1081	09:22 :05	5	211. 95	1,059 .75	0	0.00	0.00	BSE
21/03 /12	2012032175 166977	09:22 :05	75060 699	09:22 :05	0	0.00	0.00	5	213. 20	1,066 .00	NSE
26/03 /12	2012032676 915919	15:22 :37	76035 827	15:22 :37	0	0.00	0.00	5	194. 00	970.0 0	NSE
26/03 /12	1800006021 9149	15:22 :38	1080	15:22 :38	5	191. 95	959.7 5	0	0.00	0.00	BSE
15/11 /12	2012111561 426770	13:20 :43	60882 564	13:20 :43	0	0.00	0.00	5	252. 00	1,260 .00	NSE
15/11 /12	2200014838 3910	13:20 :45	1521	13:20 :45	5	249. 00	1245. 00	0	0.00	0.00	BSE
16/11 /12	1200014122 5475	12:38 :46	1428	12:38 :47	5	270. 05	1350. 25	0	0.00	0.00	BSE
16/11 /12	2012111661 239962	12:38 :47	60685 955	12:38 :47	0	0.00	0.00	5	273. 90	1,369 .50	NSE
23/11 /12	1400016625 1615	12:49 :06	1231	12:49 :06	5	288. 00	1440. 00	0	0.00	0.00	BSE
23/11 /12	2012112361 026420	12:49 :07	60474 784	12:49 :07	0	0.00	0.00	5	290. 05	1,450 .25	NSE
27/11 /12	1200002703 9364	09:51 :09	1006	09:51 :09	0	0.00	0.00	5	276. 20	1,381 .00	BSE
27/11 /12	2012112760 349491	09:51 :09	60156 230	09:51 :09	5	274. 90	1374. 50	0	0.00	0.00	NSE
21/05 /13	1900012907 4154	11:34 :40	1004	11:34 :40	0	0.00	0.00	5	206. 00	1,030 .00	BSE
21/05 /13	2100010325 0091	11:34 :40	1003	11:34 :40	0	0.00	0.00	5	206. 00	1,030 .00	BSE
21/05 /13	2013052168 430051	11:34 :40	67432 833	11:34 :40	5	203. 00	1015. 00	0	0.00	0.00	NSE
21/05 /13	2013052168 430103	11:34 :40	67432 853	11:34 :40	5	203. 00	1015. 00	0	0.00	0.00	NSE

Self – trades executed by Nirshilp:

50. With regard to the self-trades executed by Nirshilp, the following points are noted:

50.1. Out of the 426 self-trades, 135 trades were executed at a price below LTP (resulting in negative LTP contribution) and 64 trades were executed at a price equal to LTP (resulting in no LTP contribution).

50.2. In absence of any formalized system to restrict a particular order which may result in a self-trade, there would always be the possibility of unintentional matching of trades of one client placed through two brokers.

50.3. All the self-trades in question were executed by the automated algorithm of Nirshilp.

50.4. The percentage of the self-trades executed by Nirshilp as against the total market volume in the scrip of SPBL during the investigation period is 0.021%.

51. I note that an arbitrageur profits from the imbalance in price on different Exchanges. So in order to profit, the arbitrageur buys at a lower price in one Exchange and sells at a higher price on the other Exchange. Moreover the quantity and price at which an arbitrageur buys / sells a scrip depends on a host of market forces at play at the relevant time, including other traders in the scrip. Therefore, a trader who has adopted its trading strategy as arbitrage, in the extant matter executed through algorithmic trading, will not have complete control over the trades being executed apart from the pre-defined parameters that it has already set in its algorithm. When viewed in light of the above facts relating to self-trades executed by Nirshilp, the SCN does not bring out any fact to suggest that the self-trades were placed intentionally by Nirshilp in order to manipulate the price of the scrip of SPBL.

Overall assessment of the subject trading by Nirshilp:

52. From the material submitted by Nirshilp, I find merit in its submission that it had adopted an algorithm which has an inter-exchange arbitrage strategy that takes advantage of any price differential in order books that exists for the same stock trading at different exchanges.
53. Since the order books of both the stock exchanges are different, there is always a possibility of a price difference in the best buy / sell order for the same scrip on the two exchanges and the same can be exploited by any trader on the exchange(s) adopting the Arbitrage strategy. Arbitrage as a trading strategy is permissible within the confines of securities laws and so long as the particulars of the said trading strategy are as per the extant laws, no fault can be found with the said trading strategy. In light of the same, it is held that the buy and sell orders executed by Nirshilp in the scrip are not manipulative in nature.
54. Nirshilp has submitted that it had traded in 1,209 other scrips during the investigation period in order to support similar trading strategy of arbitrage in the said scrips. The data shows the particulars of shares bought and sold on a given day at both the Exchanges. The data in general suggests that arbitrage trading is in the normal course of business of Nirshilp. The same pattern was followed by the Noticee in the scrip of SPBL. Hence, the trading behaviour of Nirshilp in other scrips also justifies its trading in SPBL which has already been held to be not manipulative in nature.
55. Thus, factors such as the particulars of the buy and sell orders, mode and manner of execution of trades, trading strategy adopted by Nirshilp and the similar trading behaviour followed in other scrips, indicates that benefit of doubt be extended to Nirshilp on the allegation of causing a misleading appearance of trading, and manipulation of the price of the scrip of SPBL. Thus, I am of the considered view that the violation of provisions of section 12A(a), (b) and (c) of the SEBI Act, 1992 read with Regulations 3(a), (b), (c) and (d), 4(1), 4(2)(a), (b), (e) and (g) of the SEBI

(PFUTP) Regulations, 2003 is not established against Nirshilp Commodities.

C. If answer to issue no. A and/or B is in affirmative, what directions should be issued against the Noticees?

56. As noted above, as against Nirshilp Commodities and Trading Private Limited, the material on record does not establish the violations of Section 12A(a), (b) and (c) of SEBI Act read with Regulations 3(a), (b), (c) and (d), 4(1), 4(2)(a), (b), (e) and (g) of the PFUTP Regulations. Thus, no directions are required to be issued against Nirshilp Commodities and Trading Private Limited.

57. As regards the Noticees, Bharat Jayantilal Patel, Fidelity Multitrade Pvt. Ltd., Pasha Finance Pvt. Ltd. and Acira Consultancy Pvt. Ltd, the violations of provisions of section 12A(a), (b) and (c) of the SEBI Act read with Regulations 3(a), (b), (c) and (d), 4(1), 4(2)(a) and (g) of the PFUTP Regulations have been established. In view of this, appropriate directions debarring these entities from the securities market need to be issued against them.

58. It has been noted earlier in the order that there has been a time consumption in initiation of proceedings in the matter on account of various reasons. While the said time consumption has not caused any prejudice to the Noticees, I note that in the interest of fairness, time consumption in completion of proceedings can be considered as a mitigating factor for the purpose of reduction of period of debarment to be imposed on the Noticees. Accordingly, appropriate directions in this regard are being issued in the operative portion of this order.

Order:

59. Considering the findings recorded in this order pertaining to the violations committed by Bharat Jayantilal Patel, Fidelity Multitrade Pvt. Ltd., Pasha Finance Pvt. Ltd. and Acira Consultancy Pvt. Ltd, I, in exercise of the powers conferred upon me under sections 11(4) and 11B of the Securities and Exchange Board of India Act, 1992 read with section 19 thereof, hereby restrain Bharat Jayantilal Patel

(in his capacity as a client), Fidelity Multitrade Pvt. Ltd., Pasha Finance Pvt. Ltd. and Acira Consultancy Pvt. Ltd. from accessing the securities market and buying, selling or dealing in securities, either directly or indirectly, in any manner for a period of 2 (two) years from the date of this order. Needless to say that in view of the prohibition on sale of securities, during the period of restraint, the existing holding, including units of mutual funds, of Bharat Jayantilal Patel, Fidelity Multitrade Pvt. Ltd., Pasha Finance Pvt. Ltd. and Acira Consultancy Pvt. Ltd. shall remain frozen.

60. It is made clear that if the Noticees have any open positions in any exchange traded derivative contracts, they can close out/ square off such open positions within 3 months from the date of order or at the expiry of such contracts, whichever is earlier. It is also clarified that the Noticees can settle the pay-in and pay-out obligations in respect of transactions, if any, which have taken place before the close of March 04, 2020.

61. Since the violations alleged in the SCN against Nirshilp Commodities and Trading Private Limited have not been established, no directions are required to be issued against it.

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

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

Sd/-

DATE: March 04, 2020

PLACE: Mumbai

MADHABI PURI BUCH

WHOLE TIME MEMBER

SECURITIES AND EXCHANGE BOARD OF INDIA