

BEFORE THE SECURITIES AND EXCHANGE BOARD OF INDIA

CORAM: S. K. MOHANTY, WHOLE TIME MEMBER

ORDER

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

In respect of:

Noticee No.	Names of the Noticee	PAN
1.	CHANDRAKANT B SHAH	AJKPS6764L
2.	AJAY RAVINDRA SHAH	AAGPS8690G
3.	SANTOSH VASANT BHELEKAR	AFBPB2887C
4.	SAURABH KUMAR RASIKLAL GANDHI	AMVPG6042M
5.	V AND R YARNS PRIVATE LIMITED	AADCV1473C
6.	MOSS TRADERS PVT LTD	AAFCM1942F
7.	AILISH TRADERS PRIVATE LIMITED	AAICA1021G
8.	KINITA REAL ESTATE PRIVATE LIMITED	AADCK7739G
9.	JESHNA MULTITRADE PVT LTD	AACCJ2392K
10.	GAJPAL BUILDINFRA PRIVATE LIMITED	AADCG5699R
11.	GRANTVIEW PROPERTIES PRIVATE LIMITED	AADCG0799G
12.	MONAECUM PROPERTIES PRIVATE LIMITED	AAGCM5765M
13.	JASMIN SUSILKUMAR BAJORIYA	AKBPB3342D
14.	INDIVAR TRADERS PRIVATE LIMITED	AACCI1585K
15.	ADDO CONSTRUCTIONS PVT LTD	AAICA0732C
16.	SUNLIGHT COMMOTRADE PRIVATE LIMITED	AANCS6134P
17.	ABIJAH REAL ESTATE PVT LTD	AAICA0617L
18.	JIGNESH CHANDRAKANT SHAH	BCWPS6593R
19.	ALPESH SHESHMAL SHAH	AEAPS0393A
20.	AMIIT SAHITA FINANCE P LTD.	AABCA2735J

(The entities mentioned above are individually known by their respective name or *Noticee no.* and collectively referred to as "*Noticees*")

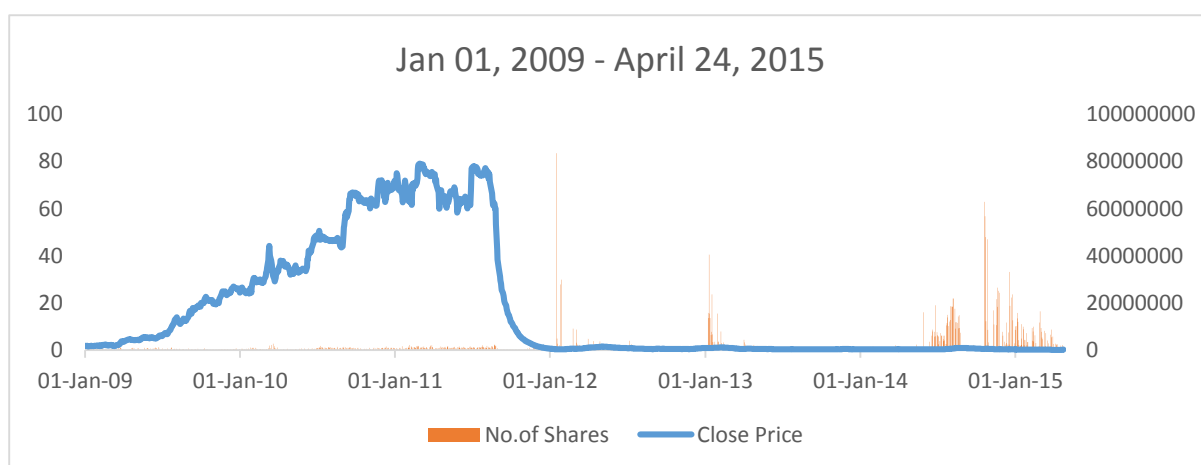
In the matter of Aadhaar Ventures India Limited.

Background:

1. An investigation was conducted by Securities and Exchange Board of India (hereinafter referred to as "**SEBI**") into the trading in the scrip of Aadhaar Ventures India Limited (hereinafter referred to as "**AVIL/Company**"), for the period of January 01, 2009 to April 24, 2015 (hereinafter referred to as "**Investigation Period**") for possible violation, if any, of the provisions of Securities and Exchange Board of India Act, 1992 (hereinafter referred to as "**SEBI Act, 1992**") and rules and regulations made thereunder.

2. During the course of investigation, the price volume data in the scrip of the *Company* was analyzed and it was observed that the price of the scrip opened at ₹1.80 on January 01, 2009 and then there was increase in the price of the scrip and same was closed on August 01, 2011 at ₹77.15. Investigation further observed that subsequently the price of the scrip of AVIL fell to ₹0.66 on December 30, 2011 and further to ₹0.19 on April 24, 2015. Details of price volume information in the scrip of AVIL during the Investigation Period are presented in the chart below:

Chart 1: Price-Volume Chart



In this regard, the detail of price volume movement in the scrip of *AVIL* in the period before Investigation, during the Investigation Period and after Investigation Period is tabulated below:

Table-1: Price-Volume movement in scrip of *AVIL*

Period	Dates		Open (₹)	Close (₹)	Low (Date)	High (Date)	Avg. no. of (shares) traded daily during the period.
Pre Investigation Period	01/12/2008- 31/12/2008	Price	1.60	1.79	1.60 (01/12/2008)	2.00 (12/12/2008)	45,193
		Volume	3085	3300	2500 (29/12/2008)	2,53,300 (23/12/2008)	
Investigation Period	Patch-1 (01/01/09- 01/08/11)	Price	1.80	77.15	1.44 (09/01/2009)	87.10 (03/03/2011)	5,74,050
		Volume	1400	6,77,184	290 (06/01/2009)	28,07,494 (19/03/2010)	
	Patch-2 (02/08/11- 30/12/11)	Price	77.50	0.66	0.66 (30/12/2011)	77.85 (02/08/2011)	3,83,723
		Volume	10,86,554	5,63,507	108 (23/09/2011)	34,00,550 (24/11/2011)	
	Patch-3 (01/01/12- 24/04/15)	Price	0.63	0.19	0.14 (27/03/2015)	1.57 (07/05/2012)	23,82,270
		Volume	2,45,012	8,29,981	1500 (03/11/2013)	8,34,59,458 (16/01/2012)	
Post Investigation Period	27/04/2015 to 31/05/2015	Price	0.20	0.11	0.11 (19/05/2015)	0.20 27/04/2015)	32,71,615
		Volume	1,91,202	19,51,569	1,91,202 (27/04/2015)	3,69,14,033 (18/05/2015)	

3. In the course of investigation conducted by SEBI, while analyzing the price and trade movement in the scrip of *AVIL*, following facts, *inter alia*, came to light:

Patch-1 (January 01, 2009 to August 1, 2011)

- a) During Patch-1, the price of the scrip opened at ₹1.80, reached a high of ₹87.10 and closed at ₹77.15. During this Patch 1, the scrip of *AVIL* witnessed a sharp price rise of 4738.89%, with a net positive Last Traded Price (hereinafter referred to as “**(+) LTP / positive LTP**”) of ₹75.35 and a market positive LTP of ₹5704.21 although inadvertently mentioned as ₹1472.63 at para 3 on page no. 4 of the SCN. This inadvertent mistake in the SCN is borne out of the fact that although as per the last column of Table-2 on page 7 of SCN, the total market positive LTP is mentioned as ₹5704.21, erroneously the said figure is mentioned as ₹1472.63 in SCN. Further, in last column of Table no. 4 on page no. 8 of the SCN, it is stated that the (+) LTP contribution of ₹298.52 by *Noticees no. 1 to 18* is 5.23% of the total (+) LTP, which is possible only when the total (+) LTP is 5704.21 and not 1472.63, as inadvertently mentioned in the SCN. Therefore, such an apparent typographical mistake needs to be ignored and the total market positive LTP in this case should be taken as ₹5704.21 for Patch-1.
- b) Investigation revealed that, during Patch-1, a group of 79 entities had either traded in the scrip of *AVIL* or were connected with those who had traded in the scrip of the *AVIL*. Further, *Noticees no. 1 to 13* (hereinafter referred to as “**13 Noticees**”) who were part of the aforesaid group, through their 983 trades purchased very negligible quantities of 01 or 02 shares in each of their trades and also by following an unusual trading pattern, had contributed ₹298.52 (typographically wrongly entered as 289.52 in SCN) towards the positive LTP of the scrip, which constituted 5.23% of the total market positive LTP of the scrip. Investigation also observed that in spite of the fact that the sell orders for larger quantities of the scrip being available in the market, the 13 *Noticees* referred to above kept placing their buy orders repeatedly for miniscule

quantities i.e. 1 or 2 shares only in each of their transactions at higher prices which contributed substantially to the rise of LTP of the scrip of AVIL.

- c) Investigation also revealed that out of the 983 trades executed by the 13 *Notices* during the Patch-1 period, in respect of 49 trades, the selling counterparties were also the part of suspected group entities. It was observed that *Noticee no. 1, 2, 3, 4, 7, 8, 9, 10 and 12* along with *Notices no. 14 to 18* ("**14 Notices**" for convenience) were trading as selling counterparties in those 49 trades which contributed to positive LTP in the scrip of AVIL during Patch-1. Interestingly, out of the aforesaid 14 selling *Notices*, 9 *Notices* belong to the said 13 buyer *Notices* referred to above which means, that these 9 *Notices* were trading by being both on buy and sell sides of those LTP contributing 49 trades. The remaining 5 *Notices*, i.e. *Noticee no. 14 to 18*, were trading as only selling counterparties to the 13 *Notices* who were on buy sides. Thus in total there were 18 connected *Notices* (13 plus 5) who executed those 49 LTP contributing trades during the Patch-1 of investigation period. Based on the aforesaid findings, Investigation noted that *Notices no. 1 to 18* ("**18 Notices**" for convenience) were not acting as genuine traders and rather by acting in concert as a group, manipulated price of the scrip of AVIL and created misleading appearance of trading in the scrip.

Patch-2 (August 02, 2011 to December 30, 2011)

- d) By examining the trades during the Patch-2 period, Investigation observed that the price of scrip opened at ₹77.50 on August 02, 2011 and closed at ₹0.66 on December 30, 2011 thereby causing a fall of 99.15% in the price of the scrip. During the Patch-2, the scrip observed a total market negative Last Traded Price (hereinafter referred to as "**(-) LTP / negative LTP**") of ₹642.79. From the analysis of the trades executed in Patch-2, Investigation revealed that *Noticee no. 19* (Alpesh Sheshmal Shah) through his 213 sell trades, had contributed to negative LTP of ₹67.70 (10.53% of total market negative LTP) in the scrip.

- e) Investigation further observed that *Noticee no. 19* by executing self-trades on 25 instances had contributed ₹11.65 to negative LTP in the scrip. Investigation also unearthed that out of his 213 sell trades, *Noticee no. 19* had placed sell orders for only 01 quantity of share in each of his 148 trades, even though the prevailing quantity demanded in the corresponding buy order was available for larger quantities of shares. By executing such repeated trades of 01 share each, *Noticee no. 19* has contributed ₹49.65 to the negative LTP in the price of scrip of *AVIL* during Patch-2.

Patch-3 (January 02, 2012 to April 24, 2015)

- f) During the Patch-3 (period of around 40 months), the price of the scrip opened at ₹0.63 and witnessed a fall of 69.84% by closing at ₹0.19, with a net negative LTP of ₹0.45 and a total negative LTP of ₹97.68. Investigation observed from the trading pattern of the *Noticee no. 20* (Amit Sahita Finance Pvt. Ltd.) that the said entity through its 920 sell trades, contributed negative LTP of ₹9.41 (9.63% of total market negative LTP) in the scrip.
- g) Investigation further revealed that out of 920 sell trades executed by *Noticee no. 20*, 392 trades were self-trades which contributed to ₹3.95 to negative LTP in the price of the scrip of *AVIL*. It was further noted that out of those 920 sell trades, 205 sell trades were in the range of 01-03 shares, despite the fact that the quantity demanded in the corresponding buy order was available for larger quantities of shares in the trading system of the Exchange.
4. Keeping in view the aforesaid findings from the investigation, it has been alleged that the trades of *Noticee no. 1-18* during the Patch-1, *Noticee no. 19* during the Patch-2 and *Noticee no. 20* during Patch-3 of the Investigation Period were not genuine and they have executed their trades with a view to manipulate the price of the scrip of the *Company* and further, the unusual, abnormal and fraudulent way of trading in the scrip as displayed by these *Noticees* have created a misleading appearance of trading in the scrip. Such acts of the *Noticees* have been alleged to be in breach of

provisions of regulation 3(a),(b),(c),(d) and regulation 4(1), 4(2) (a), (e) of SEBI (Prohibition of Fraudulent and Unfair Trade Practices Relating to Securities Market) Regulations, 2003 (hereinafter referred to as “PFUTP Regulations, 2003”).

5. Pursuant to the aforesaid findings during the investigation, a common Show Cause Notice dated December 18, 2017 (hereinafter referred to as “SCN”) was issued to all the 20 *Notices*, asking them to show cause as to why suitable direction under Section 11, 11(4) & 11 (B) SEBI Act, 1992 shall not be issued against them for their alleged acts of violations of provisions of PFUTP Regulations, 2003.

6. I note from the available records that the aforesaid SCN was served on 3 *Notices* (*Noticee no. 1, 2 and 19*) by hand delivery / speed post and for remaining *Notices* (except for *Noticee no. 16*) through affixtures. I further note that for *Noticee no. 16*, the SCN was served through newspaper publication dated 28/03/2018. I further note that *Noticee no. 1* vide letter dated 02/01/2019, *Noticee no. 2* vide letters dated 01/01/2019 and 10/01/2019, *Noticee no. 3* vide letter dated 22/12/2018, *Noticee no. 19* vide letter dated 11/01/2019 and *Noticee no. 20* vide letter dated 02/01/2018 have submitted their reply to the SCN. Additionally, *Noticee no. 2* had sought inspection of certain documents which was provided to him by SEBI on 07/03/2018. Subsequently, in compliance with the principle of natural justice, an opportunity of personal hearing was accorded to all the *Notices* and date of hearing was fixed on January 03, 2019. However, on the said date of hearing, only 5 *Notices* (*Notices no. 1, 2, 3, 19 and 20*) attended. On the said date, *Notices no. 3 and 19* appeared before me in person while on behalf of *Notices no. 1, 2, and 20*, their Authorized Representative (AR) presented their oral submissions before me. Another opportunity of personal hearing was granted to the remaining 15 *Notices* on January 28, 2020 and from records, I note that hearing Notices to these 15 *Notices* were duly served through Speed Post/ affixtures and Newspaper Publication dated 23/01/2020 and 25/01/2020 but none of them appeared before me for hearing on the said day. However, *Notices no. 10 and 17* had sought adjournment of their personal hearing hence, one more opportunity was granted to them on March 04, 2020 and same was informed vide email dated

February 04, 2020, but again, no one appeared before me to present their case. Under the circumstances, I note that none of the remaining 15 *Notices* has submitted any written reply nor have they appeared before me for their personal hearing. As sufficient opportunities for personal hearing have been granted to the *Notices*, I deem it appropriate to proceed in the matter on the basis of materials available on record.

Submissions of the Notices

7. After perusing the written replies filed by some of the *Notices* in response to the SCN and after hearing some of them personally who preferred to appear before me, I summarize their submissions as follows:

Noticee no. 1

- SCN has been issued after a gap of 7-8 years and no reason for such delay has been mentioned in the SCN. The *Noticee* has placed reliance on observations of Hon'ble SAT in the matter of *HB Stockholdings Limited vs. SEBI (DoD: 27/08/2013, Appeal no. 114 of 2012)*.
- None of the counterparties to his trade has been charged for any violation.
- The orders were placed within the permissible circuit limits and there is no bar in placing of orders of 01 or 02 shares.

Noticee no. 2

- SCN has been issued after a gap of 8-9 years which itself creates a lot of prejudice to him since he requires detail of old transactions executed by him 8-9 years ago.
- While issuing the SCN, SEBI has not conducted any exercise pertaining to establishing of his connections with the other group entities. The charge of manipulation should be established independently based on the trades and conduct or intention of each entity.
- He has traded in the scrip of *AVIL* in larger quantities also but investigation has ignored such trades for larger quantities and has only considered his trades for 01 share.

- None of the counterparties to his other trades except for the 4 trades have been charged for any violation.
- *Noticee* has placed reliance on observations of Hon'ble SAT in various judgments including the following to defend his case:
 - *Premchand Shah & Ors. vs. SEBI (DoD: 21/02/2011)*
 - *Narendra Ganatra vs. SEBI (DoD: 29/07/2011)*
 - *Smitaben N. Shah vs. SEBI (DoD: 30/07/2010)*
 - *Vikas Ganeshmal Bengani vs. WTM, SEBI (DoD:25.02.2010)*
 - *KSL & Industries Ltd. vs. Chairman, SEBI (DoD:30/09/2003)*
 - *Kapil Chaturbhuj Bhuptani vs. SEBI (DOD: 10/10/2013)*

Noticee no. 3

- The *Noticee* has never traded in the scrip of *AVIL*.
- The *Noticee* had submitted his KYC documents to one Shri R. Munshi Bhai Patel for obtaining loan, which the *Noticee* never got. The *Noticee* also filed a FIR against one Munshi Bhai Patel in this regard.

Noticee no. 19

- He is a jobber and he has always done jobbing in the scrip of *AVIL*. As a jobber, he has to place many trades at various rates in the scrip and at times due to low network connectivity; he ended up placing orders on both buy and sell sides.

Noticee no. 20

- The trades for 01 share every time at regular interval were executed for the purpose of jobbing, which is a common practice across brokers and jobbers.
- The self-trades volumes are negligible (0.004%) out of overall volumes during the Patch- 3 of the Investigation Period and could not have been a factor for price discovery. The *Noticee* has further placed reliance on the order passed by Adjudicating Officer (AO) dated 09/01/2018 in the matter of *Vaurn Industries Limited* and Order dated 26/12/2017 in the matter of *Prakash Constrowell Limited*.

Consideration of Issues and Findings

8. Considering the findings of Investigation, the allegations leveled against the *Noticees* in the SCN based on such findings, and the explanations offered by the *Noticees* to the allegations made in the SCN through their written replies as well as their oral presentations before me, I find that in this case, the following issues require consideration:

- Issue 1: Whether the *Noticees* nos. 1 to 18 are connected entities and whether the acts of the *Noticees* no. 1 to 18 during Patch-1 of Investigation Period have resulted in violations of the provisions of regulation 3 (a), (b), (c), (d) and regulation 4 (1) and 4 (2) (a) and (e) of SEBI (PFUTP) Regulations, 2003?
- Issue 2: Whether the acts of the *Noticee* no. 19 and *Noticee* no. 20 during Patch-2 and Patch-3 respectively of Investigation Period have resulted in violations of the provisions of regulation 3 (a), (b), (c), (d) and regulation 4 (1) and 4 (2) (a) and (e) of SEBI (PFUTP) Regulations, 2003?

Issue 1: Whether the *Noticees* nos. 1 to 18 are connected entities and whether the acts of the *Noticees* no. 1 to 18 during Patch-1 of Investigation Period have resulted in violations of the provisions of regulation 3 (a), (b), (c), (d) and regulation 4 (1) and 4 (2) (a) and (e) of SEBI (PFUTP) Regulations, 2003?

9. The SCN has alleged that the *Noticees* no. 1 to 18 were part of a group and enjoyed connections with each other and the said *inter se* connection was based on common addresses, common email ids, KYC documents, common directorship and off market transfers etc. For instance, *Noticee* no. 1 is a director in *Noticee* no. 6. I also note that there were off-market transfers of shares between *Noticee* no. 1 and *Noticee* no. 3. Similarly, I observe that *Noticee* no. 13 had off market transfers of shares with *Noticee* no. 18, *Noticee* no. 4 and other group entities. Off market transfers of shares were also observed between *Noticee* no. 2 and *Noticee* no. 14. It is a common knowledge that off market share transactions between two parties can happen only when both the entities are well known and familiar to each other, hence off market transfer of

shares gives a strong presumption of connection between transferor and transferee entities. With regard to sharing of common addresses, I note from the materials on record, that the *Noticee no. 9* and *Noticee no. 10* shared common address located at *312/3 Sarda Chamber no 1, 31 K N Road, Mumbai 400009*. Similarly, *Noticee no. 17* and Director of *Noticee no. 10* shared common address at *35, Anant Niwas, 262/170, Narshi Natha Street, Bhaat Bazaar, Mumbai -400009*, which again indicates a strong connection between such entities.

10. As noted above that most of the *Noticees* have chosen not to file any reply and even preferred to abstain from personal hearing. The materials on record show that none of the *Noticees* has produced any evidence or counter argument to rebut the allegations of inter-connectedness amongst them. In the absence of any material contrary to the allegations, I find that materials on record are sufficient to reasonably conclude that the *Noticees no. 1 to 18* were enjoying connections among themselves.

11. I note that in the SCN, the acts of the *Noticees* of indulging in manipulative and unfair trades by contributing to positive LTP in the scrip of *AVIL* through their abnormal trading patterns as displayed repeatedly over the period, have been alleged to be in violations of SEBI Act and various provisions of PFUTP Regulations. Therefore, before moving forward on this issue, it would be proper to visit the afore-stated regulatory provisions alleged as to have been violated in the SCN. The said provisions are produced hereunder for ready reference:

Regulation 3 of SEBI (PFUTP) Regulations, 2003: - Prohibition of certain dealings in securities

3. No person shall directly or indirectly –

(a) buy, sell or otherwise deal in securities in a fraudulent manner;

(b) use or employ, in connection with issue, purchase or sale of any security listed or proposed to be listed in a recognized stock exchange, any manipulative or deceptive

device or contrivance in contravention of the provisions of the Act or the rules or the regulations made thereunder;

(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 thereunder.

Regulation 4 of SEBI (PFUTP) Regulations, 2003: - Prohibition of manipulative, fraudulent and unfair trade practices

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

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

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

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

12. It is noted that the SCN has *inter alia* alleged that by executing 983 manipulative and unfair trades, 18 connected *Noticees* have contributed to the positive LTP of the scrip of AVIL during Patch-1 of the Investigation Period. It has been alleged that *Noticees no. 1 to 13* were acting as buyers in these 983 trades and out of these 983 trades, in respect of 49 trades, the selling counterparties (including 9 of those 13 entities) were also the part of suspected group entities. As stated in the beginning, 14 *Noticees* (including 9 *Noticees viz. Noticees no. 1, 2, 3, 4, 7, 8, 9, 10 and 12* of those 13 *Noticees* and 5 *Noticees, viz. Noticees no. 14 to 18*) were acting as selling counterparties

in those 49 trades which contributed to positive LTP in the scrip of *AVIL* during Patch-1.

13. Thus as explained above, the SCN has alleged that the 18 *Noticees* (13 plus 5) through their 983 trades during the Patch-1, had contributed ₹298.52 to the market positive LTP of the scrip which constituted 5.23% of the total market positive LTP. Further, out of the aforesaid group of 18 connected entities, it was observed that the 13 buyer *Noticees* had placed buy orders repeatedly for miniscule quantities i.e. 01 or 02 shares only in each of their trades in spite of availability of sell orders for larger quantities in the market, thereby contributing to the rise of LTP in the scrip of *AVIL*. The details of LTP contribution and number of trades executed by each of these 13 *Noticees* are tabulated below:

Table no. 2: Details of alleged trades of *Noticee no. 1 to 13*

<i>Noticee no.</i>	Name of <i>Noticee</i>	No. of trades	Traded Quantity	LTP Contribution (₹)	% LTP contribution to net market positive contribution
1.	CHANDRAKANT B SHAH	8	9	2.12	0.04
2.	AJAY RAVINDRA SHAH	154	154	88.25	1.55
3.	SANTOSH VASANT BHELEKAR	191	191	40.05	0.70
4.	SAURABH KUMAR RASIKLAL GANDHI	96	89	17	0.30
5.	V AND R YARNS PRIVATE LIMITED	1	1	0.55	0.01
6.	MOSS TRADERS PVT LTD	1	1	0.1	0.00
7.	AILISH TRADERS PRIVATE LIMITED	35	36	13	0.23
8.	KINITA REAL ESTATE PRIVATE LIMITED	5	5	1.25	0.02
9.	JESHNA MULTITRADE PVT LTD	197	198	69.25	1.21
10.	GAJPAL BUILDINFRA PRIVATE LIMITED	258	260	52.1	0.91

11.	GRANTVIEW PROPERTIES PRIVATE LIMITED	1	1	0.05	0.00
12.	MONAECUM PROPERTIES PRIVATE LIMITED	45	45	14.4	0.25
13.	JASMIN SUSILKUMAR BAJORIYA	1	1	0.4	0.01
	Grand Total	983	991	298.52	5.23

14. It is noted from table no. 2 above, that the 13 *Notices* have placed buy orders for quantities of 01 or 02 shares in each of their trades on various occasions, which allegedly have resulted into the contribution of positive LTP in the price of scrip of *AVIL*. For example, from the trade details as annexed to the SCN, it is observed that *Noticee no. 2* has purchased 01 share of *AVIL* every time on 154 occasions which has caused 1.55% of contribution to the total positive LTP in the scrip. Similarly, on 196 occasions, *Noticee no. 9* has traded for only 01 share of the scrip, thereby contributing 1.21% of the total market positive LTP during Patch-1. The SCN has also alleged that the 13 *Notices* were deliberately placing the buy orders for meagre quantity of 01 or 02 shares in each of their trades despite the fact that the sell orders placed by the counterparties in the stock exchange's system were available for relatively larger quantities. A few such trades are tabulated below:

Table no. 3: Few trades of miniscule quantities executed by 13 *Notices*

TRADE DATE	Buyer Name	TRADE TIME	BUY ORDER TIME	SELL ORDER TIME	TRADE EXECUTED RATE	ORDER RATE	SELL ORDER RATE	ORDER LTP	SELL ORDER LTP	TRADED QTY	ORDER QTY	SELL ORDER QTY	LTP (₹)	LTP CONT (₹)
24/09/2009	CHANDRAKANT B SHAH	3:20:40	3:20:40	3:16:52	19.07	19.07	19.07	18.7	19.05	2	2	300	18.7	0.37
05/11/2009	AJAY RAVINDRA SHAH	2:53:51	2:53:51	2:42:23	19.9	19.9	19.9	19.5	19.9	1	1	1000	19.5	0.4
08/07/2010	SAURABH KUMAR RASIKLAL GANDHI	2:57:48	2:57:48	2:54:52	48.3	48.3	48.3	48.25	48	1	1	50	48.25	0.05
12/07/2010	SANTOSH VASANT BHELEKAR	12:36:08	12:36:08	11:26:52	47.2	47.2	47.2	47.1	47	1	1	100	47.1	0.1

15. From the details of trades tabulated in the table no. 3 above, I can observe that when the respective sell order quantities available in the stock exchange system were in the range of 50-1000 shares, the 13 *Notices* placed their buy orders for only 01 or 02 shares every time they placed their buy orders. From further analysis of the trade data available in annexure 2 of the SCN, I note that the 13 *Notices* have generally followed a trading pattern of executing trades of 01 share in each of their trades by taking turns, on different trading days and that is how they have been able to contribute to positive LTP in the scrip over a long period during the Patch-1 of the Investigation Period. Details of such trading pattern of the above stated 13 *Notices* by taking turns one after another, for executing their trades on various trading days are illustrated in the table below:

Table no. 4: Date wise grouping on the basis of trades executed by 13 *Notices*

Trades date	<i>Noticee no.</i>
November 05, 2009 to April 26, 2010	All trades by <i>Noticee no. 2</i>
July 06, 2010 to July 09, 2010	All trades by <i>Noticee no. 4</i> except 01 trade by <i>Noticee no. 1</i>
July 12, 2010 to August 17, 2010	All trades by <i>Noticee no. 3</i> except 01 trade each by <i>Noticee no. 1</i> and 6
August 18, 2010 to November 04, 2010	<i>Noticee no. 2</i> and 3
November 12, 2010 to December 22, 2010	All trades by <i>Noticee no. 3</i> except 1 trade by <i>Noticee no. 5</i>
December 30, 2010 to January 12, 2011	<i>Noticee no. 3</i> and 7
January 13, 2011	All trades by <i>Noticee no. 8</i>
January 17, 2011 to April 20, 2011	All trades by <i>Noticee no. 9</i> except 01 trade by <i>Noticee no. 7</i>
April 21, 2011 to April 25, 2011	All trades by <i>Noticee no. 10</i>

April 26, 2011 to April 29, 2011	All trades by <i>Noticee no. 7</i> except 02 trades by <i>Noticee no. 10</i>
May 03, 2011 to June 09, 2011	All trades by <i>Noticee no. 10</i> and <i>Noticee no. 7</i>
June 10, 2011 to June 29, 2011	All trades by <i>Noticee no. 10</i> except 03 trades by <i>Noticee no. 12</i>
July 05, 2011 and July 06, 2011	All trades by <i>Noticee no. 12</i>
July 07, 2011 to August 01, 2011	All trades by <i>Noticee no. 10</i> except 01 trade each by <i>Noticee no. 7</i> and <i>12</i> .

16. From the aforesaid details which have also been furnished to the *Notices* along with the SCN as an annexure and on further analysis of the data presented in the above mentioned table no. 4, one can easily detect the aforesaid peculiar as well as an unusual trading pattern that clearly emerges out of those positive LTP contributing 983 trades executed by the above stated *Notices* during the Patch-1 of the Investigation Period. It shows how those trades were executed on different trading days by different *Notices* in a manner that exposes that the *Notices* have traded under a pre decided scheme by taking turns either individually or jointly with another *Noticee* on various trading days. I have already observed that *Notices* enjoyed inter connections amongst themselves which were discovered during the investigation, based on their KYC, Common address/email, off market transfer etc. My observation that the *Notices* were enjoying connection amongst themselves is further reinforced by the aforesaid unique trading pattern followed by the entities while executing the alleged 983 trades wherein, *Notices* were taking turns on different trading days over the entire period of Patch-1.

17. The pattern devised and followed by *Notices* apparently demonstrate that under a pre-planned strategy to elevate the price of the scrip by contributing to the LTP of the scrip through each of those trades, *Notices* have indulged in executing trades in adherence of the scheme so devised. Further, as pointed out earlier, despite

the fact that the sellers were willing to sell higher quantities of shares, all the 13 *Notices* kept on purchasing 01 or 02 shares every time in each of their trades. For instance, during the entire period from November 05, 2009 to April 26, 2010 (approx. 6 months), only *Noticee no. 2* traded in the scrip by buying 01-02 share in his every single trade and thereby has contributed to the positive LTP of the scrip. Then from July 06, 2010 to July 09, 2010, all the trades were executed by *Noticee no. 4* except for 1 trade which was executed by *Noticee no. 1*. Subsequently, from the next trading day, i.e. from July 12, 2010 to August 17, 2010, it appears that as per the pre-conceived design, *Noticee no. 3* took charge and except for 2 trades, all other trades during the said period of more than one month were executed by *Noticee no. 3*. After that, from August 18, 2010 to November 04, 2010, *Noticee no. 2* and 3 jointly undertook the job of marking up the price of the scrip of *AVIL*, as all the trades during the said period of 2 and 1/2 months were executed by either of them. The aforesaid pattern of trading turn by turn, continued till end of the Patch-1 of the Investigation period.

18. The way the *Notices* have been taking individual turns to place their order contributing LTP on different trading days clearly speaks volumes of their nefarious design of indulging in a manipulative trading pattern whereby the *Notices* have ostensibly traded in one scrip with a pre-meditated mindset of sustaining the price rise of the scrip of *AVIL* continuously over a long period of time by way of contributing to the LTP of the scrip, turn by turn, on different trading days. Such a trading pattern followed by the *Notices* apparently with an illicit motive to inflate the price of the scrip by trading in the scrip one at a time and trading several times on the same trading day, strongly indicates the malicious intent of the *Notices* to artificially and fraudulently mark the price of the scrip of *AVIL* upwards through every such trade executed by them over a long period of time.

19. As observed above, on the one hand the 13 *Notices* were taking turns on different trading days to repeatedly purchase the shares of *AVIL* thereby contributing to the positive LTP of the scrip while on the other hand, they were placing their buy orders for only 01 share of *AVIL* at a time, and also on more than one occasion on the

same trading day. For instance, all trades excepting one trade executed during the period of 4 days, i.e. from July 06, 2010 to July 09, 2010 were executed with *Noticee no. 4*, in which the *Noticee no. 4* purchased 01 share 7 times in 7 different trades on July 06, 2010. Again on July 07, 2010, *Noticee no. 4* executed 23 trades of 01 share each and all such trades cumulatively contributed to positive LTP of the scrip. Similarly, on July 08, 2010 and July 09, 2010, he executed 44 and 11 buy trades of 01 share each respectively. I observe similar unusual trading behaviour of purchasing 01 share in each trade on various occasions in a single trading day, were exhibited by other *Noticees* as well from the aforesaid group of 13 *Noticees*.

20. In this respect, it is further noted that in all the alleged trades, the 13 *Noticees* have always placed their buy trades subsequent to sell orders placed in the system. The conduct of the *Noticees* in buying the scrip of a *Company*, which had no market fundamentals to support such steady rise in the price of its scrip coupled with the unusual trading behavior noticed on the part of the *Noticees* clearly suggest that the orders placed and executed by these *Noticees* were pursuant to a pre-decided scheme with a motive to artificially raise the market price of the scrip. Such a trading practice laced with the intent to deliberately match pending sell orders with higher and higher prices repeatedly over a long period of time defeats the established market behavior wherein buyer wants to buy at lower and seller wants to sell at higher price. The 13 *Noticees* appear to have closely chased the LTP contributing sell orders and have repeatedly placed their buy orders of 01 share each, so as to cause positive contribution to the price of the scrip of the *Company*. These *Noticees* have not advanced any justifiable rationale for buying scrip at higher LTPs with very little quantities. It is beyond justification that a scrip which was otherwise available at lower price and the *Noticees* had enough opportunity to buy the same at lower price, but preferred to buy the same scrip continuously at higher prices.

21. I note that the *Noticees* have pleaded that the quantities bought by them were very few and therefore it is very difficult for someone to manipulate the price of the scrip by trading in such small quantities. Further, *Noticees* have also contended that

there is no bar on trading in 01 or 02 shares of a scrip. The submissions of the *Noticees* may on the face of it, appear to be in order, however, when one looks at the unusual pattern and the unique methodology adopted by them to trade in the scrip one after another on different trading days, it becomes clear that such an explanation cannot stand the test of transparency, fairness and expediency. I note that although the contribution to positive LTP in the scrip of *AVIL* by each of the trades executed by them is small, the cumulative impact of such small contributions by all the *Noticees* has resulted in contribution of 5.23% of the total market positive LTP in the scrip of *AVIL*. Moreover, the issue that requires consideration and adjudication is whether the alleged trades of *Noticees* were manipulative or not. Therefore, it is incumbent upon the *Noticees* to explain with supporting documents, the rationale for indulging in such abnormal way of trading in the scrip, which they have grossly failed to do nor have they demonstrated that they have also indulged in similar type of trading in other scrips also during the same period, so as to prove their point that they have executed these trades in normal course of their business activities. Thus, I find that the explanations offered by the *Noticees* are bereft of merit and no substance in their submissions that trading in minimum quantities would not be capable of manipulating the scrip.

22. *Noticees* have also contended that there were other trades of theirs in the scrip as well, which were in larger quantities, however, the same have not taken into consideration while framing charges under the SCN. The submission of *Noticees* of having traded in larger quantities further belies their explanation and exposes their ill intent, as no justifications have been advanced as to why, having traded in larger quantities which they consider as normal trades, they had to indulge simultaneously in repeated trading of such token quantities of 01 share in the same scrip which invariably led to increasing the LTPs over a long period of time. The investigation has presumably not noticed any abnormalities in those trades for larger quantities and accordingly has not levelled any charges against those trades in the SCN. Therefore, merely because the *Noticees* have in the past or during the same period

have executed some trades in larger quantities would not *ipso facto* be a ground to justify the other abnormal trades of tiny quantities which have been held to be manipulative, pre-designed and were aimed at artificially pushing up the market price of the scrip as has been deliberated in detail in the preceding paragraphs. In my view, the issues and allegations at hand require consideration based on the justifications advanced to defend the impugned LTP contributing trades and I have no hesitations in holding that based on the reply furnished and material observations made in the preceding paragraphs, the alleged trades can't be held to be trades executed in the normal course of trading in the securities by any common prudent investors.

23. I note that a few *Noticees* have submitted that no counterparty or no counterparty group corresponding to their trades has been issued any notice by SEBI, therefore, the instant proceedings deserve to be disposed of by exonerating them on parity. At the outset, in my considered view the instant proceedings require me to ascertain, on the basis of facts and other materials available on record, as to whether or not, the alleged trades of the *Noticees* are fair, normal and non- manipulative in nature. Further, it is trite law to state that in the *quasi-judicial* proceedings, the adjudicator is bound within the realms of the Show Cause Notice presented before him for adjudication. In the instant case, after examining the role of the counterparty sellers, if SEBI has found it not necessary to proceed against them, the same logic cannot *ipso facto*, be extended to the *Noticees* who were primarily buyers, more particularly when *Noticees* have not produced any documents to demonstrate that they are primarily and substantially placed in identical and exactly similar pedestal as that of their counterparties. As regards the plea of discrimination contended by *Noticees*, it is noted that in the matter of *Systematix Shares & Stocks India Limited vs. SEBI* (DoD: 23/04/2012, Appeal no. 21 of 2012), the Hon'ble SAT also had the occasion to deal with a similar argument of the appellant contending that the Board should have proceeded against all wrong doers and the action against the appellant and a few entities alone was discriminatory. In the said case, the Hon'ble SAT observed that "*We cannot subscribe to this view since the Board has set its own benchmark in selecting cases*

for action and, in any case, the appellant cannot plead himself innocent or his trades as lawful.” Therefore, those who seek equity must come out with clean hands.

24. The *Notices* ought to discharge their onus by justifying their trades within the bounds of market prudence before seeking an escape route by taking such a plea. Considering the foregoing, I reject this contention of the *Notices* in *limine* and do not find it necessary to further deal with this contention. The plea taken by the *Notices* may indicate about possible involvement of the counterparties to their trades and even if such pleas are accepted on its face value, it would not in any manner diminish the liability of the *Notices* for having executed those impugned and manipulative trades or result in *suo moto* exoneration of *Notices* from the violations fastened on to them by the SCN. Not proceedings against other entities would not take away the fraudulent trade practice indulged in by *Notices* who, by repeatedly executing those trades of negligible quantities of shares and willing to buy the scrip over and above the LTP on continuous basis, have contributed to the price rise in the scrip, which had no market fundamental otherwise to entice trading on such a continuous basis.

25. It is also noted that certain *Notices* have objected to the delay in the initiating the present proceedings after a gap of 7-8 years from the date of the execution of the alleged trades. In this regard, I find that no provision under SEBI Act, 1992, prescribes time limit for taking cognizance of the alleged breach of provisions of SEBI Act, and rules and regulations made thereunder. Notwithstanding the above, in order to ascertain as to whether there has been actually any delay in the matter, the date when the violation came to the notice of the SEBI would be the relevant point and not the date of violation. Whether a delay in a particular case is justified or not depends on the facts and circumstances of that case. I would like to rely upon the following observations of Hon’ble SAT in the case of *Ravi Mohan & Ors. vs. SEBI* (SAT Appeal No. 97 of 2014, DoD 16/12/2015): -

“.....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....."

26. It is noted from the records that investigation in the instant matter was initiated pursuant to a reference received from the Principal Commissioner, Income Tax Ahmedabad, in the year 10/02/2015, and after completion of the fact finding exercise, a SCN was issued in the year 2017. In view of the aforesaid I find that the contention of the *Noticees* with respect to delay in initiating action against them is misconceived and misplaced on facts, hence not maintainable.

27. It is also noticed that *Noticees* have relied upon the findings of the Hon'ble SAT in the matter of *Smitaben N. Shah vs. SEBI* (DoD: 30/07/2010 in Appeal no. 37 of 2010), *Kapil Chaturbhuj Bhuptani vs. SEBI* (DoD: 10/10/2013 in Appeal no. 95 of 2013), *Vikas Ganeshmal Bengani vs. SEBI* (DoD: 25/02/2010 in Appeal no. 225 of 2009) and in the matter of *Premchand Shah & Ors. vs. SEBI* (DoD: 21/02/2011 in Appeal no. 192 of 2010), wherein observations have made pertaining to fraudulent and manipulative trades. In this respect, having gone through the aforesaid decisions, I am of the view that the observations made in the decisions referred to above are factually distinguishable from the present proceedings hence the proposition of law made therein is not applicable in the instant case. For instance, in the matter of *Smitaben N. Shah (supra)*, the allegation made was against cornering of shares in collusions with the counter party by way of a structured and synchronized trading, while in the case of *Vikas Bengani (supra)*, the allegations were made that large quantities of shares were purchased at higher price and thereby became instrumental in creating artificial volume in the scrip which was illiquid. Hon'ble SAT while allowing the appeal in the

facts of the matter have observed that the SCN does not mention any facts about the poor performance of the *Company* and in the absence of the same, there could be several reasons for an investor to buy the scrip at higher price.

28. As stated in the beginning, only a very few *Notices* have responded to the SCN and have submitted their written replies and have presented their cases before me but majority of the *Notices* have not offered any explanation whatsoever nor have they attended personal hearing before me. Notwithstanding the same, none of the *Notices* has been able to explain the rationale behind their action of purchasing 01 or 02 shares during the Patch-1 of the Investigation Period despite the fact that large quantities of shares of *AVIL* were available in the market for purchase. In fact for reasons best known to the *Notices*, they were placing buy orders only for 01 or 02 shares in every single order, just to match the price of the sell orders which were pre-existing in the system and pending for a matching with buy order at that price. The trading pattern demonstrated by the *Notices* rather exposes the fraudulent design in the minds of the *Notices* who had deliberately decided to purchase the scrip of the *Company* in small quantities (mostly 01 share at a time) by taking turns on different trading days so as to inflate the price of the scrip over a long period of time.

29. SCN has further alleged that out of the 983 alleged trades executed by the 13 buyer *Notices*, in 49 trades 14 *Notices* (including 9 *Notices* from the 13 *Notices* who traded on both sides) traded as selling counterparties to those 13 buying *Notices*, thereby notably contributing to positive LTP in the scrip of *AVIL* during Patch-1. The list of 18 *Notices* (comprising 13 buyer *Notices* and 5 seller *Notices*) and the role played by them in those alleged 983 trades including in those afore mentioned 49 trades executed during the Patch-1 which resulted in the contribution of positive LTP in the scrip are as under:

Table 5: Role played by 18 *Notices* during Patch-1

<i>Noticee no.</i>	<i>Noticee Name</i>	Buyer	Seller
1.	CHANDRAKANT B SHAH	Yes	Yes

2.	AJAY RAVINDRA SHAH	Yes	Yes
3.	SANTOSH VASANT BHELEKAR	Yes	Yes
4.	SAURABH KUMAR RASIKLAL GANDHI	Yes	Yes
5.	V AND R YARNS PRIVATE LIMITED	Yes	No
6.	MOSS TRADERS PVT LTD	Yes	No
7.	AILISH TRADERS PRIVATE LIMITED	Yes	Yes
8.	KINITA REAL ESTATE PRIVATE LIMITED	Yes	Yes
9.	JESHNA MULTITRADE PVT LTD	Yes	Yes
10.	GAJPAL BUILDINFRA PRIVATE LIMITED	Yes	Yes
11.	GRANTVIEW PROPERTIES PRIVATE LIMITED	Yes	No
12.	MONAECUM PROPERTIES PRIVATE LIMITED	Yes	Yes
13.	JASMIN SUSILKUMAR BAJORIYA	Yes	No
14.	INDIVAR TRADERS PRIVATE LIMITED	No	Yes
15.	ADDO CONSTRUCTIONS PVT LTD	No	Yes
16.	SUNLIGHT COMMOTRADE PRIVATE LIMITED	No	Yes
17.	ABIJAH REAL ESTATE PVT LTD	No	Yes
18.	JIGNESH CHANDRAKANT SHAH	No	Yes

30. On a comprehensive reading of the data as presented in table no. 2, 3, 4 and 5, I note that despite sizeable quantity of shares available for sell in the market, the 13 *Notices* purchased 01 or 02 shares in each of their buy trades and such trades were invariably executed above the prevailing LTP. Further the 14 *Notices* (including 9 *Notices* from the group of 13 *Notices* and *Notices* no. 14 to 18) have acted as the counterparties in 49 trades involving those miniscule quantities of shares in each such trade, which also resulted in positive contribution to LTP of the scrip. Therefore, keeping my views about the alleged trading pattern of the *Notices* as articulated in previous paragraphs, I can observe that all the 983 trades executed by above *Notices* during Patch-1 period, had the potential to artificially induce the innocent investors

to invest in the scrip as those trades were generating a misleading appearance of price/volume in the scrip whereas, in reality the *Noticees* were taking turns on different trading days to raise the LTP of the scrip during the Investigation Period, by matching the prices of the pending sell orders with their buy orders of small quantities.

31. The uniqueness in the trading pattern followed by these *Noticees* further strengthens the view that these *Noticees* belonged to one homogenous group who were connected to each other (as held by me in the preceding paragraphs) and have executed trades in the scrip of *AVIL* in a pre-mediated manner to manipulate the price of the scrip upward and to distort the integrity of price discovery mechanism of the market which is self-evident from the details of their LTP contributing trades as demonstrated in the table no. 2 of this order. Further, the role played by the *Noticees* during the Patch-1 needs to be seen holistically, when 14 of them were also involved in trading amongst themselves mutually acting as the counterparties in 49 trades and have followed the same uniform but unique trading strategy to raise the LTP of the scrip. Therefore, the role played by these *Noticees* unmistakably bundles them as one homogenous and unified group of entities that acted cohesively to manipulate the price of the scrip of *AVIL* over a period of time which they did accomplish by cumulatively contributing to the LTP of the scrip during the Patch-1 of the Investigation Period.

32. Keeping in view the aforesaid non-genuine trading pattern exhibited by all the *Noticees* and the discussions in the foregoing paragraphs, it may be relevant here to note that Hon'ble SAT, in the matter of *Ketan Parekh vs. SEBI* (Appeal No. 2 of 2004 decided on 14/07/2006) had an occasion to deal with the propriety of non-genuine trades and have made the following observations:

".....Any transaction executed with the intention to defeat the market mechanism whether negotiated or not would be illegal. Whether a transaction has been executed with the intention to manipulate the market or defeat its mechanism will depend upon the intention of the parties which could be inferred from the attending circumstances

because direct evidence in such cases may not be available. The nature of the transaction executed, the frequency with which such transactions are undertaken, the value of the transactions, whether they involve circular trading and whether there is real change of beneficial ownership, the conditions then prevailing in the market are some of the factors which go to show the intention of the parties. This list of factors, in the very nature of things, cannot be exhaustive. Any one factor may or may not be decisive and it is from the cumulative effect of these that an inference will have to be drawn.

33. Hon'ble Supreme Court of India in the case of *SEBI vs. Rakhi Trading Pvt. Ltd.*, (2018) 13 SCC 753 has appreciated that fairness, integrity and transparency are the hallmarks of the stock market in India and the stock market is not a platform for any fraudulent or unfair trade practice. The Hon'ble apex Court has further observed that *"The SEBI Act, 1992 was enacted to protect the interest of the investors in securities. Protection of interest of investors should necessarily include prevention of misuse of the market."*

34. I would also like to rely on the judgment of Hon'ble Supreme Court in the matter of *Kishore R. Ajmera*, wherein it was held that *"In the quasi-judicial proceeding before SEBI, the standard of proof is preponderance of probability. It is a fundamental principle of law that proof of an allegation levelled against a person may be in the form of direct substantive evidence or, as in many cases, such proof may have to be inferred by a logical process of reasoning from the totality of the attending facts and circumstances surrounding the allegations/charges made and levelled. While direct evidence is a more certain basis to come to a conclusion, yet, in the absence thereof the Courts cannot be helpless. It is the judicial duty to take note of the immediate and proximate facts and circumstances surrounding the events on which the charges/allegations are founded and to reach what would appear to the Court to be a reasonable conclusion therefrom. The test would always be that what inferential process that are as on able/prudent man would adopt to arrive at a conclusion."*

35. In the light of the aforesaid observations of the Hon'ble SAT and Hon'ble Supreme Court of India, and after considering the trading pattern, and the manner

and frequency with which such trades were executed by these group of *Notices*, I am constrained to hold that the *Notices no. 1 to 18* were not acting as genuine market participants and had no bona fide intention to trade in the shares of *AVIL*.

36. However, while holding the above view, I am inclined to give benefit of doubt to *Noticee no. 3* who, during his personal hearing and also in his written reply has made a persuasive submission that he is a person of very poor means, and one of his acquaintances has misused his name and documents and traded in his name without his knowledge. The *Noticee no. 3* has strongly contended that one Shri R. Munshi Bhai Patel to whom he had given his personal KYC documents in connection with getting a loan with his help, (which the *Noticee* never got) has misused his identity and traded in his name without his knowledge. The *Noticee no. 3* has also filed FIR against the said Munshi Bhai Patel in this regard. He stated that had he been summoned by SEBI during investigation, it would have been possible to catch Munshi Bhai Patel who has defrauded him. I have carefully considered his explanation and am inclined to give credence to the explanation offered by him on the basis of fact & circumstances surrounding his matter. Therefore, notwithstanding the fact that the trades executed in his name are held by me to be not genuine and manipulative in nature, keeping his apparent non-involvement and innocence in view and the fact that he has since filed a FIR against Munshi Bhai Patel, I am persuaded to treat him as not connected to other *Notices* and as a victim of a fraud committed on him and accordingly exonerate *Noticee no. 3* from the charges levelled against him in the SCN. Under the circumstances, I now hold that except for *Noticee no. 3*, the trading behavior of *Notices nos. 1, 2 and 4 to 18 vis-à-vis* the scrip of *AVIL* has been glaringly ill motivated, fraudulent and was intended towards manipulating the price of the shares of *AVIL* hence, is in violation of regulations 3 (a), (b), (c), (d) and 4 (1), 4 (2) (a), (e) of SEBI (PFUTP) Regulations, 2003.

Issue 2: Whether he acts of the Noticee no. 19 and Noticee no. 20 during Patch-2 and Patch-3 respectively of Investigation Period have resulted in violations of the provisions of regulation 3 (a), (b), (c), (d) and regulation 4 (1) and 4 (2) (a) and (e) of SEBI (PFUTP) Regulations, 2003?

37. It has been alleged in the SCN that the Noticees no. 19 and 20 have executed artificial and manipulative sell trades of very tiny quantities of share and have also executed number of self-trades in the scrip of AVIL during Patch-2 and Patch-3 respectively of the Investigation Period and thereby have contributed to negative LTP in the price of the scrip of AVIL. To begin with, the details of such trades executed by the Noticee no. 19 and their impact on the LTP of price of scrip of AVIL during Patch-2 are tabulated below:

Table-6: Trades of Noticee no. 19 during Patch-2

Entity Name	All trades			LTP Diff. > 0			LTP Diff. < 0			LTP Diff. =0		% of negative LTP to mkt neg LTP
	Net LTP (₹)	Sum of Quantity	No of trades	LTP impact (₹)	QTY traded	No of trades	LTP Impact (₹)	QTY traded	No of trades	QTY traded	No of trades	
ALPESH SHESHMAL SHAH (Noticee no. 19)	-42.7	37183	593	25	7580	86	-67.7	11069	213	18534	294	10.53
Market Total	-76.84	38756064	22842	565.95	6894747	2641	-642.79	6876453	3565	24984864	16636	100.00

38. As already noted from the table no. 1 presented on page no. 3 of this order, during the Patch-2 i.e. from 02/08/2011 to 30/12/2011, the price of the scrip of AVIL registered a drastic fall by 99.15% from the opening price of ₹77.50 and it closed at only ₹0.66. Investigation further noted that total market negative LTP contributed in the scrip of AVIL during patch-2 was ₹642.79 out of which the Noticee no. 19, by executing 213 trades has contributed (-ve) LTP of ₹67.70 (10.53%) of total market (-ve) LTP. The SCN also alleges that 25 sell trades executed by the Noticee no. 19 out of

the afore stated 213 trades were self-trades, which have contributed ₹11.65 to negative LTP in the scrip out of his contribution of ₹67.70 to the (-) ve LTP of the scrip during Patch-2. It has further been alleged in the SCN that out of the aforesaid total no. of 213 sell trades, in 148 sell trades the *Noticee* had placed sell orders for only 1 share in every such sell trade. By placing sell orders for only 1 share in each order, *Noticee no. 19* has contributed to (-ve) LTP of ₹49.65 in the price of scrip of *AVIL*.

39. Similarly, regarding the trades of *Noticee no. 20*, it has been alleged that he has executed artificial and manipulative trades in the scrip of *AVIL* by way of his sell trades of miniscule quantities mostly for 1 share at a time, along with various self-trades executed by him during Patch-3 of the Investigation Period i.e. from 02/01/2012 to 24/04/2015. I note that the trading pattern followed by *Noticee no. 20* were similar to the trades executed by *Noticee no. 19* in patch-2 of the Investigation Period. As already mentioned in the initial paragraph, during the Patch-3, the price of the scrip of *AVIL* opened at ₹0.66 and closed at ₹0.19 thereby registering a fall of 69.84% with a total negative LTP of ₹97.84. The SCN has alleged that *Noticee no. 20* through his 920 sell trades have contributed ₹9.63 to the said total market negative LTP in the scrip of *AVIL*. The details of trades executed by *Noticee no. 20* and their contribution to the (-) ve LTP of the scrip of *AVIL* are tabulated below:

Table-7: Trades of Noticee no. 20 during Patch-3

	All trades			LTP Diff. > 0			LTP Diff. <0			LTP Diff. =0		% of (-) LTP to mkt (-) LTP
Entity Name	Net LTP (₹)	Sum of Quantity	No of trades	LTP impact (₹)	QTY traded	No of trades	LTP impact (₹)	QTY traded	No of trades	QTY traded	No of trades	
<i>Noticee no. 20</i>	-0.91	35104814	5092	8.5	4498298	736	-9.41	742039	920	29864477	3436	9.63
Market Total	-0.45	1958225822	139274	97.2	79843806	8313	-97.68	98315084	8621	1780066932	122340	100.00

40. I note from the table no. 6 above, that through his 213 trades, the *Noticee no. 19* has traded in 11069 shares of *AVIL* which were barely 0.028% of the total number of shares (38756064) of *AVIL* traded during Patch-2. Similarly, I note from table no. 7

that total number of shares traded in the scrip of *AVIL* during Patch -3 was 1.95 crores, whereas it has been alleged that trading in 77047 shares were executed by *Noticee no. 20* by way of self-trades.

41. I note that both the aforesaid *Notices* have strongly relied upon the basic nature of their profession as a jobber in the securities market to argument their case stating that the above cited trades in single shares at lower LTPs and also the self-trades executed by them have been purely executed in due course of their jobbing activities, and they had no specific interest in the scrip or any motive to influence the price of any particular scrip. For instance, *Noticee no. 19* has submitted that during the Financial Year 2011-12, he has traded in 329 scrips. *Noticee no. 19* has also contended that as a jobber, he has to place many trades at various rates in the scrip and at times due to low network connectivity, he ended up placing orders on both buy and sell sides. Similarly, *Noticee no. 20* has pleaded by stating that the trades for 01 share every time at regular interval were executed for the purpose of jobbing, which is practiced normally across by the broker-dealers and jobbers. Both the aforesaid *Notices* have vehemently pleaded that the number and volume of their trades in the scrip were quite insignificant compared to the total number and volume of trades executed in the scrip during the respective patches of Investigation Period, hence the alleged trades can't be held responsible for fall in the price of the scrip of *AVIL*. Further, there is no allegations that *Notices no. 19* and *20* had caused the stated price fall so as to make profit later on or have any association with any other *Notices*.

42. It is a matter of fact that both the *Notices* (*Noticee no. 19* and *20*) were carrying out jobbing transactions during the relevant time as evidenced from their personal records produced before me. In the course of jobbing transaction, the *Notices* have claimed to have executed trades in the scrip of *AVIL* during the Investigation Period. I note that the *Noticee no. 19*, traded for a total quantity of 37183 shares of *AVIL* as a seller out of which, transaction in 25 shares were alleged to have been resulted from self-trades, which was 0.067% of the total shares of *AVIL* traded by the said *Noticee* during Patch-2 of the Investigation Period. Similarly, *Noticee no. 20* had traded for

35104814 shares of *AVIL* during Patch-3 of the Investigation Period, out of which transaction in 1.68% shares amounting to 77047 shares were alleged to have been resulted from self-trades. In this respect, I find that the quantity of alleged self-trades executed by the *Notices* when compared with the total number of shares of *AVIL* traded by the entire market in the respective Patches, i.e. 3.87 crores shares and 1.95 crores shares in Patch-2 and Patch-3 of the Investigation Period respectively, constituted only 0.0001% and 0.004% of the aforesaid total quantity of shares of *AVIL* traded during Patch-2 and Patch-3 respectively.

43. The submissions made by the aforesaid two *Notices* have been carefully considered. There is no dispute over the profession of the two *Notices* and it is accepted on records that they worked as jobbers in broking firms during the relevant period of time. It may not be appropriate to fully rule out their explanations in so far as their trading in single shares and at lower LTPs are concerned. The submissions are not devoid of any merit that in course of trading as a jobber, they had taken both buy and sell sides of the trade resulting in self-trades. It has been submitted that once the order is placed, it is normally not possible to get one's buy order matched deliberately with his own sell order or vice versa. *Notices* have also submitted that the SCN has not found out any connection between *Notices* no. 19 and 20 with the other 18 *Notices* who traded in the Patch-1 as a coherent connected group and therefore, it would not be proper to view their trades with same lens as in the case of the trades of *Notices* no. 1 to 18. Based on the material, it can't be stated that *Notices* no. 19 and 20 have traded as part of a larger scheme to manipulate the price of the scrip. Moreover, as seen in the case of the rest of the 18 *Notices*, they have all worked in tandem under a pre-conceived plan to manipulate the price of the scrip upwards through their manipulative trades whereas the trades executed by the *Notices* no. 19 and 20 worked in the opposite, i.e. causing fall in the market price of the scrip. It shows that the *Notices* no. 19 and 20 are unrelated to the former 18 *Notices* and as there is no allegation and evidence to show *inter se* connection between both of them.

44. Based on the above, it can be safely concluded that *Notices no. 19 and 20* were working as jobbers independently in two different time periods as separate professionals. Therefore, their respective role as far as causing fall in the market price of the scrip should be viewed separately, though similarly because of their similar nature and similar manner of trading which again, may have been due to their similar job description as jobbers. Nevertheless, even if I give benefit of doubt to the *Notices no. 19 and 20* for the alleged abnormal trading pattern followed by them and for the self-trades which are inimical to the integrity of the securities market based on their representations about their nature of job, I can't be oblivious to the fact that both *Notices no. 19 and 20* have traded in an irresponsible and artificial manner thereby throwing away market prudence to the wind and in the process, have generated artificial volume and created misleading appearance of trading in the scrip, apart from causing a fall in the LTP of the scrip. I also note that the Hon'ble SAT in the case of *HJ Securities Pvt Ltd vs. SEBI (DOD-11/05/2012)*, have made the observation that simply because the number of such self-trades is not large by itself cannot justify execution of self-trades. However, keeping the nature of profession and the explanations offered by the above stated two *Notices*, and the fact that they did not act as part of any pre-designed scheme in concert with *Notices no. 1 to 18*, and after taking a holistic assessment of the case made out by the two *Notices* including the factors that the frequency of their alleged trades and volumes of shares traded by them forming a very negligible part of the total volume of trades executed in the scrip during the respective periods of investigation, such trades strictly cannot be held as manipulative trades executed under a scheme or devise as alleged by the SCN.

45. It is also brought to my notice that SEBI has come out with a policy decision to deal with intentional and non-intentional self-trades, which lay down that in order to find someone guilty of self-trades under the PFUTP Regulations, it is essential to find out that there is an intention of manipulation behind such self-trades. The policy indicates that accidental/unintentional self-trades should not be subjected to PFUTP Regulations, as mere occurrence of self-trades would not be considered *per se* illegal

in the absence of any other additional evidence to support manipulation or intention to defraud. The aforesaid policy thus, suggests that in the matters of self-trade, an assessment has to be made as to whether the said trade was intentional or unintentional on the basis of supporting evidences such as the manipulative intent, the volume transacted, illiquidity of the scrip etc. Provisions of PFUTP Regulations prescribe that dealing in securities shall be deemed to be a fraudulent transaction or an unfair trade practice if it involves an element of fraud and may also include entering into a transaction in securities without any intention of performing it or without an intention of effecting any change of ownership of such security. Since self-trades do not result in transfer of beneficial ownership, the same gets covered within the sweep of PFUTP Regulations. However, mere occurrence of self-trades cannot be *suo-moto* considered as illegal in the absence of any other corroborative evidence to prove manipulation of price or volume or intent to defraud, as normally seen in cases of synchronized trades or trades executed as part of a pre-designed scheme. Therefore, in the matters of self-trades, first an assessment has to be made as to whether such trades were executed with any intention or executed in an unintentional manner on the basis of the supporting evidence, and the market manipulation if any, caused by indulging in such self-trades should be ascertained from the available facts and circumstance in which such trades were executed. In view of the above, in the absence of any evidence demonstrating the intentional self-trades, mere accidental/unintentional self-trades should not be hit by the mischief under the PFUTP Regulations 2003.

46. I note that allegations against *Noticees no. 19 and 20* have been made in the SCN on the basis of execution of self-trades and miniscule trades in the scrip of *AVIL* and no other material is made available to me to indicate that such self-trades were manipulative in nature and/or have resulted into creation of false or misleading appearance of trading in the scrip in the securities market or have been executed for manipulating the price/volume of the scrip. At this stage, I take guidance from the findings of Hon'ble Supreme Court in the matter of *Kishore R. Ajmera (supra)* and

observe that the attending facts and circumstances of the case of *Notices no. 19 and 20* are not sufficient enough to prove the violations against them, as alleged in the SCN.

47. In view of the aforesaid discussion, I find force in the submissions and explanation advanced by the *Notices no. 19 and 20* that the execution of such self-trades was accidental, unintentional and consequential to the trading practice normally followed for jobbing activities in shares of different companies including the scrips of *AVIL*. The material available on record is not sufficient enough to hold that the above noted small number of self-trades executed by the *Notices no. 19 and 20* as separate professionals during different time periods, could have created artificial volume and/or manipulated the market or could have disturbed the market equilibrium in the said scrip which otherwise enjoyed a high liquidity and high volume during the said periods. Therefore, I hold that the act, conduct and trading behavior of *Notices no. 19 and 20* may not fall strictly within the ambit of regulations 3 (a), 3 (b), 3 (c), 3 (d), 4 (1), 4 (2) (a) and 4 (2) (e) of the PFUTP Regulations 2003, however, considering the volume of their trades and the *modus operandi* followed by *Notices no. 19 and 20* while trading in the scrip of the *Company* which possessed the potentiality to threat market integrity and distort the price discovery in the said scrip, justice would be met by warning the two *Notices* to be extremely careful in future and observe due diligence to remain compliant with law and procedure while trading in the securities market.

Directions:

48. In view of the above, having found that the charges levelled against *Notices* in the SCN stand established, I, in exercise of the powers conferred upon me under Sections 11 (1), 11 (4) and 11 B (1) read with Section 19 of the Securities and Exchange Board of India Act, 1992, hereby hold that considering the volume of trades executed and percentage of contribution to the LTP made by the *Notices* both individually and acting in concert as an inter-connected group and their impact on the price of the scrip of *AVIL*, in the interest of Securities Market, it would meet the ends of justice if

such entities are restrained from being associated with the Securities Market for a specific period of time. Accordingly, I restrain *Notices no. 1 to 18* (except for *Notice no. 3* for reasons stated above) from accessing the securities market and further prohibit them from buying, selling or otherwise dealing in securities, directly or indirectly, or being associated with the securities market in any manner, for the period 6 months from the date of this order.

49. In order to prevent further misuse of the demat account(s) of the *Noticee no. 3*, it is directed that all the demat accounts linked with the PAN number of the *Noticee no. 3* may be frozen immediately and the same may be closed in accordance with the regulatory norms within a period of 2 months from this order. In this regard, respective depository may direct their respective Depository Participant with which the *Noticee no. 3* holds a demat account, to approach the *Noticee no. 3* as per the communication / contact details available in the UCC / KYC for compliance of this direction.

50. Further, *Noticee no. 19* and *Noticee no. 20* are hereby warned to be careful in future while dealing in securities market.

51. During the period of restraint, the existing holding of securities including the holding of units of mutual funds of the *Notices* shall remain frozen.

52. The Order shall come into force with the immediate effect.

53. A copy of this order shall be forwarded to the *Notices*, all the recognized stock exchange, depositories and registrar and transfer agents for ensuring compliance with the above directions.

-Sd-

Date: JULY 30, 2020

S. K. MOHANTY

Place: Mumbai

WHOLE TIME MEMBER

SECURITIES AND EXCHANGE BOARD OF INDIA